

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1646** Session of
2005

INTRODUCED BY HERSHEY, DALEY, BASTIAN, SOLOBAY, ARMSTRONG,
BARRAR, BEBKO-JONES, BENNINGHOFF, BOYD, CALTAGIRONE, CAUSER,
CAWLEY, CLYMER, CORRIGAN, DALLY, DeLUCA, DENLINGER, J. EVANS,
FLEAGLE, FORCIER, GEIST, GERGELY, GINGRICH, HALUSKA, HARRIS,
HICKERNELL, HUTCHINSON, JAMES, LaGROTTA, LEH, LESCOVITZ,
MANN, MARKOSEK, McGEEHAN, MCGILL, R. MILLER, MUSTIO, MYERS,
PETRONE, RAPP, REICHLEY, RIEGER, SAINATO, SAYLOR, SEMMEL,
STABACK, WANSACZ, WHEATLEY, WILLIAMS, WILT, WOJNAROSKI,
YOUNGBLOOD, ZUG, GODSHALL, STERN AND MAITLAND, JUNE 7, 2005

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 30, 2005

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, providing for a prohibition against unauthorized
3 local government unit actions; establishing a cause of action
4 for unauthorized enactment or enforcement of local ordinances
5 governing normal agricultural operations; providing for
6 duties of the Attorney General and for hearings;
7 consolidating the Nutrient Management Act; further providing
8 for scope, for legislative purpose, for definitions and for
9 administration; providing for manure application; further
10 providing for nutrient management and odor management
11 certification; providing for odor management plans; further
12 providing for the Nutrient Management Advisory Board, for
13 financial assistance, for unlawful conduct, for civil
14 penalties and for local preemption; providing for other
15 statutes and for regulations; and making a related repeal.

16 The General Assembly of the Commonwealth of Pennsylvania
17 declares that the Commonwealth has a vested and sincere interest
18 in ensuring the long-term sustainability of agriculture and
19 normal agricultural operations in a manner that is consistent
20 with State policies and statutes. In furtherance of this goal,

1 the Commonwealth has enacted statutes to protect and preserve
2 agricultural operations for the production of food and other
3 agricultural products.

4 The Commonwealth has also empowered local government units to
5 protect the health, safety and welfare of their citizens and to
6 ensure that normal agricultural operations do not negatively
7 impact upon the health, safety and welfare of citizens.

8 It is the purpose of this act to ensure that when local
9 government units exercise their responsibilities to protect the
10 health, safety and welfare of their citizens in regulating
11 normal agricultural operations, that ordinances are enacted
12 consistent with the authority provided to local government units
13 by the laws of this Commonwealth.

14 The General Assembly of the Commonwealth of Pennsylvania
15 further declares that the intent of this act is to provide for
16 the resolution of conflicts that may arise from the regulation
17 of normal agricultural operations. It is further the intent of
18 this act that this process:

19 (1) provides a dispassionate and unprejudiced legal
20 review of local ordinances regulating normal agricultural
21 operations to determine whether a local ordinance complies
22 with the Commonwealth's existing statutes;

23 (2) reduces the costs associated with determining
24 whether a local ordinance complies with the Commonwealth's
25 existing statutes by utilizing current State resources and
26 mechanisms; and

27 (3) provides for a prompt and fair resolution to the
28 conflict.

29 The General Assembly of the Commonwealth of Pennsylvania
30 hereby enacts as follows:

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

3 CHAPTER 3

4 LOCAL REGULATION

5 Subchapter

6 A. Preliminary Provisions

7 B. Normal Agricultural Operations

8 SUBCHAPTER A

9 PRELIMINARY PROVISIONS

10 Sec.

11 311. Scope.

12 312. Definitions.

13 § 311. Scope.

14 This chapter deals with local regulation of normal
15 agricultural operations.

16 § 312. Definitions.

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

20 "Local government unit." A political subdivision of the
21 Commonwealth.

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

26 "Unauthorized local ordinance." An ordinance enacted or
27 enforced by a local government unit which does any of the
28 following:

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

1 (i) has expressed or implied authority under State
2 law to adopt the ordinance; and
3 (ii) is not prohibited or preempted under State law
4 from adopting the ordinance.
5 (2) Restricts or limits the ownership structure of a
6 normal agricultural operation.

7 SUBCHAPTER B

8 NORMAL AGRICULTURAL OPERATIONS

9 Sec.

10 313. Certain local government unit actions prohibited.

11 314. Duties of Attorney General.

12 315. Right of action.

13 316. Commonwealth Court masters.

14 317. Attorney fees and costs.

15 318. Reports to General Assembly.

16 § 313. Certain local government unit actions prohibited.

17 (a) Adoption and enforcement of unauthorized local
18 ordinances.--A local government unit shall not adopt nor enforce
19 an unauthorized local ordinance.

20 (b) Existing local ordinances.--This chapter shall apply to
21 the enforcement of local ordinances existing on the effective
22 date of this section and to the enactment or enforcement of
23 local ordinances enacted on or after the effective date of this
24 section.

25 (c) Construction.--Notwithstanding the provisions of this
26 section, nothing in this chapter shall be construed to diminish,
27 expand or otherwise affect the legislative or regulatory
28 authority of local government units under State law, including
29 the following:

30 (1) Chapter 5 (relating to nutrient management and odor

1 management).

2 (2) The regulation, control or permitting procedures for
3 the land application of class A or B biosolids.

4 § 314. Duties of Attorney General.

5 (a) Request for review.--An owner or operator of a normal
6 agricultural operation may request the Attorney General to
7 review a local ordinance believed to be an unauthorized local
8 ordinance and to consider whether to bring legal action under
9 section 315(a) (relating to right of action).

10 (b) Discretion.--The Attorney General has the discretion
11 whether to bring an action under section 315(a).

12 ~~(c) Response. The Attorney General shall respond to the~~ <—
13 ~~person that made the request under subsection (a) notifying the~~
14 ~~person of the Attorney General's decision.~~

15 (C) RESPONSE.--WITHIN 120 DAYS AFTER RECEIVING A REQUEST <—
16 UNDER SUBSECTION (A), THE ATTORNEY GENERAL SHALL ADVISE THE
17 PERSON THAT MADE THE REQUEST WHETHER OR NOT THE ATTORNEY GENERAL
18 WILL BRING LEGAL ACTION UNDER SECTION 315(A). If the request
19 under subsection (a) is in writing, the response shall be in
20 writing.

21 (D) CONSULTATION.--THE SECRETARY AND THE DEAN OF THE COLLEGE <—
22 OF AGRICULTURAL SCIENCES AT THE PENNSYLVANIA STATE UNIVERSITY
23 SHALL, UPON REQUEST OF THE ATTORNEY GENERAL, PROVIDE EXPERT
24 CONSULTATION REGARDING THE NATURE OF NORMAL AGRICULTURAL
25 OPERATIONS IN THIS COMMONWEALTH.

26 § 315. Right of action.

27 (a) Attorney General action.--The Attorney General may bring
28 an action against the local government unit in Commonwealth
29 Court to invalidate the unauthorized local ordinance or enjoin
30 the enforcement of the unauthorized local ordinance.

1 (b) Other party action.--Notwithstanding any provision of 42
2 Pa.C.S. Ch. 85 Subch. C (relating to actions against local
3 parties), any person who is aggrieved by the enactment or
4 enforcement of an unauthorized local ordinance may bring an
5 action against the local government unit in Commonwealth Court
6 to invalidate the unauthorized local ordinance or enjoin the
7 enforcement of the unauthorized local ordinance.

8 § 316. Commonwealth Court masters.

9 (a) General rule.--The Commonwealth Court may promulgate
10 rules for the selection and appointment of masters on a full-
11 time or part-time basis for actions brought under section 315
12 (relating to right of action). A master shall be a member of the
13 bar of this Commonwealth. The number and compensation of masters
14 shall be fixed by the Commonwealth Court and their compensation
15 shall be paid by the Commonwealth.

16 (b) Hearings before masters.--The Commonwealth Court may
17 direct that hearings in actions brought under section 315 be
18 conducted in the first instance by the master in the manner
19 provided for in this subchapter.

20 (c) Recommendations of masters.--Upon the conclusion of a
21 hearing before a master, the master shall transmit written
22 findings and a recommendation for disposition to the president
23 judge. Prompt written notice and copies of the findings and
24 recommendations shall be given to the parties to the proceeding.

25 (d) Rehearing before president judge.--The findings and
26 recommendations of the master shall become the findings and
27 order of the Commonwealth Court upon written confirmation by the
28 president judge. A rehearing ~~before the president judge~~ may be <—
29 ordered by the president judge at any time upon cause shown.

30 § 317. Attorney fees and costs.

1 In an action brought under section 315(b) (relating to right
2 of action), the court may do any of the following:

3 (1) If the court determines that the local government
4 unit enacted or enforced an unauthorized local ordinance with
5 negligent disregard of the limitation of authority
6 established under State law, it may order the local
7 government unit to pay the plaintiff reasonable attorney fees
8 and other litigation costs incurred by the plaintiff in
9 connection with the action.

10 (2) If the court determines that the action brought by
11 the plaintiff was frivolous or was brought without
12 substantial justification in claiming that the local
13 ordinance in question was unauthorized, it may order the
14 plaintiff to pay the local government unit reasonable
15 attorney fees and other litigation costs incurred by the
16 local government unit in defending the action.

17 § 318. Reports to General Assembly.

18 The Attorney General shall provide to the chairman and the
19 minority chairman of the Senate Committee on Agricultural and
20 Rural Affairs and the chairman and minority chairman of the
21 Agricultural and Rural Affairs Committee of the House of
22 Representatives an annual report to include the following:

23 (1) Information on how many reviews were requested, THE ←
24 NATURE OF THE COMPLAINTS AND THE LOCATION OF THE ORDINANCES
25 CITED.

26 (2) Information on how many reviews were conducted.

27 (3) Information on how many legal actions were brought
28 by the Attorney General.

29 (4) Information on the outcome of legal actions brought
30 by the Attorney General.

CHAPTER 5

NUTRIENT MANAGEMENT AND ODOR MANAGEMENT

Sec.

501. Scope.

502. Declaration of legislative purpose.

503. Definitions.

504. Powers and duties of commission.

505. Powers and duties of Department of Environmental
Protection.

506. Nutrient management plans.

507. Manure application setbacks and buffers.

508. Nutrient management certification program and odor
management certification program.

509. Odor management plans.

510. Nutrient Management Advisory Board.

511. Financial assistance.

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516. Enforcement authority; enforcement orders.

517. Appealable actions.

518. Powers reserved under existing laws.

519. Preemption of local ordinances.

520. Repeals.

521. Other statutes not affected.

522. Regulations.

§ 501. Scope.

This chapter relates to nutrient management and odor
management.

1 § 502. Declaration of legislative purpose.

2 The purposes of this chapter are as follows:

3 (1) To establish criteria, nutrient management planning
4 requirements and an implementation schedule for the
5 application of nutrient management measures on certain
6 agricultural operations which generate or utilize animal
7 manure.

8 (2) To provide for the development of an educational
9 program by the State Conservation Commission in conjunction
10 with the Cooperative Extension Service of The Pennsylvania
11 State University, the department and conservation districts
12 to provide outreach to the agricultural community on the
13 proper utilization and management of nutrients on farms to
14 prevent the pollution of surface water and ground water.

15 (3) To require the State Conservation Commission, in
16 conjunction with the Cooperative Extension Service of The
17 Pennsylvania State University, the Department of
18 Environmental Protection, the department and the Nutrient
19 Management Advisory Board to develop and provide technical
20 and financial assistance for nutrient management and
21 alternative uses of animal manure, including a manure
22 marketing and distribution program.

23 (4) To require the Department of Environmental
24 Protection to assess the extent of nonpoint source pollution
25 from other nutrient sources, determine the adequacy of
26 existing authority and programs to manage those sources and
27 make recommendations to provide for the abatement of that
28 pollution.

29 (5) To require the State Conservation Commission, in
30 conjunction with the Nutrient Management Advisory Board, to

1 develop and administer a regulatory program requiring odor
2 management plans addressing new and expanded animal housing
3 facilities and manure management facilities at concentrated
4 animal operations and concentrated animal feeding operations
5 after July 19, 1993, and to encourage the voluntary
6 implementation of odor management plans for other
7 agricultural operations.

8 § 503. Definitions.

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

12 "AEU." Animal equivalent unit.

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

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

17 "Animal equivalent unit." One thousand pounds live weight of
18 livestock or poultry animals, regardless of the actual number of
19 individual animals comprising the unit.

20 "Animal housing facility." A roofed structure or facility,
21 or any portion thereof, used for occupation by livestock or
22 poultry.

23 "Best management practice" or "BMP." A practice or
24 combination of practices determined by the commission to be
25 effective and practicable (given technological, economic and
26 institutional considerations) to manage nutrients to protect
27 surface and ground water taking into account applicable nutrient
28 requirements for crop utilization. The term includes, but is not
29 limited to:

30 (1) Conservation tillage.

- 1 (2) Crop rotation.
- 2 (3) Soil testing.
- 3 (4) Manure testing.
- 4 (5) Diversions.
- 5 (6) Manure storage facilities.
- 6 (7) Storm water management practices.
- 7 (8) Nutrient application.

8 "Board." The Nutrient Management Advisory Board created by
9 section 510 (relating to Nutrient Management Advisory Board).

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

13 "Concentrated animal feeding operation." An agricultural
14 operation that meets the criteria established by the Department
15 of Environmental Protection under authority of the act of June
16 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

17 "Concentrated animal operation." Agricultural operations
18 meeting the criteria established under this chapter.

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

22 "Cooperative extension." The Cooperative Extension Service
23 of The Pennsylvania State University.

24 "Department." The Department of Agriculture of the
25 Commonwealth.

26 "Fund." The Nutrient Management Fund.

27 "Manure management facility." A manure storage facility,
28 including a permanent structure or facility, or a portion of a
29 structure or facility, utilized for the primary purpose of
30 containing manure. The term includes liquid manure structures,

1 manure storage ponds, component reception pits and transfer
2 pipes, containment structures built under a confinement
3 building, permanent stacking and composting facilities and
4 manure treatment facilities. The term does not include the
5 animal confinement areas of poultry houses, horse stalls, free
6 stall barns or bedded pack animal housing systems.

7 "Nutrient." A substance or recognized plant nutrient,
8 element or compound which is used or sold for its plant
9 nutritive content or its claimed nutritive value. The term
10 includes, but is not limited to, livestock and poultry manures,
11 compost as fertilizer, commercially manufactured chemical
12 fertilizers, sewage sludge or combinations thereof.

13 "Nutrient management plan." A written site-specific plan
14 which incorporates best management practices to manage the use
15 of plant nutrients for crop production and water quality
16 protection consistent with the criteria established in sections
17 504 (relating to powers and duties of commission) and 506
18 (relating to nutrient management plans).

19 "Nutrient management specialist." A person satisfying the
20 certification requirements of section 508 (relating to nutrient
21 management certification program and odor management
22 certification program).

23 "Odor management plan." A written site-specific plan
24 identifying the practices, technologies, standards and
25 strategies to be implemented to manage the impact of odors
26 generated from animal housing or manure management facilities
27 located or to be located on the site.

28 § 504. Powers and duties of commission.

29 The commission shall have the following powers and duties:

30 (1) Before July 19, 1995, and periodically thereafter,

1 to promulgate regulations, in consultation with the
2 department, the Department of Environmental Protection and
3 the board, establishing minimum criteria for nutrient
4 management plans developed in accordance with section 506
5 (relating to nutrient management plans) and other regulatory
6 requirements to implement this chapter. In establishing such
7 criteria, the commission shall consult the Manure Management
8 for Environmental Protection Manual of the Department of
9 Environmental Protection, the Pennsylvania Agronomy Guide,
10 published by The Pennsylvania State University, and the
11 Pennsylvania Technical Guide for Soil and Water Conservation,
12 published by the United States Department of Agriculture's
13 Soil Conservation Service. The criteria to be established
14 pursuant to this section shall include the following:

15 (i) An identification of nutrients as defined by
16 this chapter. Unless otherwise appropriate pursuant to
17 specific criteria which shall be established by the
18 commission, there shall be a presumption that nitrogen is
19 the nutrient of primary concern.

20 (ii) The establishment of procedures to determine
21 proper application rates of nutrients to be applied to
22 land based on conditions of soil and levels of existing
23 nutrients in the soil and the type of agricultural,
24 horticultural or floricultural production to be conducted
25 on the land.

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

28 (iv) The establishment of recordkeeping requirements
29 related to land application and distribution of
30 nutrients.

1 (v) The establishment of minimum standards of
2 construction, location, storage capacity and operation of
3 facilities intended to be used for storage of animal
4 manure.

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

8 (vii) The establishment of special criteria which
9 may be utilized for manure handling in emergency
10 situations where there is an outbreak of a contagious
11 disease.

12 (viii) The establishment of conditions under which
13 changes due to unforeseen circumstances render the plan
14 amendment process set forth in section 506(e)
15 impracticable. Where such conditions exist, the owner or
16 operator of an agricultural operation shall follow the
17 procedures set forth in section 506(f).

18 (1.1) Within two years following the effective date of
19 this section, and periodically thereafter, to promulgate
20 regulations, in consultation with the department, the
21 Department of Environmental Protection and the board,
22 establishing practices, technologies, standards, strategies
23 and other requirements for odor management plans developed
24 in accordance with section 509 (relating to odor management
25 plans). The commission shall consider the following in
26 promulgating the regulations under this paragraph:

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

1 (ii) Reasonably available technology, practices,
2 standards and strategies to manage odor impacts,
3 considering both the practical and economic feasibility
4 of installation and operation and the potential impacts
5 from the facilities. Only those technologies, practices,
6 standards and strategies that are necessary to address
7 the off-site impacts of odors associated with these new
8 facilities will be required to be included in the odor
9 management plans.

10 (2) Prior to the adoption of regulations under paragraph
11 (1.1), to establish interim guidelines for the operations
12 identified in section 509.

13 (3) To continually evaluate emerging practices, methods
14 and technology for utilization as best management practices
15 and to so identify the practices, where appropriate, pursuant
16 to paragraph (1)(iii).

17 (4) Beginning October 1, 2002, to evaluate the criteria
18 for concentrated animal operations in this Commonwealth and
19 to make appropriate changes in those criteria by regulation.
20 Any such regulatory change related to concentrated animal
21 operations shall require a two-thirds majority vote of the
22 commission.

23 (5) Prior to the adoption of regulations under paragraph
24 (1), to recommend, in consultation with the Department of
25 Environmental Protection, the department and the board,
26 interim criteria for the sole purpose of facilitating the
27 initial development of the nutrient management certification
28 program established by this chapter.

29 (6) Before July 19, 1995, to develop and implement, in
30 cooperation with the department, the board, the Cooperative

1 Extension Service and conservation districts, a program to
2 provide education and technical assistance to the
3 agricultural community and, to the extent funds are
4 available, to provide financial assistance to existing
5 agricultural operations for implementation of proper methods,
6 practices, facilities and techniques for the utilization and
7 management of nutrients on the farm to prevent the pollution
8 of groundwater and surface water.

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

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

13 (9) To delegate administration or enforcement authority,
14 or both, under this chapter to county conservation districts
15 that have an adequate program and sufficient resources to
16 accept and implement this delegation.

17 § 505. Powers and duties of Department of Environmental
18 Protection.

19 The Department of Environmental Protection shall have the
20 following powers and duties:

21 (1) Before July 19, 1994, to make an assessment of and
22 report to the Environmental Quality Board and the General
23 Assembly on the extent to which malfunctioning on-lot sewage
24 systems contribute to the pollution of waters of this
25 Commonwealth and to identify what regulatory or legislative
26 initiatives, if any, the Department of Environmental
27 Protection deems necessary to abate that pollution.

28 (2) Before July 19, 1994, to make an assessment of and
29 report to the Environmental Quality Board and the General
30 Assembly on the extent to which improper water well

1 construction contributes to groundwater pollution due to the
2 intrusion of nutrients from the surface and to identify what
3 regulatory or legislative initiatives, if any, the Department
4 of Environmental Protection deems necessary to abate that
5 pollution.

6 (3) Before July 19, 1995, to make an assessment of and
7 report to the Environmental Quality Board and the General
8 Assembly on the extent to which the application of chemical
9 fertilizers and other plant nutrients for nonagricultural
10 purposes contributes to the pollution of the waters of this
11 Commonwealth and to identify what regulatory or legislative
12 initiatives, if any, the Department of Environmental
13 Protection deems necessary to abate that pollution.

14 (4) Before July 19, 1995, to make an assessment of and
15 report to the Environmental Quality Board and the General
16 Assembly on the extent to which nutrients from storm water
17 runoff contribute to the pollution of waters of this
18 Commonwealth and to identify what regulatory or legislative
19 initiatives, if any, the Department of Environmental
20 Protection deems necessary to abate that pollution.

21 (5) Before July 19, 1995, to make an assessment of and
22 report to the Environmental Quality Board and the General
23 Assembly on the extent to which atmospheric deposition of
24 nutrients contribute to the pollution of the waters of this
25 Commonwealth and to identify what regulatory or legislative
26 initiatives, if any, the Department of Environmental
27 Protection deems necessary to abate that pollution.

28 (6) To include in the assessments in paragraphs (1)
29 through (5), recommendations to the General Assembly for
30 budgetary and legislative initiatives where program resources

1 or statutory authority is not adequate to address pollution
2 sources identified in those assessments.

3 (7) To provide technical and administrative assistance
4 to the commission in carrying out its responsibilities under
5 this chapter.

6 § 506. Nutrient management plans.

7 (a) Concentrated animal operations.--Concentrated animal
8 operations are those agricultural operations where the animal
9 density exceeds two AEU's per acre on an annualized basis.
10 Beginning October 1, 2002, the commission, in consultation with
11 the department, the board, the Department of Environmental
12 Protection and the Cooperative Extension Service shall review
13 the criteria used to identify concentrated animal operations and
14 make appropriate changes to the definition of concentrated
15 animal operations by regulation.

16 (b) Development of nutrient management plans.--The operator
17 of any concentrated animal operation shall develop and implement
18 a nutrient management plan consistent with the requirements of
19 this section.

20 (c) Certification of plans.--All plans and plan amendments
21 shall be developed by nutrient management specialists who shall
22 certify that the plans are in accordance with the requirements
23 of this chapter and the regulations promulgated under this
24 chapter.

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

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

30 (2) For a concentrated animal operation which comes into

1 existence after October 1, 1997, by the later of:

2 (i) January 1, 1998; or

3 (ii) commencement of operations.

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

7 (e) Plan review and approval.--Plans or plan amendments
8 required under this chapter shall be submitted to local
9 conservation districts for review and approval or alternatively
10 to the commission for agricultural operations located in
11 counties not delegated administrative authority under section
12 504 (relating to powers and duties of commission). Any person
13 performing the plan review must be certified in accordance with
14 section 508 (relating to nutrient management certification
15 program and odor management certification program). Within 90
16 days of receipt of a nutrient management plan or plan amendment,
17 the reviewing agency shall either approve, modify or disapprove
18 the plan or plan amendment. Approvals shall only be granted for
19 those plans or plan amendments which satisfy the requirements of
20 this chapter and the regulations promulgated under this chapter.
21 Notice of determination to approve, modify or disapprove a plan
22 or plan amendment shall be provided in writing to the person
23 submitting same. Notice of a determination to modify or
24 disapprove shall include an explanation specifically stating the
25 reasons for modification or disapproval. If a plan or plan
26 amendment is disapproved, the person submitting a plan or plan
27 amendment for the first time shall have 90 days after receipt of
28 notice of disapproval to resubmit a revised plan or plan
29 amendment. An agricultural operation that submits a complete
30 plan or plan amendment is authorized to implement the same if

1 the reviewing agency fails to act within 90 days of submittal.
2 Where the reviewing agency fails to so act and the plan or plan
3 amendment is resubmitted and the reviewing agency again fails to
4 act within 90 days of resubmittal, it shall be deemed approved.

5 (f) Amendments due to unforeseen circumstances.--Amendments
6 to plans or to implementation of plans made after initial
7 development or filing which satisfy the criteria established
8 under section 504(1)(vii) shall be certified by a nutrient
9 management specialist prior to implementation and submitted to
10 the district within 30 days of implementation.

11 (g) Implementation.--A person required to develop a nutrient
12 management plan pursuant to subsection (b) shall fully implement
13 such plan within three years of the date such plan is approved,
14 or is deemed approved, or for which implementation is otherwise
15 authorized pursuant to subsection (e), unless extended for cause
16 shown or by a plan amendment. The three-year implementation
17 schedule shall be extended an additional two years for
18 individual substantial capital improvements required under an
19 approved plan for an operation required to submit a plan under
20 subsection (d)(1) if:

21 (1) the owner or operator demonstrates that the cost of
22 all or part of the individual improvements for which the
23 extension is applicable cannot be financed through available
24 funding mechanisms; and

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

1 (h) Voluntary plans.--Any agricultural operation which is
2 not a concentrated animal operation may voluntarily develop a
3 nutrient management plan and have it reviewed pursuant to this
4 section. To the extent possible, the commission, the Cooperative
5 Extension Service, the department, the Department of
6 Environmental Protection and conservation districts shall assist
7 and promote the development of voluntary plans.

8 (i) Financial assistance.--Any agricultural operation
9 receiving financial assistance under the Chesapeake Bay Nonpoint
10 Source Pollution Abatement Program or otherwise receiving
11 financial assistance under this chapter for the development of a
12 nutrient management plan shall agree to develop and implement a
13 nutrient management plan as a condition for receiving this
14 financial assistance.

15 (j) Compliance plans.--Any agricultural operation found to
16 be in violation of the act of June 22, 1937 (P.L.1987, No.394),
17 known as The Clean Streams Law, may be required to submit a
18 nutrient management plan within three months of notification
19 thereof and implement the plan in order to prevent or abate such
20 pollution.

21 (k) Transferability of plans.--A plan approved under this
22 section shall be transferable to a subsequent owner of an
23 agricultural operation upon notification thereof to the
24 district, unless the transfer results in operational changes
25 requiring plan modification pursuant to the criteria established
26 under section 504(1)(vi).

27 (l) Construction of section.--The density criteria for
28 concentrated animal operations as identified in subsection (a)
29 or as it may be subsequently modified by the commission shall
30 only be utilized to identify those agricultural operations for

1 which the planning requirements of this section shall apply and
2 shall not be construed to prohibit the development or expansion
3 of agricultural operations meeting or exceeding such criteria.

4 § 507. Manure application setbacks and buffers.

5 (a) General rule.--Unless the commission establishes a
6 stricter requirement by regulation, no concentrated animal
7 operation, or other agricultural operation receiving manure from
8 a concentrated animal operation directly or indirectly through a
9 broker or other person, may mechanically land apply manure
10 within 100 feet of surface water, unless a vegetated buffer no
11 less than 35 feet in width and meeting standards established by
12 the Natural Resources Conservation Service is used to prevent
13 manure runoff into the surface water.

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

17 § 508. Nutrient management certification program and odor
18 management certification program.

19 (a) Requirement.--The department shall establish, in
20 consultation with the commission, a nutrient management
21 certification program for the purpose of certifying individuals
22 who have demonstrated the competency necessary to develop
23 nutrient management plans and an odor management certification
24 program for the purpose of certifying individuals who have
25 demonstrated the competency necessary to develop odor management
26 plans. The department or its designee shall develop such written
27 testing procedures, educational requirements and examinations as
28 it deems appropriate to carry out its responsibilities under
29 this section. The department shall by regulation establish such
30 fees and terms and conditions of certification as it deems

1 appropriate. The department shall establish individual,
2 commercial and public certification categories, including a
3 certification category for farmers to develop and certify
4 nutrient management plans and odor management plans for their
5 own agricultural operations.

6 (b) Interim nutrient management certification program.--
7 Until the department develops and implements a nutrient
8 management certification program, persons having the following
9 qualifications shall, upon request, receive interim
10 certification from the department.

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

13 (2) the person is approved to develop nutrient
14 management plans approved under the Chesapeake Bay Nonpoint
15 Source Pollution Abatement Program, the United States
16 Department of Agriculture's Water Quality Improvement
17 Projects Program or other programs requiring submission and
18 approval of a nutrient management plan, including sludge
19 disposal under the act of July 7, 1980 (P.L.380, No.97),
20 known as the Solid Waste Management Act; or

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

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

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

30 § 509. Odor management plans.

1 (a) Requirement.--

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

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

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

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

18 (ii) Existing agricultural operations which, because
19 of an increase, resulting from expansion or construction,
20 in the number of animals maintained at the operation,
21 will become regulated as either a concentrated animal
22 operation or a concentrated animal feeding operation. The
23 odor management plan required by this paragraph shall be
24 developed and implemented only with respect to the newly
25 expanded or newly constructed portion of the operation.

26 (iii) New agricultural operations which will be
27 regulated as either a concentrated animal operation or a
28 concentrated animal feeding operation.

29 (2) The operations described in paragraph (1)(i) and
30 (ii) shall obtain approval of their odor management plan

1 prior to the earlier of erection or construction of new or
2 expanded animal housing facilities or the construction of new
3 or expanded manure management facilities.

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

9 (c) Reviewing entities.--Odor management plans or plan
10 amendments required by this section shall be submitted to the
11 commission for review and approval or, at the commission's
12 discretion, to the appropriate local conservation district for
13 review and approval.

14 (d) Plan review and approval.--Any person performing the
15 plan review must be certified in accordance with section 508
16 (relating to nutrient management certification program and odor
17 management certification program). Within 90 days of receipt of
18 an odor management plan or plan amendment, the reviewing agency
19 shall approve or disapprove the plan or plan amendment.
20 Approvals shall only be granted for those plans or plan
21 amendments which satisfy the requirements of the regulations
22 promulgated under this chapter. Notice of determination to
23 approve or disapprove a plan or plan amendment shall be provided
24 in writing to the person submitting same. Notice of a
25 determination to disapprove shall include an explanation
26 specifically stating the reasons for disapproval. If a plan or
27 plan amendment is disapproved, the person submitting a plan or
28 plan amendment for the first time shall have 90 days after
29 receipt of notice of disapproval to resubmit a revised plan or
30 plan amendment. An existing or proposed concentrated animal

1 operation or concentrated animal feeding operation that submits
2 a complete plan or plan amendment is authorized to implement the
3 same if the reviewing agency fails to act within 90 days of
4 submittal.

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

9 (f) Voluntary plans.-- Any agricultural operation which is
10 not required to comply with subsection (a) may voluntarily
11 develop an odor management plan and have it reviewed pursuant to
12 this section. To the extent possible, the commission, the
13 Cooperative Extension Service, the department, the Department of
14 Environmental Protection and conservation districts shall assist
15 and promote the development of voluntary plans.

16 (g) Transferability of plans.--A plan approved under this
17 section shall be transferable to a subsequent owner of an
18 agricultural operation upon notification thereof to the
19 district, unless the transfer results in operational changes
20 requiring plan modification pursuant to the criteria established
21 in this section.

22 (h) Effectiveness of the section.--The requirements of this
23 section shall become mandatory 90 days following the effective
24 date of the regulations promulgated under section 504(1.1)
25 (relating to powers and duties of commission).

26 § 510. Nutrient Management Advisory Board.

27 (a) Creation.--There is created the Nutrient Management
28 Advisory Board. The board shall consist of 16 members appointed
29 by the chairman of the commission and approved by a two-thirds
30 vote of the commission. The members so appointed shall consist

1 of five active commercial farm owners or operators representing
2 the livestock, swine, meat poultry, egg poultry and dairy
3 industry nominated by Statewide general farm organizations, one
4 veterinary nutrition specialist, one representative from the
5 feed industry, one representative from the fertilizer industry,
6 one representative of commercial agricultural lenders, one
7 representative of local government, one representative of
8 academia who shall be an agronomist or plant scientist faculty
9 member of the school of agriculture of a Pennsylvania college or
10 university, one representative of academia who shall be an
11 animal science faculty member with an expertise in odor
12 management from the school of agriculture of a college or
13 university within this Commonwealth, one hydrologist, two
14 citizen representatives who are not farmers and one
15 environmental representative, all of whom shall have sufficient
16 knowledge, experience or familiarity with agronomic practices,
17 nutrient management practices or odor management practices and
18 all of whom shall be residents of this Commonwealth.

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

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

28 (d) Duties.--The board shall review and comment on all
29 commission proposed regulations, the interim guidelines under
30 section 504(2) (relating to powers and duties of commission) and

1 the interim criteria under section 504(5) developed to implement
2 the provisions of this chapter. The commission shall have no
3 power to promulgate regulations, interim guidelines or interim
4 criteria under this chapter until receipt of written comments on
5 the proposed regulations, guidelines or criteria from the board
6 or until 60 days have expired from the date when the
7 regulations, guidelines or criteria were submitted by the
8 commission to the board for its comments. Existing regulations,
9 guidelines and criteria shall continue until modified,
10 superseded or repealed by the commission.

11 (e) Term.--The term of office for each board member shall be
12 three years except that the commission shall stagger the initial
13 terms of the charter members such that five shall serve for one
14 year, five shall serve for two years and six shall serve for
15 three years. Board members may be appointed to successive terms
16 at the discretion of the commission, provided that no member may
17 serve more than two three-year terms.

18 § 511. Financial assistance.

19 (a) Loans, grants, etc.--The commission shall, to the extent
20 funds are available, provide financial assistance in the form of
21 loans, loan guarantees and grants for the implementation of
22 nutrient management plans and of odor management plans for
23 existing agricultural operations.

24 (b) Criteria for eligibility.--In reviewing applications for
25 financial assistance, the commission shall consider the
26 following:

27 (1) Whether the project will improve the health, safety
28 or environment of the people of this Commonwealth and
29 otherwise satisfy the purposes of this chapter.

30 (2) The cost-effectiveness of the proposed practices in

1 comparison with other alternatives.

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

4 (c) Issuance and terms.--Subject to this section, the
5 commission shall issue loans and set terms applicable thereto in
6 any manner it deems appropriate. The commission may consider
7 such factors as it deems relevant, including current market
8 interest rates, the financial ability of the applicant to repay
9 and the necessity to maintain the funds created hereunder in a
10 financially sound manner. Loans may be based on the ability to
11 repay from future revenue to be derived from the applicant's
12 agricultural operation, by a mortgage or other security
13 interest, or by any other fiscal manner which the commission
14 deems appropriate. The board shall have the power to defer
15 principal on loans for up to 12 months. The minimum rate of
16 interest to be paid on any loan made pursuant to this section
17 shall be 1%.

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

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

22 (2) Where the commission, in its sole discretion,
23 determines that the financial condition of the recipient is
24 such that repayment of a loan is unlikely and that the
25 recipient will be financially distressed by the
26 implementation of practices without a grant.

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

30 § 512. Nutrient Management Fund.

1 (a) Establishment of fund.--There is established a special
2 nonlapsing fund in the State Treasury to be known as the
3 Nutrient Management Fund. All fees, fines, judgments and
4 interest collected by the commission under this chapter shall be
5 paid into the fund. All money placed in the fund and the
6 interest it accrues are hereby appropriated to the commission on
7 a continuing basis for any activities necessary to meet the
8 requirements of this chapter.

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

11 (1) State funds appropriated to the commission.

12 (2) Federal funds appropriated to the commission.

13 (3) Proceeds from the sale of any bonds made available
14 to the commission.

15 (4) Repayment of loan principal.

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

17 (6) Gifts and other contributions from public and
18 private sources.

19 (c) Fund administration.--The commission shall have
20 authority to adopt procedures for the use of moneys in the fund,
21 including the creation of accounts within the fund for the
22 purposes of administering the loan and grant programs authorized
23 by this chapter.

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

27 (e) Deposit and use of funds.--No administrative action
28 shall prevent the deposit of moneys into the fund in the fiscal
29 year in which they are received. The funds shall only be used
30 for the purposes authorized by this chapter and shall not be

1 transferred or diverted to any other purpose by administrative
2 action.

3 § 513. Unlawful conduct.

4 It shall be unlawful to fail to comply with or to cause or
5 assist in the violation of any order or any of the provisions of
6 this chapter or the rules and regulations adopted under this
7 chapter or to fail to comply with a nutrient management plan or
8 an odor management plan.

9 § 514. Civil penalties and remedies.

10 (a) Civil penalty.--In addition to proceeding under any
11 other remedy available at law or in equity for a violation of a
12 provision of this chapter or a rule or regulation adopted, order
13 issued or odor management plan or nutrient management plan
14 approved under this chapter, the commission may assess a civil
15 penalty of not more than \$500 for the first day of each offense
16 and \$100 for each additional day of continuing violation. The
17 factors for consideration in determining the amount of the
18 penalty are:

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

26 Whenever the commission finds that a violation did not cause
27 harm to human health or an adverse effect on the environment,
28 the commission may issue a warning in lieu of assessing a
29 penalty where the owner or operator, upon notice, takes
30 immediate action to resolve the violation and come into

1 compliance. If the commission finds the nutrient pollution or
2 the danger of nutrient pollution or the negative impacts from
3 odor associated with new or expanded facilities results from
4 conditions, activities or practices which are being or have been
5 implemented in accordance with a nutrient management plan or
6 odor management plan developed and approved pursuant to and
7 consistent with this chapter and the regulations developed under
8 this chapter and which is being or has been fully implemented
9 and maintained, the owner or operator of the agricultural
10 operation shall be exempt from the imposition of penalties under
11 this chapter.

12 (b) Collection.--In cases of inability to collect the civil
13 penalty or failure of any person to pay all or a portion of the
14 penalty, the commission may refer the matter to the Office of
15 General Counsel or the Office of Attorney General which shall
16 institute an action in the appropriate court to recover the
17 penalty. Any penalty assessed shall act as a lien on the
18 property of the person against whom the penalty has been
19 assessed.

20 (c) Civil remedies.--In addition to any other remedies
21 provided for in this chapter, any violation of this chapter, the
22 rules and regulations promulgated under this chapter or any
23 order or nutrient management plan or odor management plan
24 approved under this chapter shall be abatable in the manner
25 provided by law or equity for the abatement of public nuisances.
26 In addition, in order to restrain or prevent any violation of
27 this chapter or the rules and regulations promulgated under this
28 chapter or any order or nutrient management plan or odor
29 management plan approved under this chapter, suits may be
30 instituted in equity or at law in the name of the Commonwealth

1 upon relation of the Attorney General, the General Counsel, the
2 district attorney of any county, the solicitor of any
3 municipality affected or the solicitor of any conservation
4 district, provided that the General Counsel, district attorney
5 or solicitor shall first serve notice upon the Attorney General
6 of the intention to so proceed. These proceedings may be
7 prosecuted in the Commonwealth Court or in the court of common
8 pleas of the county where the activity has taken place, the
9 condition exists or the public is affected, and, to that end,
10 jurisdiction is hereby conferred in law and equity upon these
11 courts. Except in cases of emergency where, in the opinion of
12 the court, the exigencies of the case require immediate
13 abatement of the nuisance, the court may, in its decree, fix a
14 reasonable time during which the person responsible for the
15 nuisance may make provision for the abatement of same.

16 (d) Equitable relief.--In cases where the circumstances
17 require it or the public health is endangered, a mandatory
18 preliminary injunction, special injunction or temporary
19 restraining order may be issued upon the terms prescribed by the
20 court, provided that notice of the application has been given to
21 the defendant in accordance with the rules of equity practice.
22 In any such proceeding the Attorney General, the General
23 Counsel, the district attorney or the solicitor of any
24 municipality or conservation district shall not be required to
25 give bond. In any such proceeding, the court shall issue a
26 prohibitory or mandatory preliminary injunction if it finds that
27 the defendant is engaging in unlawful conduct as defined by this
28 chapter or is engaged in conduct which is causing immediate and
29 irreparable harm to the public. In addition to an injunction,
30 the court in such equity proceeding may assess civil penalties

1 in accordance with this section.

2 § 515. Limitation of liability.

3 If a person is fully and properly implementing a nutrient
4 management plan or an odor management plan approved by the local
5 conservation district or the commission and maintained under
6 this chapter for an agricultural operation, the implementation
7 shall be given appropriate consideration as a mitigating factor
8 in any civil action for penalties or damages alleged to have
9 been caused by the management or utilization of nutrients or the
10 abatement of odor impacts pursuant to the implementation.

11 § 516. Enforcement authority; enforcement orders.

12 (a) Right of access.--A duly authorized agent of the
13 commission or a conservation district shall have authority to
14 enter any agricultural operation at reasonable times to conduct
15 such investigations and to take such actions as are necessary to
16 enforce the provisions of this chapter or any order, rule or
17 regulation issued hereunder.

18 (b) Duty to grant access.--Any person owning or operating an
19 agricultural operation shall grant access to any duly authorized
20 agent of the commission or a conservation district pursuant to
21 subsection (a) and shall not hinder, obstruct, prevent or
22 interfere with such agents in the performance of their duties,
23 provided, however, that agents shall perform such reasonable
24 measures and actions as directed by the owner or operator of an
25 agricultural operation as will reasonably and substantially
26 prevent the spread or outbreak of contagious diseases.

27 (c) Orders.--The commission or any conservation district
28 delegated enforcement authority may issue such orders as are
29 necessary to aid in the enforcement of the provisions of this
30 chapter. Any order issued under this section shall take effect

1 upon notice unless the order specifies otherwise. An appeal of
2 the order to the Environmental Hearing Board shall not act as a
3 supersedeas, provided that upon application for and cause shown,
4 the Hearing Board may issue such a supersedeas under the rules
5 established by the Hearing Board.

6 § 517. Appealable actions.

7 Any person aggrieved by an order or other administrative
8 action of the commission issued pursuant to this chapter shall
9 have the right, within 30 days from actual or constructive
10 notice of the action, to appeal the action to the Environmental
11 Hearing Board.

12 § 518. Powers reserved under existing laws.

13 Nothing in this chapter shall limit in any way whatever the
14 powers conferred upon the commission, the department, the
15 Department of Environmental Protection, or a conservation
16 district under laws other than this chapter, including, but not
17 limited to, the act of June 22, 1937 (P.L.1987, No.394), known
18 as The Clean Streams Law, and the act of July 7, 1980 (P.L.380,
19 No.97), known as the Solid Waste Management Act, and common law.
20 All such powers are preserved and may be freely exercised. A
21 court exercising general equitable jurisdiction shall not be
22 deprived of such jurisdiction even though a nuisance or
23 condition detrimental to health is subject to regulation or
24 other action by the board under this chapter.

25 § 519. Preemption of local ordinances.

26 (a) General.--This chapter and its provisions are of
27 Statewide concern and occupy the whole field of regulation
28 regarding nutrient management and odor management, to the
29 exclusion of all local regulations.

30 (b) Nutrient management.--No ordinance or regulation of any

1 political subdivision or home rule municipality may prohibit or
2 in any way regulate practices related to the storage, handling
3 or land application of animal manure or nutrients or to the
4 construction, location or operation of facilities used for
5 storage of animal manure or nutrients or practices otherwise
6 regulated by this chapter if the municipal ordinance or
7 regulation is in conflict with this chapter and the regulations
8 or guidelines promulgated under it.

9 (c) Odor management.--No ordinance or regulation of a
10 political subdivision or home rule municipality may regulate the
11 management of odors generated from animal housing or manure
12 management facilities regulated by this chapter if the municipal
13 ordinance or regulation is in conflict with this chapter and the
14 regulations or guidelines promulgated under it.

15 (d) Stricter requirements.--Nothing in this chapter shall
16 prevent a political subdivision or home rule municipality from
17 adopting and enforcing ordinances or regulations which are
18 consistent with and no more stringent than the requirements of
19 this chapter and the regulations or guidelines promulgated under
20 this chapter. No penalty shall be assessed under any such local
21 ordinance or regulation under this subsection for any violation
22 for which a penalty has been assessed under this chapter.

23 § 520. Repeals.

24 All acts and parts of acts are repealed insofar as they are
25 inconsistent with this chapter.

26 § 521. Other statutes not affected.

27 This chapter shall not be construed as modifying, rescinding
28 or superseding any other statute, or as regulating biosolids,
29 and shall be read in pari materia with other statutes. Nothing
30 in this chapter shall limit in any way whatever the powers

1 conferred upon the department, the Department of Environmental
2 Protection and the State Conservation Commission under statutes
3 other than this chapter. All such powers are preserved and may
4 be freely exercised.

5 § 522. Regulations.

6 The Department of Environmental Protection is authorized to
7 adopt such regulations as it deems necessary to its
8 administration and enforcement of this chapter. This includes
9 the authority to establish, by regulation, such fees as are
10 reasonably necessary to fund the implementation and enforcement
11 of this chapter.

12 Section 2. (a) Except as set forth in subsection (b), the
13 provisions of this act are severable. If any provision of this
14 act or its application to any person or circumstance is held
15 invalid, the invalidity shall not affect other provisions or
16 applications of this act which can be given effect without the
17 invalid provision or application.

18 (b) If any provision of the addition of 3 Pa.C.S. Ch. 3 or
19 the application of such a provision to any person or
20 circumstance is held invalid, the following provisions are void:

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

22 (2) Section 3 of this act.

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

25 SECTION 3. REPEALS ARE AS FOLLOWS: <—

26 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
27 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE NUTRIENT
28 MANAGEMENT PROVISIONS BEING CONSOLIDATED UNDER THIS ACT.

29 (2) THE ACT OF MAY 20, 1993 (P.L.12, NO.6), KNOWN AS THE
30 NUTRIENT MANAGEMENT ACT, IS REPEALED.

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

4 (1) Except as otherwise provided in 3 Pa.C.S. Ch. 5, all
5 activities initiated under the Nutrient Management Act shall
6 continue and remain in full force and effect and may be
7 completed under 3 Pa.C.S. Ch. 5. Orders, regulations, rules
8 and decisions which were made under the Nutrient Management
9 Act and which are in effect on the effective date of section
10 3 of this act shall remain in full force and effect until
11 revoked, vacated or modified under 3 Pa.C.S. Ch. 5. Contracts
12 and obligations entered into under the Nutrient Management
13 Act are not affected nor impaired by the repeal of the
14 Nutrient Management Act.

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

22 (3) Paragraph (2) does not apply to the addition of any
23 of the following provisions of 3 Pa.C.S.:

24 (i) Section 501.

25 (ii) Section 502(5).

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

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

- 1 (v) Section 506.
- 2 (vi) Section 507.
- 3 (vii) Section 508.
- 4 (viii) Section 509.
- 5 (ix) Section 510(a), (d) and (e).
- 6 (x) Section 511(a).
- 7 (xi) Section 513.
- 8 (xii) Section 514(a), (c) and (d).
- 9 (xiii) Section 515.
- 10 (xiv) Section 519.
- 11 (xv) Section 521.
- 12 (xvi) Section 522.

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

17 Section 5. This act shall take effect as follows:

18 (1) The addition of 3 Pa.C.S. § 507 shall take effect in
19 180 days.

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

22 (i) the effective date of regulations promulgated
23 under 3 Pa.C.S. § 504(1.1); or

24 (ii) the publication in the Pennsylvania Bulletin of
25 interim guidelines under 3 Pa.C.S. § 504(2).

26 (3) The remainder of this act shall take effect
27 immediately.