

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1444 Session of
1991

INTRODUCED BY MUSTO, REIBMAN, BRIGHTBILL, MELLOW, JONES,
SALVATORE, O'PAKE, BELAN, STAPLETON, SCHWARTZ, PORTERFIELD,
WENGER, HART, BODACK, GREENWOOD, FISHER, ANDREZESKI AND
DAWIDA, NOVEMBER 22, 1991

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 18, 1992

AN ACT

1 ~~Providing for environmental education programs; providing for~~ <—
2 ~~further duties of the Department of Education and the~~
3 ~~Department of Environmental Resources; PROVIDING FOR THE~~ <—
4 ~~OFFICE OF CITIZEN ADVOCATE FOR THE ENVIRONMENT IN THE~~
5 ~~DEPARTMENT OF ENVIRONMENTAL RESOURCES; PROVIDING FOR THE~~
6 ~~POWERS AND DUTIES OF THE OFFICE; and providing for the~~
7 ~~disposition of a portion of certain fines and penalties.~~
8 PROVIDING FOR ENVIRONMENTAL EDUCATION PROGRAMS, FOR FURTHER <—
9 DUTIES OF THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF
10 ENVIRONMENTAL RESOURCES; ESTABLISHING THE ENVIRONMENTAL
11 EDUCATION FUND; ESTABLISHING THE ADVISORY COUNCIL ON
12 ENVIRONMENTAL EDUCATION AND PROVIDING FOR ITS POWERS AND
13 DUTIES; PROVIDING FOR THE DISPOSITION OF A PORTION OF CERTAIN
14 FINES AND PENALTIES, FOR THE MANAGEMENT OF NUTRIENTS ON
15 CERTAIN AGRICULTURAL OPERATIONS TO ABATE NONPOINT SOURCE
16 POLLUTION, FOR THE CERTIFICATION OF NUTRIENT MANAGEMENT
17 SPECIALISTS, FOR THE ASSESSMENT OF OTHER NONPOINT SOURCES OF
18 NUTRIENT POLLUTION TO THE WATERS OF THIS COMMONWEALTH;
19 ESTABLISHING THE NUTRIENT MANAGEMENT ADVISORY BOARD AND
20 PROVIDING FOR ITS POWERS AND DUTIES; ESTABLISHING THE
21 NUTRIENT MANAGEMENT FUND; AND PROVIDING FOR ENFORCEMENT AND
22 PENALTIES.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 ~~Section 1. Short title.~~ <—

~~This act shall be known and may be cited as the Environmental
Education AND CITIZEN ADVOCATE FOR THE ENVIRONMENT Act.~~

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~~Section 2.— Declaration of policy.~~

~~The General Assembly finds and declares as follows:~~

~~(1) Section 27 of Article I of the Constitution of
Pennsylvania states that: "The people have a right to clean
air, pure water, and to the preservation of the natural,
scenic, historic and esthetic values of the environment.
Pennsylvania's public natural resources are the common
property of all the people, including generations yet to
come. As trustee of these resources, the Commonwealth shall
conserve and maintain them for the benefit of all the
people."~~

~~(2) The State Board of Education has recognized the
study of the environment as an essential component of basic
education for graduating students. The regulations of the
board which pertain to curriculum identify the knowledge and
understanding of the environment as one of the goals of a
quality education.~~

~~(3) A quality education should provide each student with
knowledge of natural and human resources, an understanding of
geographic environments, knowledge of the interrelationships
and interdependence of natural and human systems, the
development of personal environmental attitudes and values,
the development of environmental problem solving and
management skills and knowledge of and appropriate uses of
energy.~~

~~(4) The Department of Environmental Resources has a
responsibility to help the public understand the
environmental laws as well as the roles of individuals,~~

1 ~~groups, institutions, industry and government in finding~~
2 ~~solutions to this Commonwealth's environmental problems and~~
3 ~~the prevention of new problems.~~

4 ~~(5) The third week of October is recognized each year as~~
5 ~~"Pennsylvania Environmental Education Week" as a means to~~
6 ~~promote environmental education.~~

7 ~~(6) The 20th Anniversary celebration of "Earth Day"~~
8 ~~heralded the 1990's as the "Decade of the Environment." In~~
9 ~~order to meet the challenges of this decade, citizens of this~~
10 ~~Commonwealth will need the background, values and skills to~~
11 ~~make informed decisions as consumers and voters to help~~
12 ~~protect the environment and prevent pollution.~~

13 ~~(7) It is the policy of this Commonwealth that~~
14 ~~environmental education is critically important to promote a~~
15 ~~citizenry which has the ability to make personal lifestyle~~
16 ~~choices to help promote a healthy environment and an~~
17 ~~understanding of the functioning of the natural world and the~~
18 ~~necessity for environmental protection and sound resource~~
19 ~~management.~~

20 ~~Section 3. Legislative purpose.~~

21 ~~It is the purpose of this act to:~~

22 ~~(1) authorize and require the Department of Education~~
23 ~~and the Department of Environmental Resources to develop and~~
24 ~~implement environmental education programs for the citizens~~
25 ~~of this Commonwealth;~~

26 ~~(2) encourage the environmental education efforts of~~
27 ~~other agencies where appropriate, including, but not limited~~
28 ~~to, those of the county conservation districts, the~~
29 ~~Pennsylvania Fish and Boat Commission, the Game Commission,~~
30 ~~the Pennsylvania Energy Office, the Department of Commerce,~~

~~the Department of Community Affairs, the Department of
General Services and the Department of Transportation; and
(3) create and establish the Advisory Council on
Environmental Education within the Department of Education.~~

~~SECTION 4. DEFINITIONS.~~

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~~THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
CONTEXT CLEARLY INDICATES OTHERWISE:~~

~~"ADVOCATE." THE CITIZEN ADVOCATE FOR THE ENVIRONMENT.~~

~~"CITIZEN." A RESIDENT OF THIS COMMONWEALTH, WHO IS 18 YEARS
OF AGE OR OLDER.~~

~~"DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OF
THE COMMONWEALTH.~~

~~"OFFICE." THE OFFICE OF CITIZEN ADVOCATE FOR THE
ENVIRONMENT.~~

~~Section 4 5. Powers and duties of Department of Education.~~

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~~The Department of Education shall have the following powers
and duties:~~

~~(1) To conduct a periodic assessment of school based
environmental education in this Commonwealth.~~

~~(2) To provide assistance, support and resource
information to educators and public and private education
agencies and organizations on environmental education
programs.~~

~~(3) To identify, recognize and establish awards for
exemplary environmental education curricula developed in
Commonwealth schools.~~

~~(4) To ensure that schools develop mechanisms for
assessing the learning outcomes for the Environmental Goal of
Quality Education (in accordance with 22 Pa. Code Ch. 5~~

~~(relating to curriculum requirements)).~~

~~Section 5 6. Powers and duties of Department of Environmental
Resources.~~

~~The Department of Environmental Resources shall have the
following powers and duties:~~

~~(1) To conduct a periodic assessment of the status of
environmental education taking place in the nonformal sector
(outside of the classroom) in this Commonwealth.~~

~~(2) To maintain an inventory of environmental education
materials, programs and resources available in Commonwealth
agencies.~~

~~(3) To use the department's environmental education
centers as outreach facilities to bring youth and adult
education programs into communities and schools, focusing on
environmental issues of importance to the Commonwealth.~~

~~(4) To provide such grants as the Secretary of
Environmental Resources after consultation with the Secretary
of Education shall, in his discretion, approve to the
following: public and private schools for youth environmental
education; conservation and education organizations and
institutions for the purposes of providing environmental
education training to teachers; county conservation
districts; and Bureau of State Parks Environmental Education
Program.~~

~~(5) To prepare a guidance document, in consultation with
the Secretary of Education, for administering the grants. The
department shall make the document available for public
review and comment by publication in the Pennsylvania
Bulletin.~~

~~Section 6 7. Environmental Education Report.~~

~~The Secretary of Education and the Secretary of Environmental Resources shall prepare a periodic report to the Governor and the General Assembly outlining environmental education programs and achievements, highlighting new initiatives and recommending future program needs.~~

~~Section 7-8. Advisory Council on Environmental Education.~~

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~~(a) Duties. There is hereby created an Advisory Council on Environmental Education within the Department of Education. The advisory council shall:~~

~~(1) Make recommendations to the Secretary of Education and the Secretary of Environmental Resources with respect to the use of any funds used to support environmental education activities.~~

~~(2) Advise and assist the Secretary of Education and the Secretary of Environmental Resources in carrying out environmental education activities.~~

~~(3) Advise and assist the Secretary of Education and the Secretary of Environmental Resources in conducting a continual assessment of the trends and needs in environmental education.~~

~~(4) Make recommendations to the Secretary of Education and the Secretary of Environmental Resources to help foster environmental education programs.~~

~~(5) Make recommendations to the Secretary of Environmental Resources on the distribution of available grant moneys.~~

~~(b) Composition. Council membership shall consist of 13 persons, six appointed by the Secretary of Education, six appointed by the Secretary of Environmental Resources and one appointed by the Chancellor of the State System of Higher~~

~~Education, and shall represent a diversity of backgrounds, including basic and higher education, industry, resource management, citizens and public interest organizations.~~

~~(c) Appointment, terms and expenses. The 13 council members shall be appointed for five year terms. The initial term of four of the council members shall be for one year, the initial term of four members shall be for three years, and the initial term of the remainder shall be for five years. A member may be appointed for more than one term and shall serve until a successor has been appointed. Members shall not be compensated but shall be reimbursed for actual expenses in accordance with the rules of the Executive Board.~~

~~(d) Officers and bylaws. The council shall convene at least biannually, shall elect a chairperson and a vice chairperson to serve a one year term, and shall adopt bylaws for governing its operations.~~

~~(e) Staff. The Secretary of Education shall designate such staff as may be necessary for the operation of the council.~~

~~Section 8. Funding. 9. ENVIRONMENTAL EDUCATION FUND.~~

~~There is hereby created a special nonlapsing fund in the State Treasury to be known as the Environmental Education Fund. An amount equal to 5% of the moneys collected annually from fines and penalties deposited in special funds or restricted revenue accounts administered by the Department of Environmental Resources shall be deposited in this fund. This annual allocation amount shall be based upon the amounts collected in the previous fiscal year. All moneys placed in the fund and the interest it accrues are hereby appropriated, upon authorization by the Governor, to the Department of Environmental Resources to accomplish the purposes of this act. Beginning in fiscal year~~

~~1992-1993, and each year thereafter, moneys appropriated to the department under this section shall not affect and are in addition to funding for environmental education programs administered by the department and the Department of Education that are in existence prior to passage of this act.~~

~~SECTION 10. OFFICE OF CITIZEN ADVOCATE FOR THE ENVIRONMENT.~~ <—

~~(A) OFFICE ESTABLISHED. THERE IS HEREBY ESTABLISHED WITHIN THE DEPARTMENT THE OFFICE OF CITIZEN ADVOCATE FOR THE ENVIRONMENT TO REPRESENT THE INTERESTS OF CITIZENS BEFORE THE DEPARTMENT.~~

~~(B) APPOINTMENT. THE GOVERNOR SHALL APPOINT A CITIZEN ADVOCATE FOR THE ENVIRONMENT, WHICH APPOINTMENT SHALL BE SUBJECT TO THE APPROVAL OF A MAJORITY OF THE MEMBERS ELECTED TO THE SENATE. THE ADVOCATE SHALL SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIED.~~

~~(C) QUALIFICATIONS. THE ADVOCATE SHALL BE A PERSON WHO, BY REASON OF TRAINING, EXPERIENCE AND ATTAINMENT, IS QUALIFIED TO REPRESENT THE INTERESTS OF CITIZENS. COMPENSATION SHALL BE SET BY THE EXECUTIVE BOARD.~~

~~(D) GENERAL RESTRICTIONS. THE ADVOCATE SHALL NOT ENGAGE IN ANY BUSINESS, VOCATION OR OTHER EMPLOYMENT, OR HAVE OTHER INTERESTS INCONSISTENT WITH HIS OFFICIAL RESPONSIBILITIES, NOR SHALL HE SEEK OR ACCEPT EMPLOYMENT WITH NOR RENDER BENEFICIAL SERVICES FOR COMPENSATION FOR ANY "PERSON" OR "CORPORATION," AS DEFINED IN 66 PA.C.S. § 102 (RELATING TO DEFINITIONS), SUBJECT TO THE AUTHORITY OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION DURING THE TENURE OF HIS APPOINTMENT AND FOR A PERIOD OF ONE YEAR AFTER THE APPOINTMENT IS SERVED OR TERMINATED.~~

~~(E) POLITICAL OFFICE RESTRICTIONS. THE ADVOCATE SHALL NOT SEEK ELECTION NOR ACCEPT APPOINTMENT TO ANY PUBLIC OFFICE DURING~~

~~HIS TENURE AS ADVOCATE AND FOR A PERIOD OF ONE YEAR AFTERWARD.~~

~~(F) SECRETARY OF ENVIRONMENTAL RESOURCES RESTRICTIONS. THE
SECRETARY OF ENVIRONMENTAL RESOURCES SHALL HAVE ADMINISTRATIVE
RESPONSIBILITIES FOR THE OFFICE, BUT SHALL NOT BE RESPONSIBLE,
IN ANY MANNER, FOR THE POLICIES, PROCEDURES OR OTHER SUBSTANTIVE
MATTERS DEVELOPED BY THE OFFICE IN CARRYING OUT ITS DUTIES UNDER
THIS ACT TO REPRESENT CITIZENS.~~

~~SECTION 11. ASSISTANT ADVOCATES; EMPLOYEES.~~

~~THE ADVOCATE, WITH THE APPROVAL OF THE SECRETARY OF
ENVIRONMENTAL RESOURCES, SHALL APPOINT ATTORNEYS AS ASSISTANT
ADVOCATES, AND SUCH ADDITIONAL CLERICAL, TECHNICAL AND
PROFESSIONAL STAFF AS MAY BE APPROPRIATE, AND MAY CONTRACT FOR
SUCH ADDITIONAL SERVICES AS SHALL BE NECESSARY FOR THE
PERFORMANCE OF HIS FUNCTION. THE COMPENSATION OF ASSISTANT
ADVOCATES AND CLERICAL, TECHNICAL AND PROFESSIONAL STAFF SHALL
BE SET BY THE EXECUTIVE BOARD. NO ASSISTANT ADVOCATE OR OTHER
STAFF EMPLOYEE SHALL, WHILE SERVING IN THE POSITION, ENGAGE IN
ANY BUSINESS, VOCATION OR OTHER EMPLOYMENT, OR HAVE OTHER
INTERESTS INCONSISTENT WITH HIS OFFICIAL RESPONSIBILITIES.~~

~~SECTION 12. POWERS AND DUTIES OF ADVOCATE.~~

~~(A) REPRESENTING INTERESTS OF CITIZENS. IN ADDITION TO ANY
OTHER AUTHORITY CONFERRED BY THIS ACT, THE ADVOCATE IS
AUTHORIZED, AND IT SHALL BE HIS DUTY IN CARRYING OUT HIS
RESPONSIBILITIES UNDER THIS ACT, TO REPRESENT THE INTERESTS OF
CITIZENS AS A PARTY, OR OTHERWISE TO PARTICIPATE FOR THE PURPOSE
OF REPRESENTING THE INTERESTS OF CITIZENS, BEFORE THE DEPARTMENT
IN ANY MATTER BEFORE THE DEPARTMENT OR BEFORE ANY COURT OR
AGENCY. THE ADVOCATE MAY INITIATE SUCH PROCEEDINGS AS IN HIS
JUDGMENT MAY BE NECESSARY IN CONNECTION WITH ANY MATTER
INVOLVING REGULATION BY THE DEPARTMENT OR THE CORRESPONDING~~

~~REGULATORY AGENCY OF THE FEDERAL GOVERNMENT, WHETHER ON APPEAL
OR OTHERWISE.~~

~~(B) MONITORING AND PARTICIPATING IN PROCEEDINGS. THE
ADVOCATE MAY MONITOR ALL CASES BEFORE CORRESPONDING REGULATORY
AGENCIES OF THE FEDERAL GOVERNMENT, SUCH AS THE ENVIRONMENTAL
PROTECTION AGENCY, WHICH MAY IMPACT UPON THE INTERESTS OF
COMMONWEALTH CITIZENS AND MAY FORMALLY PARTICIPATE IN THOSE
PROCEEDINGS WHICH IN HIS JUDGMENT WARRANT PARTICIPATION.~~

~~(C) EXERCISE OF DISCRETION. THE ADVOCATE MAY EXERCISE
DISCRETION IN DETERMINING THE INTERESTS WHICH WILL BE ADVOCATED
IN ANY PARTICULAR PROCEEDING AND IN DETERMINING WHETHER TO
PARTICIPATE IN OR INITIATE ANY PARTICULAR PROCEEDING. IN MAKING
SUCH DETERMINATION, THE ADVOCATE SHALL CONSIDER THE PUBLIC
INTEREST, THE RESOURCES AVAILABLE AND THE SUBSTANTIALITY OF THE
EFFECT OF THE PROCEEDING ON THE INTERESTS OF CITIZENS. THE
ADVOCATE MAY REFRAIN FROM INTERVENING WHEN, IN HIS JUDGMENT,
INTERVENTION IS NOT NECESSARY TO REPRESENT ADEQUATELY THE
INTERESTS OF COMMONWEALTH CITIZENS.~~

~~(D) ACTION UPON PETITION. IN ADDITION TO ANY OTHER
AUTHORITY CONFERRED UPON HIM BY THIS ACT, THE ADVOCATE IS
AUTHORIZED TO REPRESENT AN INTEREST OF SMALL BUSINESS CONSUMERS
PRESENTED TO HIM FOR CONSIDERATION UPON PETITION IN WRITING BY
500 OR MORE CITIZENS. THE ADVOCATE SHALL NOTIFY THE PRINCIPAL
SPONSORS OF ANY PETITION OF THE ACTION TAKEN OR INTENDED TO BE
TAKEN WITH RESPECT TO THE INTEREST PRESENTED IN THE PETITION. IF
THE ADVOCATE DECLINES OR IS UNABLE TO REPRESENT THE INTEREST, HE
SHALL NOTIFY THE SPONSORS AND SHALL EXPLAIN THE REASONS FOR HIS
FAILURE TO ACT.~~

~~(E) NAME IN WHICH ACTION IS BROUGHT. ANY ACTION BROUGHT BY
THE ADVOCATE BEFORE A COURT OR ANY AGENCY OF THIS COMMONWEALTH~~

1 ~~SHALL BE BROUGHT IN THE NAME OF THE ADVOCATE. THE ADVOCATE MAY~~
2 ~~NAME A CITIZEN OR GROUP OF CITIZENS IN WHOSE NAME THE ACTION MAY~~
3 ~~ALSO BE BROUGHT OR MAY JOIN CITIZENS IN BRINGING THE ACTION.~~

4 ~~(F) ISSUANCE OF WRITTEN STATEMENT. IF THE ADVOCATE~~
5 ~~DETERMINES, IN ACCORDANCE WITH APPLICABLE TIME LIMITATIONS, TO~~
6 ~~INITIATE, INTERVENE OR OTHERWISE PARTICIPATE IN ANY DEPARTMENT,~~
7 ~~AGENCY OR COURT PROCEEDING, HE SHALL ISSUE PUBLICLY A WRITTEN~~
8 ~~STATEMENT, A COPY OF WHICH HE SHALL FILE IN THE PROCEEDING, IN~~
9 ~~ADDITION TO ANY REQUIRED ENTRY OF HIS APPEARANCE, STATING~~
10 ~~CONCISELY THE SPECIFIC INTERESTS OF CITIZENS TO BE PROTECTED.~~

11 ~~SECTION 13. FUNDING.~~

12 ~~(A) SURCHARGE ON DEPARTMENT FEES. A SURCHARGE OF \$1 SHALL~~
13 ~~BE PLACED ON ALL FEES IMPOSED BY THE DEPARTMENT.~~

14 ~~(B) USE OF PROCEEDS OF SURCHARGE. ALL PROCEEDS FROM THE~~
15 ~~SURCHARGE ON THE DEPARTMENT'S FEES SHALL BE PAID INTO THE~~
16 ~~GENERAL FUND OF THE STATE TREASURY THROUGH THE DEPARTMENT OF~~
17 ~~REVENUE. THE PROCEEDS SHALL BE HELD IN TRUST SOLELY FOR THE~~
18 ~~PURPOSE OF DEFRAYING THE COST OF THE ADMINISTRATION AND~~
19 ~~PERFORMANCE OF THE DUTIES OF THE OFFICE, AND SHALL BE EARMARKED~~
20 ~~FOR THE USE OF, AND ANNUALLY APPROPRIATED TO, THE OFFICE OF~~
21 ~~CITIZEN ADVOCATE FOR THE ENVIRONMENT FOR DISBURSEMENT SOLELY FOR~~
22 ~~THAT PURPOSE.~~

23 ~~(C) REQUISITIONS. ALL REQUISITIONS UPON THE APPROPRIATION~~
24 ~~SHALL BE SIGNED BY THE ADVOCATE OR SUCH DEPUTIES AS HE MAY~~
25 ~~DESIGNATE IN WRITING TO THE STATE TREASURER, AND SHALL BE~~
26 ~~PRESENTED TO THE STATE TREASURER AND DEALT WITH BY HIM IN THE~~
27 ~~MANNER PRESCRIBED BY THE ACT OF APRIL 9, 1929 (P.L.343, NO.176),~~
28 ~~KNOWN AS THE FISCAL CODE.~~

29 ~~(D) ESTIMATE OF EXPENDITURES. BEFORE NOVEMBER 1 OF EACH~~
30 ~~YEAR, THE ADVOCATE SHALL ESTIMATE THE TOTAL EXPENDITURES FOR THE~~

1 ~~OFFICE AND SUBMIT THE ESTIMATE TO THE GOVERNOR IN ACCORDANCE~~
2 ~~WITH SECTION 610 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),~~
3 ~~KNOWN AS THE ADMINISTRATIVE CODE OF 1929. AT THE SAME TIME THE~~
4 ~~ADVOCATE SUBMITS HIS ESTIMATE TO THE GOVERNOR, HE SHALL ALSO~~
5 ~~SUBMIT A COPY OF THE ESTIMATE TO THE GENERAL ASSEMBLY. THE~~
6 ~~ADVOCATE OR HIS DESIGNATED REPRESENTATIVES SHALL BE AFFORDED AN~~
7 ~~OPPORTUNITY TO APPEAR BEFORE THE GOVERNOR, THE APPROPRIATIONS~~
8 ~~COMMITTEE OF THE SENATE AND THE APPROPRIATIONS COMMITTEE OF THE~~
9 ~~HOUSE OF REPRESENTATIVES REGARDING THE ESTIMATE. THE OFFICE~~
10 ~~SHALL SUBTRACT FROM THE BUDGET FINALLY APPROVED BY THE GENERAL~~
11 ~~ASSEMBLY ANY BALANCE OF THE PREVIOUS APPROPRIATION TO BE CARRIED~~
12 ~~OVER INTO THE NEXT FISCAL YEAR. THE REMAINDER SO DETERMINED~~
13 ~~SHALL CONSTITUTE THE TOTAL APPROPRIATION AND SHALL BE ALLOCATED~~
14 ~~TO AND PAID TO THE OFFICE FROM THE FUNDS HELD IN TRUST IN THE~~
15 ~~GENERAL FUND FOR THE PURPOSE OF DEFRAYING THE COST OF~~
16 ~~ADMINISTRATION AND PERFORMANCE OF THE DUTIES OF THE OFFICE.~~
17 ~~SECTION 14. — DUTIES OF DEPARTMENT.~~

18 ~~IN DEALING WITH ANY PROPOSED ACTION WHICH MAY SUBSTANTIALLY~~
19 ~~AFFECT THE INTERESTS OF CITIZENS, INCLUDING, BUT NOT LIMITED TO,~~
20 ~~THE ADOPTION OF RULES, REGULATIONS, GUIDELINES, ORDERS,~~
21 ~~STANDARDS OR FINAL POLICY DECISIONS, THE DEPARTMENT SHALL:~~

22 ~~(1) NOTIFY THE ADVOCATE WHEN NOTICE OF THE PROPOSED~~
23 ~~ACTION IS GIVEN TO THE PUBLIC OR AT A TIME FIXED BY AGREEMENT~~
24 ~~BETWEEN THE ADVOCATE AND THE DEPARTMENT IN A MANNER TO ASSURE~~
25 ~~THE ADVOCATE REASONABLE NOTICE AND ADEQUATE TIME TO DETERMINE~~
26 ~~WHETHER TO INTERVENE IN THE MATTER.~~

27 ~~(2) CONSISTENT WITH ITS OTHER STATUTORY~~
28 ~~RESPONSIBILITIES, TAKE SUCH ACTION WITH DUE CONSIDERATION TO~~
29 ~~THE INTERESTS OF CITIZENS.~~

30 ~~SECTION 15. — SAVINGS PROVISION; CONSTRUCTION.~~

1 EDUCATION AND NUTRIENT MANAGEMENT ACT.

2 CHAPTER 3

3 ENVIRONMENTAL EDUCATION

4 SECTION 301. DECLARATION OF POLICY.

5 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

6 (1) SECTION 27 OF ARTICLE I OF THE CONSTITUTION OF
7 PENNSYLVANIA STATES THAT: "THE PEOPLE HAVE A RIGHT TO CLEAN
8 AIR, PURE WATER, AND TO THE PRESERVATION OF THE NATURAL,
9 SCENIC, HISTORIC AND ESTHETIC VALUES OF THE ENVIRONMENT.
10 PENNSYLVANIA'S PUBLIC NATURAL RESOURCES ARE THE COMMON
11 PROPERTY OF ALL THE PEOPLE, INCLUDING GENERATIONS YET TO
12 COME. AS TRUSTEE OF THESE RESOURCES, THE COMMONWEALTH SHALL
13 CONSERVE AND MAINTAIN THEM FOR THE BENEFIT OF ALL THE
14 PEOPLE."

15 (2) THE STATE BOARD OF EDUCATION HAS RECOGNIZED THE
16 STUDY OF THE ENVIRONMENT AS AN ESSENTIAL COMPONENT OF BASIC
17 EDUCATION FOR GRADUATING STUDENTS. THE REGULATIONS OF THE
18 BOARD WHICH PERTAIN TO CURRICULUM IDENTIFY THE KNOWLEDGE AND
19 UNDERSTANDING OF THE ENVIRONMENT AS ONE OF THE GOALS OF A
20 QUALITY EDUCATION.

21 (3) A QUALITY EDUCATION SHOULD PROVIDE EACH STUDENT WITH
22 KNOWLEDGE OF NATURAL AND HUMAN RESOURCES, AN UNDERSTANDING OF
23 GEOGRAPHIC ENVIRONMENTS, KNOWLEDGE OF THE INTERRELATIONSHIPS
24 AND INTERDEPENDENCE OF NATURAL AND HUMAN SYSTEMS, THE
25 DEVELOPMENT OF PERSONAL ENVIRONMENTAL ATTITUDES AND VALUES,
26 THE DEVELOPMENT OF ENVIRONMENTAL PROBLEM SOLVING AND
27 MANAGEMENT SKILLS AND KNOWLEDGE OF AND APPROPRIATE USES OF
28 ENERGY.

29 (4) THE DEPARTMENT OF ENVIRONMENTAL RESOURCES HAS A
30 RESPONSIBILITY TO HELP THE PUBLIC UNDERSTAND THE

1 ENVIRONMENTAL LAWS AS WELL AS THE ROLES OF INDIVIDUALS,
2 GROUPS, INSTITUTIONS, INDUSTRY AND GOVERNMENT IN FINDING
3 SOLUTIONS TO THIS COMMONWEALTH'S ENVIRONMENTAL PROBLEMS AND
4 THE PREVENTION OF NEW PROBLEMS.

5 (5) THE THIRD WEEK OF OCTOBER IS RECOGNIZED EACH YEAR AS
6 "PENNSYLVANIA ENVIRONMENTAL EDUCATION WEEK" AS A MEANS TO
7 PROMOTE ENVIRONMENTAL EDUCATION.

8 (6) THE 20TH ANNIVERSARY CELEBRATION OF "EARTH DAY"
9 HERALDED THE 1990'S AS THE "DECADE OF THE ENVIRONMENT." IN
10 ORDER TO MEET THE CHALLENGES OF THIS DECADE, CITIZENS OF THIS
11 COMMONWEALTH WILL NEED THE BACKGROUND, VALUES AND SKILLS TO
12 MAKE INFORMED DECISIONS AS CONSUMERS AND VOTERS TO HELP
13 PROTECT THE ENVIRONMENT AND PREVENT POLLUTION.

14 (7) IT IS THE POLICY OF THIS COMMONWEALTH THAT
15 ENVIRONMENTAL EDUCATION IS CRITICALLY IMPORTANT TO PROMOTE A
16 CITIZENRY WHICH HAS THE ABILITY TO MAKE PERSONAL LIFESTYLE
17 CHOICES TO HELP PROMOTE A HEALTHY ENVIRONMENT AND AN
18 UNDERSTANDING OF THE FUNCTIONING OF THE NATURAL WORLD AND THE
19 NECESSITY FOR ENVIRONMENTAL PROTECTION AND SOUND RESOURCE
20 MANAGEMENT.

21 SECTION 302. LEGISLATIVE PURPOSE.

22 THE PURPOSES OF THIS CHAPTER ARE AS FOLLOWS:

23 (1) TO AUTHORIZE AND REQUIRE THE DEPARTMENT OF EDUCATION
24 AND THE DEPARTMENT OF ENVIRONMENTAL RESOURCES TO DEVELOP AND
25 IMPLEMENT ENVIRONMENTAL EDUCATION PROGRAMS FOR THE CITIZENS
26 OF THIS COMMONWEALTH.

27 (2) TO ENCOURAGE THE ENVIRONMENTAL EDUCATION EFFORTS OF
28 OTHER AGENCIES WHERE APPROPRIATE, INCLUDING, BUT NOT LIMITED
29 TO, THOSE OF THE COUNTY CONSERVATION DISTRICTS, THE
30 PENNSYLVANIA FISH AND BOAT COMMISSION, THE GAME COMMISSION,

1 THE PENNSYLVANIA ENERGY OFFICE, THE DEPARTMENT OF COMMERCE,
2 THE DEPARTMENT OF COMMUNITY AFFAIRS, THE DEPARTMENT OF
3 GENERAL SERVICES AND THE DEPARTMENT OF TRANSPORTATION.

4 (3) TO CREATE AND ESTABLISH THE ADVISORY COUNCIL ON
5 ENVIRONMENTAL EDUCATION WITHIN THE DEPARTMENT OF EDUCATION.

6 SECTION 303. DEFINITIONS.

7 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
8 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
9 CONTEXT CLEARLY INDICATES OTHERWISE:

10 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OF
11 THE COMMONWEALTH.

12 SECTION 304. POWERS AND DUTIES OF DEPARTMENT OF EDUCATION.

13 THE DEPARTMENT OF EDUCATION SHALL HAVE THE FOLLOWING POWERS
14 AND DUTIES:

15 (1) TO CONDUCT A PERIODIC ASSESSMENT OF SCHOOL-BASED
16 ENVIRONMENTAL EDUCATION IN THIS COMMONWEALTH.

17 (2) TO PROVIDE ASSISTANCE, SUPPORT AND RESOURCE
18 INFORMATION TO EDUCATORS AND PUBLIC AND PRIVATE EDUCATION
19 AGENCIES AND ORGANIZATIONS ON ENVIRONMENTAL EDUCATION
20 PROGRAMS.

21 (3) TO IDENTIFY, RECOGNIZE AND ESTABLISH AWARDS FOR
22 EXEMPLARY ENVIRONMENTAL EDUCATION CURRICULA DEVELOPED IN
23 COMMONWEALTH SCHOOLS.

24 (4) TO ENSURE THAT SCHOOLS DEVELOP MECHANISMS FOR
25 ASSESSING THE LEARNING OUTCOMES FOR THE ENVIRONMENTAL GOAL OF
26 QUALITY EDUCATION (IN ACCORDANCE WITH 22 PA. CODE CH. 5
27 (RELATING TO CURRICULUM REQUIREMENTS)).

28 SECTION 305. POWERS AND DUTIES OF DEPARTMENT OF ENVIRONMENTAL
29 RESOURCES.

30 THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL HAVE THE

1 FOLLOWING POWERS AND DUTIES:

2 (1) TO CONDUCT A PERIODIC ASSESSMENT OF THE STATUS OF
3 ENVIRONMENTAL EDUCATION TAKING PLACE IN THE NONFORMAL SECTOR
4 (OUTSIDE OF THE CLASSROOM) IN THIS COMMONWEALTH.

5 (2) TO MAINTAIN AN INVENTORY OF ENVIRONMENTAL EDUCATION
6 MATERIALS, PROGRAMS AND RESOURCES AVAILABLE IN COMMONWEALTH
7 AGENCIES.

8 (3) TO USE THE DEPARTMENT'S ENVIRONMENTAL EDUCATION
9 CENTERS AS OUTREACH FACILITIES TO BRING YOUTH AND ADULT
10 EDUCATION PROGRAMS INTO COMMUNITIES AND SCHOOLS, FOCUSING ON
11 ENVIRONMENTAL ISSUES OF IMPORTANCE TO THE COMMONWEALTH.

12 (4) TO PROVIDE SUCH GRANTS AS THE SECRETARY OF
13 ENVIRONMENTAL RESOURCES AFTER CONSULTATION WITH THE SECRETARY
14 OF EDUCATION SHALL, IN HIS DISCRETION, APPROVE TO THE
15 FOLLOWING: PUBLIC AND PRIVATE SCHOOLS FOR YOUTH ENVIRONMENTAL
16 EDUCATION; CONSERVATION AND EDUCATION ORGANIZATIONS AND
17 INSTITUTIONS FOR THE PURPOSES OF PROVIDING ENVIRONMENTAL
18 EDUCATION TRAINING TO TEACHERS; COUNTY CONSERVATION
19 DISTRICTS; AND BUREAU OF STATE PARKS ENVIRONMENTAL EDUCATION
20 PROGRAM.

21 (5) TO PREPARE A GUIDANCE DOCUMENT, IN CONSULTATION WITH
22 THE SECRETARY OF EDUCATION, FOR ADMINISTERING THE GRANTS. THE
23 DEPARTMENT SHALL MAKE THE DOCUMENT AVAILABLE FOR PUBLIC
24 REVIEW AND COMMENT BY PUBLICATION IN THE PENNSYLVANIA
25 BULLETIN.

26 SECTION 306. ENVIRONMENTAL EDUCATION REPORT.

27 THE SECRETARY OF EDUCATION AND THE SECRETARY OF ENVIRONMENTAL
28 RESOURCES SHALL PREPARE A PERIODIC REPORT TO THE GOVERNOR AND
29 THE GENERAL ASSEMBLY OUTLINING ENVIRONMENTAL EDUCATION PROGRAMS
30 AND ACHIEVEMENTS, HIGHLIGHTING NEW INITIATIVES AND RECOMMENDING

1 FUTURE PROGRAM NEEDS.

2 SECTION 307. ADVISORY COUNCIL ON ENVIRONMENTAL EDUCATION.

3 (A) DUTIES.--THERE IS HEREBY CREATED AN ADVISORY COUNCIL ON
4 ENVIRONMENTAL EDUCATION WITHIN THE DEPARTMENT OF EDUCATION. THE
5 ADVISORY COUNCIL SHALL:

6 (1) MAKE RECOMMENDATIONS TO THE SECRETARY OF EDUCATION
7 AND THE SECRETARY OF ENVIRONMENTAL RESOURCES WITH RESPECT TO
8 THE USE OF ANY FUNDS USED TO SUPPORT ENVIRONMENTAL EDUCATION
9 ACTIVITIES.

10 (2) ADVISE AND ASSIST THE SECRETARY OF EDUCATION AND THE
11 SECRETARY OF ENVIRONMENTAL RESOURCES IN CARRYING OUT
12 ENVIRONMENTAL EDUCATION ACTIVITIES.

13 (3) ADVISE AND ASSIST THE SECRETARY OF EDUCATION AND THE
14 SECRETARY OF ENVIRONMENTAL RESOURCES IN CONDUCTING A
15 CONTINUAL ASSESSMENT OF THE TRENDS AND NEEDS IN ENVIRONMENTAL
16 EDUCATION.

17 (4) MAKE RECOMMENDATIONS TO THE SECRETARY OF EDUCATION
18 AND THE SECRETARY OF ENVIRONMENTAL RESOURCES TO HELP FOSTER
19 ENVIRONMENTAL EDUCATION PROGRAMS.

20 (5) MAKE RECOMMENDATIONS TO THE SECRETARY OF
21 ENVIRONMENTAL RESOURCES ON THE DISTRIBUTION OF AVAILABLE
22 GRANT MONEYS.

23 (B) COMPOSITION.--COUNCIL MEMBERSHIP SHALL CONSIST OF 13
24 PERSONS, SIX APPOINTED BY THE SECRETARY OF EDUCATION, SIX
25 APPOINTED BY THE SECRETARY OF ENVIRONMENTAL RESOURCES AND ONE
26 APPOINTED BY THE CHANCELLOR OF THE STATE SYSTEM OF HIGHER
27 EDUCATION, AND SHALL REPRESENT A DIVERSITY OF BACKGROUNDS,
28 INCLUDING BASIC AND HIGHER EDUCATION, INDUSTRY, RESOURCE
29 MANAGEMENT, CITIZENS AND PUBLIC INTEREST ORGANIZATIONS.

30 (C) APPOINTMENT, TERMS AND EXPENSES.--THE 13 COUNCIL MEMBERS

1 SHALL BE APPOINTED FOR FIVE-YEAR TERMS. THE INITIAL TERM OF FOUR
2 OF THE COUNCIL MEMBERS SHALL BE FOR ONE YEAR, THE INITIAL TERM
3 OF FOUR MEMBERS SHALL BE FOR THREE YEARS, AND THE INITIAL TERM
4 OF THE REMAINDER SHALL BE FOR FIVE YEARS. A MEMBER MAY BE
5 APPOINTED FOR MORE THAN ONE TERM AND SHALL SERVE UNTIL A
6 SUCCESSOR HAS BEEN APPOINTED. MEMBERS SHALL NOT BE COMPENSATED
7 BUT SHALL BE REIMBURSED FOR ACTUAL EXPENSES IN ACCORDANCE WITH
8 THE RULES OF THE EXECUTIVE BOARD.

9 (D) OFFICERS AND BYLAWS.--THE COUNCIL SHALL CONVENE AT LEAST
10 BIANNUALLY, SHALL ELECT A CHAIRPERSON AND A VICE-CHAIRPERSON TO
11 SERVE A ONE-YEAR TERM, AND SHALL ADOPT BYLAWS FOR GOVERNING ITS
12 OPERATIONS.

13 (E) STAFF.--THE SECRETARY OF EDUCATION SHALL DESIGNATE SUCH
14 STAFF AS MAY BE NECESSARY FOR THE OPERATION OF THE COUNCIL.

15 SECTION 308. ENVIRONMENTAL EDUCATION FUND.

16 (A) ESTABLISHMENT.--THERE IS HEREBY CREATED A SPECIAL
17 NONLAPSING FUND IN THE STATE TREASURY TO BE KNOWN AS THE
18 ENVIRONMENTAL EDUCATION FUND. AN AMOUNT EQUAL TO 5% OF THE
19 MONEYS COLLECTED ANNUALLY FROM FINES AND PENALTIES DEPOSITED IN
20 SPECIAL FUNDS OR RESTRICTED REVENUE ACCOUNTS ADMINISTERED BY THE
21 DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL BE DEPOSITED IN THIS
22 FUND. THIS ANNUAL ALLOCATION AMOUNT SHALL BE BASED UPON THE
23 AMOUNTS COLLECTED IN THE PREVIOUS FISCAL YEAR. ALL MONEYS PLACED
24 IN THE FUND AND THE INTEREST IT ACCRUES ARE HEREBY APPROPRIATED,
25 UPON AUTHORIZATION BY THE GOVERNOR, TO THE DEPARTMENT OF
26 ENVIRONMENTAL RESOURCES TO ACCOMPLISH THE PURPOSES OF THIS
27 CHAPTER. BEGINNING IN FISCAL YEAR 1992-1993, AND EACH YEAR
28 THEREAFTER, MONEYS APPROPRIATED TO THE DEPARTMENT UNDER THIS
29 SECTION SHALL NOT AFFECT AND ARE IN ADDITION TO FUNDING FOR
30 ENVIRONMENTAL EDUCATION PROGRAMS ADMINISTERED BY THE DEPARTMENT

1 AND THE DEPARTMENT OF EDUCATION THAT ARE IN EXISTENCE PRIOR TO
2 PASSAGE OF THIS CHAPTER.

3 (B) RETURN OF CERTAIN MONEYS.--ON JUNE 30 OF EACH FISCAL
4 YEAR ANY FUNDS IN THE ENVIRONMENTAL EDUCATION FUND IN EXCESS OF
5 AN AMOUNT EQUAL TO TWICE THE AVERAGE OF EXPENDITURES FOR THE
6 THREE PRIOR FISCAL YEARS FROM THE ENVIRONMENTAL EDUCATION FUND
7 SHALL BE RETURNED TO THE SPECIAL FUNDS OR RESTRICTED REVENUE
8 ACCOUNTS FROM WHICH THOSE FUNDS WERE ORIGINALLY TRANSFERRED.

9 CHAPTER 5

10 NUTRIENT MANAGEMENT

11 SECTION 501. DECLARATION OF LEGISLATIVE PURPOSE.

12 THE PURPOSES OF THIS CHAPTER ARE AS FOLLOWS:

13 (1) TO ESTABLISH CRITERIA, NUTRIENT MANAGEMENT PLANNING
14 REQUIREMENTS AND AN IMPLEMENTATION SCHEDULE FOR THE
15 APPLICATION OF NUTRIENT MANAGEMENT MEASURES ON CERTAIN
16 AGRICULTURAL OPERATIONS WHICH GENERATE OR UTILIZE ANIMAL
17 WASTES.

18 (2) TO PROVIDE FOR THE DEVELOPMENT OF AN EDUCATIONAL
19 PROGRAM BY THE STATE CONSERVATION COMMISSION IN CONJUNCTION
20 WITH THE COOPERATIVE EXTENSION SERVICE OF THE PENNSYLVANIA
21 STATE UNIVERSITY, THE DEPARTMENT OF AGRICULTURE AND
22 CONSERVATION DISTRICTS TO PROVIDE OUTREACH TO THE
23 AGRICULTURAL COMMUNITY ON THE PROPER UTILIZATION AND
24 MANAGEMENT OF NUTRIENTS ON FARMS TO PREVENT THE POLLUTION OF
25 SURFACE WATER AND GROUND WATER.

26 (3) TO REQUIRE THE STATE CONSERVATION COMMISSION, IN
27 CONJUNCTION WITH THE COOPERATIVE EXTENSION SERVICE OF THE
28 PENNSYLVANIA STATE UNIVERSITY, DEPARTMENT OF ENVIRONMENTAL
29 RESOURCES, DEPARTMENT OF AGRICULTURE AND THE NUTRIENT
30 MANAGEMENT ADVISORY BOARD TO DEVELOP AND PROVIDE TECHNICAL

1 AND FINANCIAL ASSISTANCE FOR NUTRIENT MANAGEMENT AND
2 ALTERNATIVE USES OF ANIMAL MANURE, INCLUDING A MANURE
3 MARKETING AND DISTRIBUTION PROGRAM.

4 (4) TO REQUIRE THE DEPARTMENT OF ENVIRONMENTAL RESOURCES
5 TO ASSESS THE EXTENT OF NONPOINT SOURCE POLLUTION FROM OTHER
6 NUTRIENT SOURCES, DETERMINE THE ADEQUACY OF EXISTING
7 AUTHORITY AND PROGRAMS TO MANAGE THOSE SOURCES AND MAKE
8 RECOMMENDATIONS TO PROVIDE FOR THE ABATEMENT OF THAT
9 POLLUTION.

10 SECTION 502. 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 "AEU." ANIMAL EQUIVALENT UNIT.

15 "AEU PER ACRE." AN ANIMAL EQUIVALENT UNIT PER ACRE OF CROP
16 LAND OR ACRE OF LAND SUITABLE FOR APPLICATION OF ANIMAL MANURE.

17 "AGRICULTURAL OPERATIONS." THE MANAGEMENT AND USE OF FARMING
18 RESOURCES FOR THE PRODUCTION OF CROPS, LIVESTOCK OR POULTRY.

19 "ANIMAL EQUIVALENT UNIT." ONE THOUSAND POUNDS LIVE WEIGHT OF
20 LIVESTOCK OR POULTRY ANIMALS, REGARDLESS OF THE ACTUAL NUMBER OF
21 INDIVIDUAL ANIMALS COMPRISING THE UNIT.

22 "BEST MANAGEMENT PRACTICE." OR "BMP." A PRACTICE OR
23 COMBINATION OF PRACTICES DETERMINED BY THE COMMISSION TO BE
24 EFFECTIVE AND PRACTICABLE (GIVEN TECHNOLOGICAL, ECONOMIC AND
25 INSTITUTIONAL CONSIDERATIONS) TO MANAGE NUTRIENTS TO PROTECT
26 SURFACE AND GROUND WATER TAKING INTO ACCOUNT APPLICABLE NUTRIENT
27 REQUIREMENTS FOR CROP UTILIZATION. BEST MANAGEMENT PRACTICES
28 INCLUDE, BUT ARE NOT LIMITED TO, CONSERVATION TILLAGE; CROP
29 ROTATION; SOIL TESTING; MANURE TESTING; DIVERSIONS, MANURE
30 STORAGE FACILITIES; STORM WATER MANAGEMENT PRACTICES; AND

1 NUTRIENT APPLICATION.

2 "BOARD." THE NUTRIENT MANAGEMENT ADVISORY BOARD CREATED BY
3 SECTION 507.

4 "COMMISSION." THE STATE CONSERVATION COMMISSION ESTABLISHED
5 BY THE ACT OF MAY 15, 1945 (P.L.547, NO.217), KNOWN AS THE
6 CONSERVATION DISTRICT LAW.

7 "CONCENTRATED ANIMAL OPERATION." AGRICULTURAL OPERATIONS
8 MEETING THE CRITERIA ESTABLISHED UNDER THIS CHAPTER.

9 "CONSERVATION DISTRICT." ANY COUNTY CONSERVATION DISTRICT
10 ESTABLISHED UNDER THE ACT OF MAY 15, 1945 (P.L.547, NO.217),
11 KNOWN AS THE CONSERVATION DISTRICT LAW.

12 "COOPERATIVE EXTENSION." THE COOPERATIVE EXTENSION SERVICE
13 OF THE PENNSYLVANIA STATE UNIVERSITY.

14 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OF
15 THE COMMONWEALTH.

16 "FUND." THE NUTRIENT MANAGEMENT FUND.

17 "NUTRIENT." A SUBSTANCE OR RECOGNIZED PLANT NUTRIENT,
18 ELEMENT OR COMPOUND WHICH IS USED OR SOLD FOR ITS PLANT
19 NUTRITIVE CONTENT OR ITS CLAIMED NUTRITIVE VALUE. THE TERM
20 INCLUDES, BUT IS NOT LIMITED TO, LIVESTOCK AND POULTRY MANURES,
21 COMPOST AS FERTILIZER, COMMERCIALY MANUFACTURED CHEMICAL
22 FERTILIZERS, SEWAGE SLUDGE OR COMBINATIONS THEREOF.

23 "NUTRIENT MANAGEMENT PLAN." A WRITTEN SITE-SPECIFIC PLAN
24 WHICH INCORPORATES BEST MANAGEMENT PRACTICES TO MANAGE THE USE
25 OF PLANT NUTRIENTS FOR CROP PRODUCTION AND WATER QUALITY
26 PROTECTION CONSISTENT WITH THE CRITERIA ESTABLISHED IN SECTIONS
27 503 AND 505.

28 "NUTRIENT MANAGEMENT SPECIALIST." A PERSON SATISFYING THE
29 CERTIFICATION REQUIREMENTS OF SECTION 506.

30 SECTION 503. POWERS AND DUTIES OF COMMISSION.

1 THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

2 (1) WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS
3 CHAPTER, AND PERIODICALLY THEREAFTER, TO PROMULGATE
4 REGULATIONS IN CONSULTATION WITH THE DEPARTMENT OF
5 AGRICULTURE, THE DEPARTMENT AND THE BOARD, ESTABLISHING
6 MINIMUM CRITERIA FOR NUTRIENT MANAGEMENT PLANS DEVELOPED IN
7 ACCORDANCE WITH SECTION 505 AND OTHER REGULATORY REQUIREMENTS
8 TO IMPLEMENT THIS CHAPTER AND WHICH SHALL NOT BE INCONSISTENT
9 WITH THE PENNSYLVANIA TECHNICAL GUIDE FOR SOIL AND WATER
10 CONSERVATION, PUBLISHED BY THE UNITED STATES DEPARTMENT OF
11 AGRICULTURE'S SOIL CONSERVATION SERVICE. THE CRITERIA TO BE
12 ESTABLISHED PURSUANT TO THIS SECTION SHALL INCLUDE THE
13 FOLLOWING:

14 (I) AN IDENTIFICATION OF NUTRIENTS AS DEFINED BY
15 THIS CHAPTER. UNLESS OTHERWISE APPROPRIATE, A PRESUMPTION
16 THAT NITROGEN IS THE NUTRIENT OF PRIMARY CONCERN.

17 (II) THE ESTABLISHMENT OF PROCEDURES TO DETERMINE
18 PROPER APPLICATION RATES OF NUTRIENTS TO BE APPLIED TO
19 LAND BASED ON CONDITIONS OF SOIL AND LEVELS OF EXISTING
20 NUTRIENTS IN THE SOIL AND THE TYPE OF AGRICULTURAL,
21 HORTICULTURAL OR FLORICULTURAL PRODUCTION TO BE CONDUCTED
22 ON THE LAND.

23 (III) AN IDENTIFICATION OF BEST MANAGEMENT PRACTICES
24 TO BE UTILIZED FOR PROPER NUTRIENT MANAGEMENT.

25 (IV) THE ESTABLISHMENT OF RECORDKEEPING REQUIREMENTS
26 RELATED TO LAND APPLICATION AND DISTRIBUTION OF
27 NUTRIENTS.

28 (V) THE ESTABLISHMENT OF MINIMUM STANDARDS OF
29 CONSTRUCTION, LOCATION, STORAGE CAPACITY AND OPERATION OF
30 FACILITIES INTENDED TO BE USED FOR STORAGE OF ANIMAL

1 MANURE.

2 (VI) THE ESTABLISHMENT OF CONDITIONS UNDER WHICH
3 MODIFICATIONS IN NUTRIENT MANAGEMENT PLANS OR
4 IMPLEMENTATION OF PLANS ARE REQUIRED TO BE MADE AFTER
5 INITIAL DEVELOPMENT OR FILING.

6 (2) WITHIN FIVE YEARS AFTER THE EFFECTIVE DATE OF THIS
7 CHAPTER, AND PERIODICALLY THEREAFTER, TO EVALUATE THE
8 CRITERIA FOR CONCENTRATED ANIMAL OPERATIONS IN THIS
9 COMMONWEALTH AND TO MAKE APPROPRIATE CHANGES BY REGULATION.

10 (3) PRIOR TO THE ADOPTION OF REGULATIONS UNDER PARAGRAPH
11 (1), THE COMMISSION SHALL HAVE THE AUTHORITY TO RECOMMEND
12 INTERIM CRITERIA CONSISTENT WITH PARAGRAPH (1) AND IN
13 CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE, THE
14 DEPARTMENT OF ENVIRONMENTAL RESOURCES AND THE BOARD SOLELY
15 FOR THE PURPOSE OF FACILITATING THE INITIAL DEVELOPMENT OF
16 THE NUTRIENT MANAGEMENT CERTIFICATION PROGRAM ESTABLISHED BY
17 THIS CHAPTER.

18 (4) WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS
19 CHAPTER TO DEVELOP AND IMPLEMENT, IN COOPERATION WITH THE
20 DEPARTMENT OF AGRICULTURE, THE BOARD, THE COOPERATIVE
21 EXTENSION AND CONSERVATION DISTRICTS, A PROGRAM TO PROVIDE
22 EDUCATION AND TECHNICAL ASSISTANCE TO THE AGRICULTURAL
23 COMMUNITY AND, TO THE EXTENT FUNDS ARE AVAILABLE, TO PROVIDE
24 FINANCIAL ASSISTANCE TO EXISTING AGRICULTURAL OPERATIONS FOR
25 IMPLEMENTATION OF PROPER METHODS, PRACTICES, FACILITIES AND
26 TECHNIQUES FOR THE UTILIZATION AND MANAGEMENT OF NUTRIENTS ON
27 THE FARM TO PREVENT THE POLLUTION OF GROUND WATER AND SURFACE
28 WATER.

29 (5) TO CONSULT WITH THE BOARD AS PROVIDED IN SECTION
30 507.

1 (6) TO ISSUE SUCH ORDERS AND TAKE SUCH ACTIONS AS ARE
2 NECESSARY TO ADMINISTER AND ENFORCE THIS CHAPTER.

3 (7) TO DELEGATE ADMINISTRATION OR ENFORCEMENT AUTHORITY,
4 OR BOTH, UNDER THIS CHAPTER TO COUNTY CONSERVATION DISTRICTS
5 THAT HAVE AN ADEQUATE PROGRAM AND SUFFICIENT RESOURCES TO
6 ACCEPT AND IMPLEMENT SUCH DELEGATION.

7 SECTION 504. POWERS AND DUTIES OF THE DEPARTMENT.

8 THE DEPARTMENT SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

9 (1) WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS
10 CHAPTER, TO MAKE AN ASSESSMENT OF AND REPORT TO THE
11 ENVIRONMENTAL QUALITY BOARD AND THE GENERAL ASSEMBLY ON THE
12 EXTENT TO WHICH MALFUNCTIONING ON-LOT SEWAGE SYSTEMS
13 CONTRIBUTE TO THE POLLUTION OF WATERS OF THIS COMMONWEALTH,
14 AND TO IDENTIFY WHAT REGULATORY OR LEGISLATIVE INITIATIVES,
15 IF ANY, THE DEPARTMENT DEEMS NECESSARY TO ABATE THAT
16 POLLUTION.

17 (2) WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS
18 CHAPTER, TO MAKE AN ASSESSMENT OF AND REPORT TO THE
19 ENVIRONMENTAL QUALITY BOARD AND THE GENERAL ASSEMBLY ON THE
20 EXTENT TO WHICH IMPROPER WATER WELL CONSTRUCTION CONTRIBUTES
21 TO GROUNDWATER POLLUTION DUE TO THE INTRUSION OF NUTRIENTS
22 FROM THE SURFACE AND TO IDENTIFY WHAT REGULATORY OR
23 LEGISLATIVE INITIATIVES, IF ANY, THE DEPARTMENT DEEMS
24 NECESSARY TO ABATE THAT POLLUTION.

25 (3) WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS
26 CHAPTER, TO MAKE AN ASSESSMENT OF AND REPORT TO THE
27 ENVIRONMENTAL QUALITY BOARD AND THE GENERAL ASSEMBLY ON THE
28 EXTENT TO WHICH THE APPLICATION OF CHEMICAL FERTILIZERS AND
29 OTHER PLANT NUTRIENTS CONTRIBUTES TO THE POLLUTION OF THE
30 WATERS OF THIS COMMONWEALTH AND TO IDENTIFY WHAT REGULATORY

OR LEGISLATIVE INITIATIVES, IF ANY, THE DEPARTMENT DEEMS
NECESSARY TO ABATE THAT POLLUTION.

(4) WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS
CHAPTER, TO MAKE AN ASSESSMENT OF AND REPORT TO THE
ENVIRONMENTAL QUALITY BOARD AND THE GENERAL ASSEMBLY ON THE
EXTENT TO WHICH NUTRIENTS FROM STORM WATER RUNOFF CONTRIBUTE
TO THE POLLUTION OF WATERS OF THIS COMMONWEALTH AND TO
IDENTIFY WHAT REGULATORY OR LEGISLATIVE INITIATIVES, IF ANY,
THE DEPARTMENT DEEMS NECESSARY TO ABATE THAT POLLUTION.

(5) WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS
CHAPTER, TO MAKE AN ASSESSMENT OF AND REPORT TO THE
ENVIRONMENTAL QUALITY BOARD AND THE GENERAL ASSEMBLY ON THE
EXTENT TO WHICH ATMOSPHERIC DEPOSITION OF NUTRIENTS
CONTRIBUTE TO THE POLLUTION OF THE WATERS OF THIS
COMMONWEALTH AND TO IDENTIFY WHAT REGULATORY OR LEGISLATIVE
INITIATIVES, IF ANY, THE DEPARTMENT DEEMS NECESSARY TO ABATE
SUCH POLLUTION.

(6) TO INCLUDE IN THE ABOVE ASSESSMENTS, RECOMMENDATIONS
TO THE GENERAL ASSEMBLY FOR BUDGETARY AND LEGISLATIVE
INITIATIVES WHERE PROGRAM RESOURCES OR STATUTORY AUTHORITY IS
NOT ADEQUATE TO ADDRESS POLLUTION SOURCES IDENTIFIED THEREIN.

(7) TO PROVIDE TECHNICAL AND ADMINISTRATIVE ASSISTANCE
TO THE COMMISSION IN CARRYING OUT ITS RESPONSIBILITIES UNDER
THIS CHAPTER.

SECTION 505. NUTRIENT MANAGEMENT PLANS.

(A) CONCENTRATED ANIMAL OPERATIONS.--CONCENTRATED ANIMAL
OPERATIONS ARE THOSE AGRICULTURAL OPERATIONS WHERE THE ANIMAL
DENSITY EXCEEDS TWO AEUS PER ACRE. FIVE YEARS AFTER THE
EFFECTIVE DATE OF THIS CHAPTER AND FROM TIME TO TIME THEREAFTER,
THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT OF

1 AGRICULTURE, THE BOARD, THE DEPARTMENT, AND THE COOPERATIVE
2 EXTENSION SERVICE SHALL REVIEW THE CRITERIA USED TO IDENTIFY
3 CONCENTRATED ANIMAL OPERATIONS AND MAKE APPROPRIATE CHANGES TO
4 THE DEFINITION OF CONCENTRATED ANIMAL OPERATIONS BY REGULATION.

5 (B) DEVELOPMENT OF NUTRIENT MANAGEMENT PLANS.--THE OPERATOR
6 OF ANY CONCENTRATED ANIMAL OPERATION SHALL DEVELOP AND IMPLEMENT
7 A NUTRIENT MANAGEMENT PLAN CONSISTENT WITH THE REQUIREMENTS OF
8 THIS SECTION.

9 (C) CERTIFICATION OF PLANS.--ALL PLANS MUST BE DEVELOPED AND
10 CERTIFIED BY A NUTRIENT MANAGEMENT SPECIALIST IN ACCORDANCE WITH
11 THE REQUIREMENTS OF THIS CHAPTER AND THE REGULATIONS PROMULGATED
12 UNDER THIS CHAPTER.

13 (D) REVIEW PROCEDURE.--NUTRIENT MANAGEMENT PLANS REQUIRED BY
14 THIS SECTION SHALL BE SUBMITTED FOR REVIEW IN ACCORDANCE WITH
15 THE FOLLOWING SCHEDULE:

16 (1) FOR OPERATIONS IN EXISTENCE ON THE EFFECTIVE DATE OF
17 REGULATIONS PROMULGATED UNDER THIS CHAPTER, WITHIN ONE YEAR
18 AFTER THE EFFECTIVE DATE OF THE REGULATIONS.

19 (2) FOR OPERATIONS WHICH COME INTO EXISTENCE AFTER THE
20 EFFECTIVE DATE OF REGULATIONS PROMULGATED UNDER THIS CHAPTER,
21 WITHIN THREE MONTHS AFTER SUCH DATE OR PRIOR TO THE TIME IN
22 WHICH THE OPERATIONS COMMENCE, WHICHEVER IS LATER.

23 (3) FOR OPERATIONS WHICH, BECAUSE OF EXPANSION, MEET THE
24 CRITERIA FOR CONCENTRATED AGRICULTURAL OPERATIONS WITHIN
25 THREE MONTHS AFTER THE DATE OF EXPANSION.

26 (E) PLAN REVIEW AND APPROVAL.--PLANS REQUIRED UNDER THIS
27 SECTION MUST BE SUBMITTED TO THE LOCAL CONSERVATION DISTRICTS
28 FOR REVIEW AND APPROVAL OR ALTERNATIVELY TO THE STATE
29 CONSERVATION COMMISSION FOR AGRICULTURAL OPERATIONS LOCATED IN
30 COUNTIES NOT DELEGATED ADMINISTRATIVE AUTHORITY UNDER SECTION

1 503. ANY PERSON PERFORMING THE PLAN REVIEW MUST BE CERTIFIED IN
2 ACCORDANCE WITH SECTION 506. WITHIN 90 DAYS OF RECEIPT OF A
3 NUTRIENT MANAGEMENT PLAN, A LOCAL CONSERVATION DISTRICT SHALL
4 EITHER APPROVE, MODIFY OR DISAPPROVE THE PLAN. APPROVALS SHALL
5 ONLY BE GRANTED FOR THOSE PLANS WHICH SATISFY THE REQUIREMENTS
6 OF THIS CHAPTER AND THE REGULATIONS PROMULGATED UNDER THIS
7 CHAPTER. NOTICE OF DETERMINATION TO APPROVE, MODIFY OR
8 DISAPPROVE A PLAN SHALL BE PROVIDED IN WRITING BY THE
9 CONSERVATION DISTRICT TO THE PERSON SUBMITTING THE PLAN. NOTICE
10 OF A DETERMINATION TO MODIFY OR DISAPPROVE A PLAN SHALL INCLUDE
11 AN EXPLANATION SPECIFICALLY STATING THE REASONS FOR MODIFICATION
12 OR DISAPPROVAL. IF A PLAN IS DISAPPROVED BY THE CONSERVATION
13 DISTRICT, THE PERSON SUBMITTING A PLAN FOR THE FIRST TIME SHALL
14 HAVE 90 DAYS AFTER RECEIPT OF NOTICE OF DISAPPROVAL TO RESUBMIT
15 AN AMENDED PLAN. AN AGRICULTURAL OPERATION THAT SUBMITS A
16 COMPLETE PLAN IS AUTHORIZED TO IMPLEMENT THE PLAN IF THE
17 CONSERVATION DISTRICT FAILS TO ACT WITHIN 90 DAYS OF SUBMITTAL
18 TO THE DISTRICT. WHERE THE DISTRICT FAILS TO SO ACT AND THE PLAN
19 IS RESUBMITTED TO THE DISTRICT AND THE DISTRICT AGAIN FAILS TO
20 ACT WITHIN 90 DAYS OF RESUBMITTAL THE PLAN SHALL BE DEEMED
21 APPROVED.

22 (F) IMPLEMENTATION.--PERSONS CONDUCTING AGRICULTURAL
23 OPERATIONS REQUIRED TO DEVELOP NUTRIENT MANAGEMENT PLANS
24 PURSUANT TO THIS CHAPTER SHALL IMPLEMENT SUCH PLANS IN
25 ACCORDANCE WITH THE SCHEDULE SET FORTH IN THE PLAN AND REVIEWED
26 AND APPROVED BY THE CONSERVATION DISTRICT WHICH SHALL NOT EXCEED
27 THREE YEARS, UNLESS EXTENDED FOR CAUSE SHOWN.

28 (G) VOLUNTARY PLANS.--ANY AGRICULTURAL OPERATION THAT IS NOT
29 A CONCENTRATED ANIMAL OPERATION MAY VOLUNTARILY DEVELOP A
30 NUTRIENT MANAGEMENT PLAN AND HAVE IT REVIEWED PURSUANT TO THIS

SECTION. TO THE EXTENT POSSIBLE, THE COMMISSION, THE COOPERATIVE
EXTENSION SERVICE, THE DEPARTMENT OF AGRICULTURE, THE DEPARTMENT
AND CONSERVATION DISTRICTS SHALL ASSIST AND PROMOTE THE
DEVELOPMENT OF VOLUNTARILY PLANS.

(H) FINANCIAL ASSISTANCE.--ANY AGRICULTURAL OPERATION
RECEIVING FINANCIAL ASSISTANCE UNDER THE CHESAPEAKE BAY NONPOINT
SOURCE POLLUTION ABATEMENT PROGRAM OR OTHERWISE RECEIVING
FINANCIAL ASSISTANCE UNDER THIS CHAPTER FOR THE DEVELOPMENT OF A
NUTRIENT MANAGEMENT PLAN SHALL DEVELOP AND IMPLEMENT A NUTRIENT
MANAGEMENT PLAN AS A CONDITION FOR RECEIVING SUCH FINANCIAL
ASSISTANCE.

(I) COMPLIANCE PLANS.--ANY AGRICULTURAL OPERATION POLLUTING
SURFACE OR GROUND WATER MAY BE REQUIRED TO DEVELOP WITHIN THREE
MONTHS AND IMPLEMENT A NUTRIENT MANAGEMENT PLAN IN ORDER TO
PREVENT OR ABATE SUCH POLLUTION.

(J) TRANSFERABILITY OF PLANS.--A PLAN APPROVED UNDER THIS
SECTION SHALL BE TRANSFERABLE TO A SUBSEQUENT OWNER OF AN
AGRICULTURAL OPERATIONS UPON NOTIFICATION THEREOF TO THE
DISTRICT, UNLESS SUCH TRANSFER RESULTS IN OPERATIONAL CHANGES
REQUIRING PLAN MODIFICATION PURSUANT TO THE CRITERIA ESTABLISHED
UNDER SECTION 503(1)(VI).

SECTION 506. NUTRIENT MANAGEMENT CERTIFICATION PROGRAM.

(A) CONTENT OF PROGRAM.--THE DEPARTMENT OF AGRICULTURE SHALL
ESTABLISH, IN CONSULTATION WITH THE COMMISSION, A PROGRAM TO
CERTIFY INDIVIDUALS THAT HAVE DEMONSTRATED THE COMPETENCE
NECESSARY TO DEVELOP NUTRIENT MANAGEMENT PLANS. THE DEPARTMENT
OF AGRICULTURE, OR ITS DESIGNEE, SHALL DEVELOP SUCH WRITTEN
TESTING PROCEDURES, EDUCATIONAL REQUIREMENTS AND EXAMINATIONS
AND RENEWAL FEES AS IT DEEMS APPROPRIATE TO CARRY OUT ITS
RESPONSIBILITIES UNDER THIS SECTION. THE PROGRAM SHALL PROVIDE

FOR SUCH FEES AND TERMS OF CERTIFICATION AS THE DEPARTMENT DEEMS
APPROPRIATE AND SHALL ALSO PROVIDE FOR INDIVIDUAL, COMMERCIAL
AND PUBLIC CERTIFICATION CATEGORIES. THE PROGRAM SHALL INCLUDE A
CERTIFICATION CATEGORY FOR FARMERS TO DEVELOP AND CERTIFY
NUTRIENT MANAGEMENT PLANS FOR THEIR OWN AGRICULTURAL OPERATIONS.

(B) INTERIM CERTIFICATION PROGRAM.--UNTIL THE DEPARTMENT OF
AGRICULTURE DEVELOPS AND IMPLEMENTS A CERTIFICATION PROGRAM,
PERSONS HAVING THE FOLLOWING QUALIFICATIONS SHALL, UPON REQUEST,
RECEIVE INTERIM CERTIFICATION FROM THE DEPARTMENT OF
AGRICULTURE.

(1) THE PERSON HAS AT LEAST TWO YEARS EXPERIENCE IN THE
DEVELOPMENT OF NUTRIENT MANAGEMENT PLANS;

(2) THE PERSON HAS DEVELOPED NUTRIENT MANAGEMENT PLANS
APPROVED UNDER THE CHESAPEAKE BAY NONPOINT SOURCE POLLUTION
ABATEMENT PROGRAM OR OTHER PROGRAMS REQUIRING SUBMISSION AND
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.--NO PERSON SHALL CERTIFY
A NUTRIENT MANAGEMENT PLAN WITHOUT THAT PERSON FIRST SATISFYING
THE REQUIREMENTS OF THIS SECTION.

SECTION 507. NUTRIENT MANAGEMENT ADVISORY BOARD.

(A) CREATION.--THERE IS HEREBY CREATED THE NUTRIENT
MANAGEMENT ADVISORY BOARD. THE BOARD SHALL CONSIST OF 15 MEMBERS
APPOINTED BY THE CHAIRMAN OF THE COMMISSION AND APPROVED BY A
TWO-THIRDS VOTE OF THE COMMISSION. THE MEMBERS SO APPOINTED
SHALL CONSIST OF FIVE ACTIVE COMMERCIAL FARM OWNERS AND

1 OPERATORS REPRESENTING THE LIVESTOCK, SWINE, MEAT POULTRY, EGG
2 POULTRY AND DAIRY INDUSTRY NOMINATED BY STATEWIDE GENERAL FARM
3 ORGANIZATIONS WITH AT LEAST ONE REPRESENTATIVE FROM EACH
4 STATEWIDE FARM ORGANIZATION, ONE VETERINARY NUTRITION
5 SPECIALIST, ONE REPRESENTATIVE FROM THE FEED INDUSTRY, ONE
6 REPRESENTATIVE FROM THE FERTILIZER INDUSTRY, ONE REPRESENTATIVE
7 OF COMMERCIAL AGRICULTURAL LENDERS, ONE REPRESENTATIVE OF LOCAL
8 GOVERNMENT, ONE REPRESENTATIVE OF ACADEMIA WHO SHALL BE AN
9 AGRONOMIST OR PLANT SCIENTIST FACULTY MEMBER OF THE SCHOOL OF
10 AGRICULTURE OF A PENNSYLVANIA COLLEGE OR UNIVERSITY, ONE
11 HYDROLOGIST, TWO CITIZEN REPRESENTATIVES WHO ARE NOT FARMERS AND
12 ONE ENVIRONMENTAL REPRESENTATIVE, ALL OF WHOM SHALL HAVE
13 SUFFICIENT KNOWLEDGE, EXPERIENCE OR FAMILIARITY WITH AGRONOMIC
14 OR NUTRIENT MANAGEMENT PRACTICES AND ALL OF WHOM SHALL BE
15 RESIDENTS OF THIS COMMONWEALTH.

16 (B) COMPENSATION.--BOARD MEMBERS SHALL NOT RECEIVE A SALARY
17 BUT SHALL BE REIMBURSED FOR ALL NECESSARY EXPENSES INCURRED IN
18 THE PERFORMANCE OF THEIR DUTIES.

19 (C) MEETINGS.--A MAJORITY OF THE BOARD SHALL CONSTITUTE A
20 QUORUM. ALL ACTIONS OF THE BOARD SHALL BE BY A MAJORITY VOTE.
21 THE BOARD SHALL MEET UPON THE CALL OF THE COMMISSION, BUT NOT
22 LESS THAN SEMIANNUALLY, TO CARRY OUT ITS DUTIES UNDER THIS
23 CHAPTER. THE BOARD SHALL SELECT A CHAIRMAN AND SUCH OTHER
24 OFFICERS AS IT DEEMS APPROPRIATE.

25 (D) DUTIES.--THE BOARD SHALL PROVIDE REVIEW AND COMMENT ON
26 ALL REGULATIONS AND THE INTERIM CRITERIA ESTABLISHED UNDER
27 SECTION 503(3) OF THE COMMISSION DEVELOPED TO IMPLEMENT THE
28 PROVISION OF THIS CHAPTER. THE COMMISSION SHALL HAVE NO POWER TO
29 PROMULGATE REGULATIONS UNDER THIS CHAPTER UNTIL RECEIPT OF
30 WRITTEN COMMENTS ON THE PROPOSED REGULATIONS FROM THE BOARD OR

1 UNTIL 60 DAYS HAVE EXPIRED FROM THE DATE WHEN SUCH REGULATIONS
2 WERE SUBMITTED BY THE COMMISSION TO THE BOARD FOR THEIR
3 COMMENTS. EXISTING REGULATIONS SHALL CONTINUE UNTIL MODIFIED,
4 SUPERSEDED OR REPEALED BY THE COMMISSION UNDER THIS SECTION.

5 (E) TERM.--THE TERM OF OFFICE FOR EACH BOARD MEMBER SHALL BE
6 THREE YEARS EXCEPT THAT THE COMMISSION SHALL STAGGER THE INITIAL
7 TERMS OF THE CHARTER MEMBERS SUCH THAT FIVE SHALL SERVE FOR ONE
8 YEAR, FIVE SHALL SERVE FOR TWO YEARS AND FIVE SHALL SERVE FOR
9 THREE YEARS. BOARD MEMBERS MAY BE APPOINTED TO SUCCESSIVE TERMS
10 AT THE DISCRETION OF THE COMMISSION, PROVIDED THAT NO MEMBER MAY
11 SERVE MORE THAN TWO THREE-YEAR TERMS.

12 SECTION 508. FINANCIAL ASSISTANCE.

13 (A) LOANS, GRANTS, ETC.--THE COMMISSION SHALL, TO THE EXTENT
14 FUNDS ARE AVAILABLE, PROVIDE FINANCIAL ASSISTANCE IN THE FORM OF
15 LOANS, LOAN GUARANTEES AND GRANTS FOR THE IMPLEMENTATION OF
16 NUTRIENT MANAGEMENT PLANS FOR EXISTING AGRICULTURAL OPERATIONS.

17 (B) CRITERIA FOR ELIGIBILITY.--IN REVIEWING APPLICATIONS FOR
18 FINANCIAL ASSISTANCE, THE COMMISSION SHALL CONSIDER THE
19 FOLLOWING:

20 (1) WHETHER THE PROJECT WILL IMPROVE THE HEALTH, SAFETY
21 OR ENVIRONMENT OF THE PEOPLE OF THIS COMMONWEALTH AND
22 OTHERWISE SATISFY THE PURPOSES OF THIS CHAPTER.

23 (2) THE COST EFFECTIVENESS OF THE PROPOSED PRACTICES IN
24 COMPARISON WITH OTHER ALTERNATIVES.

25 (3) THE APPLICANT'S ABILITY TO OPERATE AND/OR MAINTAIN
26 THE PRACTICES IN A PROPER MANNER.

27 (C) ISSUANCE AND TERMS.--THE COMMISSION SHALL ISSUE SUCH
28 LOANS AND SET TERMS APPLICABLE THERETO IN ANY MANNER IT DEEMS
29 APPROPRIATE SUBJECT TO THIS SECTION. THE COMMISSION MAY CONSIDER
30 SUCH FACTORS AS IT DEEMS RELEVANT, INCLUDING CURRENT MARKET

1 INTEREST RATES, THE FINANCIAL ABILITY OF THE APPLICANT TO REPAY,
2 AND THE NECESSITY TO MAINTAIN THE FUNDS CREATED HEREUNDER IN A
3 FINANCIALLY SOUND MANNER. LOANS MAY BE BASED ON THE ABILITY TO
4 REPAY FROM FUTURE REVENUE TO BE DERIVED FROM THE APPLICANT'S
5 AGRICULTURAL OPERATION, BY A MORTGAGE OR OTHER SECURITY
6 INTEREST, OR BY ANY OTHER FISCAL MANNER WHICH THE COMMISSION
7 DEEMS APPROPRIATE. THE BOARD SHALL HAVE THE POWER TO DEFER
8 PRINCIPLE ON LOANS FOR UP TO 12 MONTHS. THE MINIMUM RATE OF
9 INTEREST TO BE PAID ON ANY LOAN MADE PURSUANT HERETO SHALL BE
10 1%.

11 (D) GRANTS.--GRANTS SHALL BE MADE AVAILABLE AS FOLLOWS:

12 (1) WHERE FUNDS THEREFORE HAVE BEEN MADE AVAILABLE TO
13 THE COMMISSION, SUBJECT TO ANY CONDITIONS THAT MAY HAVE
14 ACCOMPANIED THE RECEIPT OF SUCH FUNDS;

15 (2) WHERE THE COMMISSION IN ITS SOLE DISCRETION,
16 DETERMINES THAT THE FINANCIAL CONDITION OF THE RECIPIENT IS
17 SUCH THAT REPAYMENT OF A LOAN IS UNLIKELY AND THAT THE
18 RECIPIENT WILL BE FINANCIALLY DISTRESSED BY THE
19 IMPLEMENTATION OF PRACTICES WITHOUT A GRANT; AND

20 (3) WHERE FUNDS ARE MADE AVAILABLE THEREFORE, OR WHERE
21 THE COMMISSION DETERMINES THAT A GRANT IS NECESSARY, IT SHALL
22 ATTEMPT TO MIX GRANT FUNDS WITH LOAN FUNDS, IF FINANCIALLY
23 POSSIBLE.

24 SECTION 509. NUTRIENT MANAGEMENT FUND.

25 (A) ESTABLISHMENT OF FUND.--THERE IS HEREBY CREATED A
26 SPECIAL NONLAPSING FUND IN THE STATE TREASURY TO BE KNOWN AS THE
27 NUTRIENT MANAGEMENT FUND. ALL FEES, FINES, JUDGMENTS AND
28 INTEREST COLLECTED BY THE COMMISSION UNDER THIS CHAPTER SHALL BE
29 PAID INTO THE FUND. ALL MONEY PLACED IN THE FUND AND THE
30 INTEREST IT ACCRUES ARE HEREBY APPROPRIATED TO THE COMMISSION ON

1 A CONTINUING BASIS FOR ANY ACTIVITIES NECESSARY TO MEET THE
2 REQUIREMENTS OF THIS CHAPTER.

3 (B) SUPPLEMENTS TO FUND.--THE NUTRIENT MANAGEMENT FUND MAY
4 BE SUPPLEMENTED BY MONEYS RECEIVED FROM THE FOLLOWING SOURCES:

5 (1) STATE FUNDS APPROPRIATED TO THE COMMISSION.

6 (2) FEDERAL FUNDS APPROPRIATED TO THE COMMISSION.

7 (3) PROCEEDS FROM THE SALE OF ANY BONDS MADE AVAILABLE
8 TO THE COMMISSION.

9 (4) REPAYMENT OF LOAN PRINCIPAL.

10 (5) PAYMENT ON INTEREST LOANS MADE BY THE COMMISSION.

11 (6) GIFTS AND OTHER CONTRIBUTIONS FROM PUBLIC AND
12 PRIVATE SOURCES.

13 (C) FUND ADMINISTRATION.--THE COMMISSION SHALL HAVE
14 AUTHORITY TO ADOPT PROCEDURES FOR THE USE OF MONEYS IN THE FUND
15 INCLUDING THE CREATION OF ACCOUNTS WITHIN THE FUND FOR THE
16 PURPOSES OF ADMINISTERING THE LOAN AND GRANT PROGRAMS AUTHORIZED
17 BY THIS CHAPTER.

18 (D) STATUS OF FUND.--THE NUTRIENT MANAGEMENT FUND SHALL NOT
19 BE SUBJECT TO 42 PA.C.S. CH. 37, SUBCH. C (RELATING TO JUDICIAL
20 COMPUTER SYSTEM).

21 (E) DEPOSIT AND USE OF FUNDS.--NO ADMINISTRATIVE ACTION
22 SHALL PREVENT THE DEPOSIT OF MONEYS INTO THE FUND IN THE FISCAL
23 YEAR IN WHICH THEY ARE RECEIVED. THE FUNDS SHALL ONLY BE USED
24 FOR THE PURPOSES AUTHORIZED BY THIS CHAPTER AND SHALL NOT BE
25 TRANSFERRED OR DIVERTED TO ANY OTHER PURPOSE BY ADMINISTRATIVE
26 ACTION.

27 SECTION 510. UNLAWFUL CONDUCT.

28 IT SHALL BE UNLAWFUL TO FAIL TO COMPLY WITH OR TO CAUSE OR
29 ASSIST IN THE VIOLATION OF ANY ORDER OR ANY OF THE PROVISIONS OF
30 THIS CHAPTER OR THE RULES AND REGULATIONS ADOPTED UNDER THIS

1 CHAPTER OR TO FAIL TO COMPLY WITH A NUTRIENT MANAGEMENT PLAN OR
2 TO HINDER, OBSTRUCT, PREVENT OR INTERFERE WITH THE COMMISSION OR
3 ANY CONSERVATION DISTRICT OR THEIR PERSONNEL IN THE PERFORMANCE
4 OF ANY DUTY HEREUNDER OR TO DENY A CONSERVATION DISTRICT
5 EMPLOYEE OR AGENT ACCESS TO AN AGRICULTURAL OPERATION.

6 SECTION 511. CIVIL PENALTIES AND REMEDIES.

7 (A) CIVIL PENALTY.--IN ADDITION TO PRECEDING UNDER ANY OTHER
8 REMEDY AVAILABLE AT LAW OR IN EQUITY FOR A VIOLATION OF A
9 PROVISION OF THIS CHAPTER OR A RULE OR REGULATION ADOPTED, ORDER
10 ISSUED OR NUTRIENT MANAGEMENT PLAN APPROVED UNDER THIS CHAPTER,
11 THE COMMISSION MAY ASSESS A CIVIL PENALTY OF NOT MORE THAN \$500
12 FOR EACH OFFENSE. THE FACTORS FOR CONSIDERATION IN DETERMINING
13 THE AMOUNT OF THE PENALTY ARE: THE GRAVITY OF THE VIOLATION, THE
14 POTENTIAL HARM TO THE PUBLIC, THE POTENTIAL EFFECT ON THE
15 ENVIRONMENT, THE WILLFULNESS OF THE VIOLATION, PREVIOUS
16 VIOLATIONS AND THE ECONOMIC BENEFIT TO THE VIOLATOR FOR FAILING
17 TO COMPLY WITH THIS CHAPTER. WHENEVER THE COMMISSION FINDS THAT
18 A VIOLATION DID NOT CAUSE HARM TO HUMAN HEALTH OR AN ADVERSE
19 EFFECT ON THE ENVIRONMENT, THE COMMISSION MAY ISSUE A WARNING IN
20 LIEU OF ASSESSING A PENALTY. IF THE COMMISSION FINDS THE
21 NUTRIENT POLLUTION OR THE DANGER OF NUTRIENT POLLUTION RESULTS
22 FROM CONDITIONS, ACTIVITIES OR PRACTICES WHICH ARE BEING OR HAVE
23 BEEN IMPLEMENTED IN ACCORDANCE WITH A NUTRIENT MANAGEMENT PLAN
24 DEVELOPED AND APPROVED PURSUANT TO AND CONSISTENT WITH THIS
25 CHAPTER AND THE REGULATIONS DEVELOPED UNDER THIS CHAPTER AND
26 WHICH IS BEING OR HAS BEEN FULLY IMPLEMENTED AND MAINTAINED, THE
27 OWNER OR OPERATOR OF THE AGRICULTURAL OPERATION SHALL BE EXEMPT
28 FROM THE IMPOSITION OF PENALTIES UNDER THIS CHAPTER.

29 (B) COLLECTION.--IN CASES OF INABILITY TO COLLECT THE CIVIL
30 PENALTY OR FAILURE OF ANY PERSON TO PAY ALL OR A PORTION OF THE

1 PENALTY, AS THE COMMISSION MAY DETERMINE, THE COMMISSION MAY
2 REFER THE MATTER TO THE OFFICE OF GENERAL COUNSEL OR THE OFFICE
3 OF ATTORNEY GENERAL WHICH SHALL RECOVER THE AMOUNT BY ACTION IN
4 THE APPROPRIATE COURT. ANY PENALTY ASSESSED SHALL ACT AS A LIEN
5 ON THE PROPERTY OF THE PERSON AGAINST WHOM THE PENALTY HAS BEEN
6 ASSESSED.

7 (C) CIVIL REMEDIES.--IN ADDITION TO ANY OTHER REMEDIES
8 PROVIDED FOR IN THIS CHAPTER, ANY VIOLATION OF THIS CHAPTER, THE
9 RULES AND REGULATIONS PROMULGATED UNDER THIS CHAPTER, ANY ORDER
10 OR NUTRIENT MANAGEMENT PLAN APPROVED UNDER THIS CHAPTER SHALL BE
11 ABATABLE IN THE MANNER PROVIDED BY LAW OR EQUITY FOR THE
12 ABATEMENT OF PUBLIC NUISANCES. IN ADDITION, IN ORDER TO RESTRAIN
13 OR PREVENT ANY VIOLATION OF THIS CHAPTER OR THE RULES AND
14 REGULATIONS PROMULGATED UNDER THIS CHAPTER OR ANY ORDER OR
15 NUTRIENT MANAGEMENT PLAN APPROVED UNDER THIS CHAPTER, SUITS MAY
16 BE INSTITUTED IN EQUITY OR AT LAW IN THE NAME OF THE
17 COMMONWEALTH UPON RELATION OF THE ATTORNEY GENERAL, THE GENERAL
18 COUNSEL, THE DISTRICT ATTORNEY OF ANY COUNTY, THE SOLICITOR OF
19 ANY MUNICIPALITY AFFECTED OR THE SOLICITOR OF ANY CONSERVATION
20 DISTRICT AFTER NOTICE HAS BEEN SERVED UPON THE ATTORNEY GENERAL
21 OF THE INTENTION OF THE GENERAL COUNSEL, DISTRICT ATTORNEY OR
22 SOLICITOR TO SO PROCEED. SUCH PROCEEDINGS MAY BE PROSECUTED IN
23 THE COMMONWEALTH COURT OR IN THE COURT OF COMMON PLEAS OF THE
24 COUNTY WHERE THE ACTIVITY HAS TAKEN PLACE, THE CONDITION EXISTS
25 OR THE PUBLIC IS AFFECTED, AND, TO THAT END, JURISDICTION IS
26 HEREBY CONFERRED IN LAW AND EQUITY UPON SUCH COURTS. EXCEPT IN
27 CASES OF EMERGENCY WHERE, IN THE OPINION OF THE COURT, THE
28 EXIGENCIES OF THE CASE REQUIRE IMMEDIATE ABATEMENT OF THE
29 NUISANCE, THE COURT MAY, IN ITS DECREE, FIX A REASONABLE TIME
30 DURING WHICH THE PERSON RESPONSIBLE FOR THE NUISANCE MAY MAKE

1 PROVISION FOR THE ABATEMENT OF SAME.

2 (D) EQUITABLE RELIEF.--IN CASES WHERE THE CIRCUMSTANCES
3 REQUIRE IT OR THE PUBLIC HEALTH IS ENDANGERED, A MANDATORY
4 PRELIMINARY INJUNCTION, SPECIAL INJUNCTION OR TEMPORARY
5 RESTRAINING ORDER MAY BE ISSUED UPON THE TERMS PRESCRIBED BY THE
6 COURT, NOTICE OF THE APPLICATION THEREFORE HAVING BEEN GIVEN TO
7 THE DEFENDANT IN ACCORDANCE WITH THE RULES OF EQUITY PRACTICE,
8 AND IN ANY SUCH CASE THE ATTORNEY GENERAL, THE GENERAL COUNSEL,
9 THE DISTRICT ATTORNEY OR THE SOLICITOR OF ANY MUNICIPALITY OR
10 CONSERVATION DISTRICT SHALL NOT BE REQUIRED TO GIVE BOND. IN ANY
11 SUCH PROCEEDING, THE COURT SHALL ISSUE A PROHIBITORY OR
12 MANDATORY PRELIMINARY INJUNCTION IF IT FINDS THAT THE DEFENDANT
13 IS ENGAGING IN UNLAWFUL CONDUCT AS DEFINED BY THIS CHAPTER OR IS
14 ENGAGED IN CONDUCT WHICH IS CAUSING IMMEDIATE AND IRREPARABLE
15 HARM TO THE PUBLIC. IN ADDITION TO AN INJUNCTION, THE COURT IN
16 SUCH EQUITY PROCEEDING MAY ASSESS CIVIL PENALTIES IN ACCORDANCE
17 WITH THIS SECTION.

18 SECTION 512. LIMITATION OF LIABILITY.

19 IF A PERSON IS FULLY AND PROPERLY IMPLEMENTING A NUTRIENT
20 MANAGEMENT PLAN DEVELOPED, APPROVED BY THE LOCAL CONSERVATION
21 DISTRICT AND MAINTAINED UNDER THIS CHAPTER FOR AN AGRICULTURAL
22 OPERATION, SUCH IMPLEMENTATION SHALL BE GIVEN APPROPRIATE
23 CONSIDERATION AS A MITIGATING FACTOR IN ANY CIVIL ACTION FOR
24 PENALTIES OR DAMAGES ALLEGED TO HAVE BEEN CAUSED BY THE
25 MANAGEMENT OR UTILIZATION OF NUTRIENTS PURSUANT TO SUCH
26 IMPLEMENTATION.

27 SECTION 513. ENFORCEMENT ORDERS.

28 THE COMMISSION OR ANY CONSERVATION DISTRICT DELEGATED
29 ENFORCEMENT AUTHORITY MAY ISSUE SUCH ORDERS AS ARE NECESSARY TO
30 AID IN THE ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER. ANY

1 ORDER ISSUED UNDER THIS SECTION SHALL TAKE EFFECT UPON NOTICE
2 UNLESS THE ORDER SPECIFIES OTHERWISE. AN APPEAL TO THE
3 ENVIRONMENTAL HEARING BOARD OF THE ORDER SHALL NOT ACT AS A
4 SUPERSEDEAS; PROVIDED THAT UPON APPLICATION FOR AND CAUSE SHOWN,
5 THE HEARING BOARD MAY ISSUE SUCH A SUPERSEDEAS UNDER THE RULES
6 ESTABLISHED BY THE HEARING BOARD.

7 SECTION 514. APPEALABLE ACTIONS.

8 ANY PERSON AGGRIEVED BY AN ORDER OR OTHER ADMINISTRATIVE
9 ACTION OF THE COMMISSION ISSUED PURSUANT TO THIS CHAPTER SHALL
10 HAVE THE RIGHT, WITHIN 30 DAYS FROM ACTUAL OR CONSTRUCTIVE
11 NOTICE OF THE ACTION, TO APPEAL THE ACTION TO THE ENVIRONMENTAL
12 HEARING BOARD.

13 SECTION 515. POWERS RESERVED UNDER EXISTING LAWS.

14 NOTHING IN THIS CHAPTER SHALL LIMIT IN ANY WAY WHATEVER THE
15 POWERS CONFERRED UPON THE COMMISSION, DEPARTMENT OF AGRICULTURE,
16 DEPARTMENT OR CONSERVATION DISTRICT UNDER LAWS OTHER THAN THIS
17 CHAPTER, INCLUDING, BUT NOT LIMITED, TO THE ACT OF JUNE 22, 1937
18 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW AND THE ACT
19 OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID WASTE
20 MANAGEMENT ACT AND COMMON LAW. ALL SUCH POWERS ARE PRESERVED AND
21 MAY BE FREELY EXERCISED. NO COURT EXERCISING GENERAL EQUITABLE
22 JURISDICTION SHALL BE DEPRIVED OF SUCH JURISDICTION EVEN THOUGH
23 A NUISANCE OR CONDITION DETRIMENTAL TO HEALTH IS SUBJECT TO
24 REGULATION OR OTHER ACTION BY THE BOARD UNDER THIS CHAPTER.

25 SECTION 516. PREEMPTION OF LOCAL ORDINANCES.

26 THIS CHAPTER AND ITS PROVISIONS ARE OF STATEWIDE CONCERN AND
27 OCCUPY THE WHOLE FIELD OF REGULATION TO THE EXCLUSION OF ALL
28 INCONSISTENT LOCAL REGULATIONS. UPON ADOPTION OF THE REGULATIONS
29 AUTHORIZED BY SECTION 503, NO ORDINANCE OR REGULATION OF ANY
30 POLITICAL SUBDIVISION OR HOME RULE MUNICIPALITY MAY PROHIBIT OR

1 IN ANY WAY REGULATE PRACTICES RELATED TO THE STORAGE, HANDLING
2 OR LAND APPLICATION OF ANIMAL MANURE OR NUTRIENTS OR TO THE
3 CONSTRUCTION, LOCATION OR OPERATION OF FACILITIES USED FOR
4 STORAGE OR ANIMAL MANURE OR NUTRIENTS OR PRACTICES OTHERWISE
5 REGULATED BY THIS CHAPTER IF THE MUNICIPAL ORDINANCE OR
6 REGULATION IS IN CONFLICT WITH THIS CHAPTER AND THE REGULATIONS
7 PROMULGATED THEREUNDER. NOTHING HEREIN SHALL PREVENT A POLITICAL
8 SUBDIVISION OR HOME RULE MUNICIPALITY FROM ADOPTING AND
9 ENFORCING ORDINANCES OR REGULATIONS WHICH ARE CONSISTENT WITH
10 THE REQUIREMENTS OF THIS CHAPTER AND THE REGULATIONS PROMULGATED
11 HEREUNDER.

12 CHAPTER 11

13 MISCELLANEOUS PROVISIONS

14 SECTION 1101. REPEALS.

15 ALL ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS THEY ARE
16 INCONSISTENT WITH THIS ACT.

17 SECTION 1102. EFFECTIVE DATE.

18 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.