

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2302 Session of
2002

INTRODUCED BY BUNT, DALEY, DeWEESE, S. MILLER, ADOLPH, ARGALL,
T. ARMSTRONG, M. BAKER, BASTIAN, BELFANTI, CAPPELLI, CLYMER,
M. COHEN, EGOLF, J. EVANS, FICHTER, FORCIER, GORDNER,
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HUTCHINSON, MAJOR, MCGILL, MCILHATTAN, R. MILLER, NAILOR,
PALLONE, PHILLIPS, PICKETT, ROBERTS, ROSS, RUBLEY, SANTONI,
SATHER, SAYLOR, SEMMEL, SHANER, B. SMITH, SOLOBAY, STERN,
E. Z. TAYLOR, TIGUE, TRICH, WANSACZ, G. WRIGHT, YOUNGBLOOD
AND STEELMAN, JANUARY 24, 2002

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 25, 2002

AN ACT

1 ~~Amending~~ AMENDING TITLE 27 (ENVIRONMENTAL RESOURCES) OF THE <—
2 PENNSYLVANIA CONSOLIDATED STATUTES, CODIFYING the act of May
3 20, 1993 (P.L.38, No.11), entitled "An act establishing the
4 Agricultural Advisory Board in the Department of
5 Environmental Resources and prescribing its powers; and
6 providing for review by the board of certain proposed rules
7 and regulations," further providing for establishment of
8 ~~board; and~~ THE AGRICULTURAL ADVISORY BOARD; PROVIDING FOR <—
9 WATER RESOURCES PLANNING, ADMINISTRATION AND ENFORCEMENT;
10 ~~making editorial changes; AND MAKING A REPEAL~~ MAKING A <—
11 REPEAL; AND MAKING EDITORIAL CHANGES.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. The title and section 1 of the act of May 20,~~ <—
15 ~~1993 (P.L.38, No.11), known as the Department of Environmental~~
16 ~~Resources Agricultural Advisory Board Act, are amended to read:~~

17 AN ACT

18 ~~Establishing the Agricultural Advisory Board in the Department~~

~~of Environmental [Resources] Protection and prescribing its powers; and providing for review by the board of certain proposed rules and regulations.~~

~~Section 1. Short title.~~

~~This act shall be known and may be cited as the Department of Environmental [Resources] Protection Agricultural Advisory Board Act.~~

~~Section 2. The definitions of "department" and "secretary" in section 2 of the act are amended to read:~~

~~Section 2. Definitions.~~

~~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:~~

~~* * *~~

~~"Department." The Department of Environmental [Resources] Protection of the Commonwealth.~~

~~* * *~~

~~"Secretary." The Secretary of Environmental [Resources] Protection of the Commonwealth.~~

~~* * *~~

~~Section 3. Section 3 of the act is amended to read:~~

~~Section 3. Establishment of board.~~

~~(a) Creation. There is hereby established in the Department of Environmental [Resources] Protection the Agricultural Advisory Board.~~

~~(b) Members. The following persons shall comprise the board:~~

~~(1) Representatives of the Pennsylvania [Farmers Association] Farm Bureau, the Pennsylvania State Grange, PennAg Industries Association and the Pennsylvania Farmers~~

1 Union. Each of these organizations shall annually name one
2 person to represent it under this paragraph.

3 (2) ~~A dairy producer, a livestock producer, a poultry~~
4 ~~producer, a grain producer, a fruit producer, a vegetable~~
5 ~~producer, a representative of the ornamental horticultural~~
6 ~~industry, a producer engaged in sustainable agriculture, A~~ <—
7 ~~REPRESENTATIVE FROM THE AGRICULTURAL CHEMICAL MANUFACTURERS~~
8 ~~INDUSTRY~~ and a representative from the agri business
9 industry. The Governor shall appoint these representatives to
10 sit for a three year term. Representatives appointed under
11 this paragraph must receive a majority of their gross income
12 from the activity which they represent.

13 (3) ~~Representatives of the Pennsylvania Association of~~
14 ~~Conservation District Directors and The Pennsylvania State~~
15 ~~University. Each of these organizations shall annually name~~
16 ~~one person to represent it under this paragraph.~~

17 (4) ~~Representatives of the Federal [Soil Conservation~~
18 ~~Service] Farm Service Agency and the Federal [Agricultural~~
19 ~~Stabilization and] Natural Resources Conservation Service.~~
20 Each of these organizations shall annually name one person to
21 represent it under this paragraph ex officio.

22 (5) ~~Representatives of the Department of Agriculture and~~
23 ~~the Department of Environmental [Resources] Protection. Each~~
24 ~~department shall [annually name one person] name a deputy~~
25 ~~secretary to represent it under this paragraph ex officio. If~~
26 ~~a named deputy secretary is unable to serve on the board, the~~
27 ~~deputy secretary must be replaced by another deputy secretary~~
28 ~~or by the secretary of that same department.~~

29 (6) ~~The chairman and the minority chairman of the~~
30 ~~Agriculture and Rural Affairs Committee of the Senate or~~

~~their designees and the chairman and the minority chairman of
the Agriculture and Rural Affairs Committee of the House of
Representatives or their designees to represent the General
Assembly [ex officio].~~

~~(c) Chairman. The board shall annually elect a board
chairman from among those members designated under subsection
(b)(1) OR APPOINTED UNDER SUBSECTION (B)(1) AND (2) [shall
annually rotate as board chairman], provided that no member
shall serve as chairman for more than two consecutive years.~~

~~(d) Staff. The Department of Environmental [Resources]
Protection shall furnish the board with administrative support.~~

~~Section 4. This act shall take effect in 60 days.~~

SECTION 1. PART I OF TITLE 27 OF THE PENNSYLVANIA
CONSOLIDATED STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

CHAPTER 7

AGRICULTURAL ADVISORY BOARD

SEC.

701. DEFINITIONS.

702. ESTABLISHMENT OF BOARD.

703. POWERS OF BOARD.

704. REVIEW OF REGULATIONS.

§ 701. DEFINITIONS.

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

"AGRICULTURE." NORMAL FARMING PRACTICES OR INNOVATIVE
TECHNIQUES USED IN THE PRODUCTION AND PREPARATION FOR MARKET OF
ANY CROP OR COMMODITY INCLUDED WITHIN THE DEFINITION OF "CROPS,
LIVESTOCK AND LIVESTOCK PRODUCTS" IN SECTION 3 OF THE ACT OF
JUNE 30, 1981 (P.L.128, NO.43), KNOWN AS THE AGRICULTURAL AREA

1 SECURITY LAW.

2 "BOARD." THE AGRICULTURAL ADVISORY BOARD ESTABLISHED IN
3 SECTION 702 (RELATING TO ESTABLISHMENT OF BOARD).

4 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
5 THE COMMONWEALTH.

6 "NORMAL FARMING PRACTICES." THE CUSTOMARY AND GENERALLY
7 ACCEPTED ACTIVITIES, PRACTICES AND PROCEDURES THAT FARMERS
8 ADOPT, USE OR ENGAGE IN YEAR AFTER YEAR IN THE PRODUCTION AND
9 PREPARATION FOR MARKET OF ANY CROP OR COMMODITY INCLUDED WITHIN
10 THE DEFINITION OF "CROPS, LIVESTOCK AND LIVESTOCK PRODUCTS" IN
11 SECTION 3 OF THE ACT OF JUNE 30, 1981 (P.L.128, NO.43), KNOWN AS
12 THE AGRICULTURAL AREA SECURITY LAW.

13 "SECRETARY." THE SECRETARY OF ENVIRONMENTAL PROTECTION OF
14 THE COMMONWEALTH.

15 "SUSTAINABLE AGRICULTURE." AN INTEGRATED SYSTEM OF PLANT AND
16 ANIMAL PRODUCTION PRACTICES AS DEFINED BY THE FOOD, AGRICULTURE,
17 CONSERVATION AND TRADE ACT OF 1990 (PUBLIC LAW 101-624, 104
18 STAT. 3616).

19 § 702. ESTABLISHMENT OF BOARD.

20 (A) CREATION.--THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT
21 THE AGRICULTURAL ADVISORY BOARD.

22 (B) MEMBERS.--THE FOLLOWING PERSONS SHALL COMPRISE THE
23 BOARD:

24 (1) REPRESENTATIVES OF THE PENNSYLVANIA FARM BUREAU, THE
25 PENNSYLVANIA STATE GRANGE, PENNAG INDUSTRIES ASSOCIATION AND
26 THE PENNSYLVANIA FARMERS UNION. EACH OF THESE ORGANIZATIONS
27 SHALL ANNUALLY NAME ONE PERSON TO REPRESENT IT UNDER THIS
28 PARAGRAPH.

29 (2) A DAIRY PRODUCER, A LIVESTOCK PRODUCER, A POULTRY
30 PRODUCER, A GRAIN PRODUCER, A FRUIT PRODUCER, A VEGETABLE

1 PRODUCER, A REPRESENTATIVE OF THE ORNAMENTAL HORTICULTURAL
2 INDUSTRY, A PRODUCER ENGAGED IN SUSTAINABLE AGRICULTURE, A
3 REPRESENTATIVE FROM THE AGRICULTURAL CHEMICAL MANUFACTURERS
4 INDUSTRY AND A REPRESENTATIVE FROM THE AGRI-BUSINESS
5 INDUSTRY. THE GOVERNOR SHALL APPOINT THESE REPRESENTATIVES TO
6 SIT FOR A THREE-YEAR TERM. REPRESENTATIVES APPOINTED UNDER
7 THIS PARAGRAPH MUST RECEIVE A MAJORITY OF THEIR GROSS INCOME
8 FROM THE ACTIVITY WHICH THEY REPRESENT.

9 (3) REPRESENTATIVES OF THE PENNSYLVANIA ASSOCIATION OF
10 CONSERVATION DISTRICT DIRECTORS AND THE PENNSYLVANIA STATE
11 UNIVERSITY. EACH OF THESE ORGANIZATIONS SHALL ANNUALLY NAME
12 ONE PERSON TO REPRESENT IT UNDER THIS PARAGRAPH.

13 (4) REPRESENTATIVES OF THE FEDERAL FARM SERVICE AGENCY
14 AND THE FEDERAL NATURAL RESOURCES CONSERVATION SERVICE. EACH
15 OF THESE ORGANIZATIONS SHALL ANNUALLY NAME ONE PERSON TO
16 REPRESENT IT UNDER THIS PARAGRAPH EX OFFICIO.

17 (5) REPRESENTATIVES OF THE DEPARTMENT OF AGRICULTURE AND
18 THE DEPARTMENT. EACH DEPARTMENT SHALL NAME A DEPUTY SECRETARY
19 TO REPRESENT IT UNDER THIS PARAGRAPH EX OFFICIO. IF A NAMED
20 DEPUTY SECRETARY IS UNABLE TO SERVE ON THE BOARD, THE DEPUTY
21 SECRETARY MUST BE REPLACED BY ANOTHER DEPUTY SECRETARY OR BY
22 THE SECRETARY OF THAT SAME DEPARTMENT.

23 (6) THE CHAIRMAN AND THE MINORITY CHAIRMAN OF THE
24 AGRICULTURE AND RURAL AFFAIRS COMMITTEE OF THE SENATE OR
25 THEIR DESIGNEES AND THE CHAIRMAN AND THE MINORITY CHAIRMAN OF
26 THE AGRICULTURE AND RURAL AFFAIRS COMMITTEE OF THE HOUSE OF
27 REPRESENTATIVES OR THEIR DESIGNEES TO REPRESENT THE GENERAL
28 ASSEMBLY.

29 (C) CHAIRMAN.--THE BOARD SHALL ANNUALLY ELECT A BOARD
30 CHAIRMAN FROM AMONG THOSE MEMBERS DESIGNATED OR APPOINTED UNDER

1 SUBSECTION (B)(1) AND (2). NO MEMBER SHALL SERVE AS CHAIRMAN FOR
2 MORE THAN TWO CONSECUTIVE YEARS.

3 (D) STAFF.--THE DEPARTMENT SHALL FURNISH THE BOARD WITH
4 ADMINISTRATIVE SUPPORT.

5 § 703. POWERS OF BOARD.

6 (A) GENERAL RULE.--THE BOARD SHALL HAVE THE FOLLOWING
7 POWERS:

8 (1) PROVIDE ADVICE AND EXPERTISE TO THE SECRETARY
9 REGARDING THE NATURE OF AGRICULTURE IN THIS COMMONWEALTH.

10 (2) ASSIST THE SECRETARY AND PROVIDE WRITTEN COMMENTS ON
11 NEW DEPARTMENTAL POLICY THAT WILL IMPACT UPON AGRICULTURE IN
12 THIS COMMONWEALTH.

13 (3) ASSIST THE SECRETARY AND PROVIDE COMMENT ON
14 REGULATORY PROPOSALS PURSUANT TO SECTION 704 (REVIEW OF
15 REGULATIONS).

16 (4) PROVIDE COMMENT TO THE SECRETARY REGARDING EXISTING
17 DEPARTMENTAL POLICY AND REGULATIONS AFFECTING AGRICULTURE IN
18 THIS COMMONWEALTH.

19 (B) EXEMPT REGULATIONS.--REGULATIONS SUBJECT TO REVIEW BY
20 THE SEASONAL FARM LABOR COMMITTEE UNDER THE ACT OF JUNE 23, 1978
21 (P.L.537, NO.93), KNOWN AS THE SEASONAL FARM LABOR ACT, ARE
22 EXEMPT FROM REVIEW UNDER SUBSECTION (A).

23 § 704. REVIEW OF REGULATIONS.

24 (A) NOTICE TO BOARD.--THE DEPARTMENT SHALL NOTIFY THE BOARD
25 OF THE DEVELOPMENT OF ANY REGULATORY PROPOSAL WHICH WOULD
26 REGULATE AGRICULTURE AS EARLY AS POSSIBLE BUT NOT LESS THAN 120
27 DAYS PRIOR TO THE DATE THE ENVIRONMENTAL QUALITY BOARD MEETS TO
28 INITIALLY CONSIDER ANY PROPOSED RULEMAKING RESULTING FROM THE
29 REGULATORY PROPOSAL.

30 (B) MEETING AND CONSULTATION WITH BOARD.--AT THE REQUEST OF

1 THE BOARD, IF THE REQUEST IS MADE WITHIN 30 DAYS FROM THE DATE
2 OF RECEIPT OF THE NOTICE REQUIRED BY SUBSECTION (A), THE
3 DEPARTMENT SHALL MEET AND CONSULT WITH THE BOARD IN THE
4 FORMULATION OF ANY SUCH REGULATORY PROPOSAL, AND THEREAFTER THE
5 BOARD MAY PROVIDE THE DEPARTMENT WITH WRITTEN COMMENTS THEREON.

6 (C) INCLUSION OF COMMENTS WITH PROPOSED RULEMAKING.--THE
7 DEPARTMENT SHALL INCLUDE ANY WRITTEN COMMENTS OF THE BOARD,
8 RECEIVED PRIOR TO THE DEPARTMENT'S SUBMISSION OF A PROPOSED
9 RULEMAKING PACKAGE TO THE ENVIRONMENTAL QUALITY BOARD, AS PART
10 OF ITS SUBMISSION TO THE ENVIRONMENTAL QUALITY BOARD.

11 (D) EXCEPTIONS.--THE REQUIREMENTS OF THIS SECTION SHALL NOT
12 APPLY TO REGULATIONS WITH MANDATORY STATUTORY DEADLINES, TO
13 REGULATIONS REQUIRED TO BE ADOPTED BY COURT ORDER, TO EMERGENCY
14 REGULATIONS, TO FINAL REGULATIONS ADOPTED PURSUANT TO SECTION
15 204 OF THE ACT OF JULY 31, 1968 (P.L.769, NO.240), REFERRED TO
16 AS THE COMMONWEALTH DOCUMENTS LAW, OR WHERE INTERIM REGULATIONS
17 ARE OTHERWISE AUTHORIZED BY STATUTE. THE DEPARTMENT SHALL ADVISE
18 THE BOARD AS SOON AS POSSIBLE OF THE DEVELOPMENT OF REGULATIONS
19 IDENTIFIED IN THIS SUBSECTION WHICH WOULD REGULATE AGRICULTURE.

20 SECTION 2. PART III OF TITLE 27 IS AMENDED BY ADDING A
21 CHAPTER TO READ:

22 CHAPTER 31
23 WATER RESOURCES PLANNING

24 SUBCHAPTER

25 A. GENERAL PROVISIONS
26 B. WATER RESOURCES PLANNING
27 C. ADMINISTRATION AND ENFORCEMENT

28 SUBCHAPTER A
29 GENERAL PROVISIONS

30 SEC.

1 3101. SCOPE.

2 3102. DEFINITIONS.

3 3103. INTERGOVERNMENTAL COOPERATION AND COORDINATION.

4 3104. ADMINISTRATIVE AGREEMENTS WITH OTHER AGENCIES.

5 § 3101. SCOPE.

6 THIS CHAPTER DEALS WITH WATER RESOURCES PLANNING.

7 § 3102. DEFINITIONS.

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

11 "BASIN." THE WATERSHED OF ONE OF THE FOLLOWING MAJOR RIVERS
12 OR HYDROLOGIC SYSTEMS: THE DELAWARE RIVER; THE GREAT LAKES; THE
13 OHIO RIVER; THE POTOMAC RIVER; AND THE SUSQUEHANNA RIVER.

14 "CLEAN STREAMS LAW." THE ACT OF JUNE 22, 1937 (P.L.1987,
15 NO.394), KNOWN AS THE CLEAN STREAMS LAW.

16 "COMPACT BASIN COMMISSION." AN INTERSTATE COMMISSION HAVING
17 JURISDICTION WITH RESPECT TO THE PLANNING, DEVELOPMENT OR
18 REGULATION OF WATER RESOURCES WITHIN A BASIN IN PENNSYLVANIA,
19 CREATED BY INTERSTATE COMPACT OR FEDERAL-INTERSTATE COMPACT.

20 "CONFIDENTIAL INFORMATION."

21 (1) RECORDS, REPORTS OR INFORMATION, OR A PARTICULAR
22 PORTION THEREOF, THAT IF MADE PUBLIC WOULD:

23 (I) DIVULGE PRODUCTION OR SALES FIGURES OR METHODS,
24 PROCESSES OR PRODUCTION UNIQUE TO A PERSON;

25 (II) OTHERWISE TEND TO AFFECT ADVERSELY THE
26 COMPETITIVE POSITION OF A PERSON BY REVEALING TRADE
27 SECRETS, INCLUDING INTELLECTUAL PROPERTY RIGHTS; OR

28 (III) PRESENT THREATS TO THE SAFETY AND SECURITY OF
29 WATER SUPPLIES, INCLUDING INFORMATION CONCERNING PUBLIC
30 WATER SUPPLY AGENCY VULNERABILITY ASSESSMENTS.

(2) THE TERM DOES NOT INCLUDE ANY OF THE FOLLOWING:

(I) INFORMATION IDENTIFYING THE GENERAL SOURCE OF
WATER USED BY A FACILITY.

(II) INFORMATION REPORTING THE TOTAL AMOUNT OF WATER
WITHDRAWN BY A FACILITY OR THE TOTAL AMOUNT OF WATER USED
FOR CONSUMPTIVE USES OR NONCONSUMPTIVE USES BY A
FACILITY.

"CONSERVATION DISTRICT." A COUNTY DECLARED TO BE A
CONSERVATION DISTRICT BY A RESOLUTION OF ITS BOARD OF COUNTY
COMMISSIONERS.

"CONSUMPTIVE USE." THE LOSS OF WATER FROM A GROUNDWATER OR
SURFACE WATER SOURCE THROUGH A MANMADE CONVEYANCE SYSTEM,
INCLUDING SUCH WATER THAT IS PURVEYED THROUGH A PUBLIC WATER
SUPPLY SYSTEM, DUE TO TRANSPIRATION BY VEGETATION, INCORPORATION
INTO PRODUCTS DURING THEIR MANUFACTURE, EVAPORATION, DIVERSION
OUT OF A BASIN OR ANY OTHER PROCESS TO THE EXTENT THAT THE WATER
WITHDRAWN IS NOT RETURNED TO THE WATERS OF A BASIN. DEEP WELL
INJECTION SHALL NOT BE CONSIDERED A RETURN OF WATERS TO A BASIN.

"CRITICAL AREA RESOURCE PLAN." A PLAN DEVELOPED UNDER
SECTION 3112(D) (RELATING TO PLAN CONTENTS) FOR ANY WATERSHED OR
WATERSHEDS WITHIN A CRITICAL WATER PLANNING AREA.

"CRITICAL WATER PLANNING AREA." AN AREA IDENTIFIED UNDER
SECTION 3112(A)(6) OR (D)(1) (RELATING TO PLAN CONTENTS).

"DEEP WELL INJECTION." INJECTION OF WASTE OR WASTEWATER
SUBSTANTIALLY BELOW AQUIFERS CONTAINING FRESH WATER.

"DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
THE COMMONWEALTH.

"DOMESTIC USE." THE USE OF WATER FOR PERSONAL NEEDS AND
ORDINARY HOUSEHOLD PURPOSES.

"ENVIRONMENTAL HEARING BOARD." THE BOARD ESTABLISHED UNDER

1 THE ACT OF JULY 13, 1988 (P.L.530, NO.94), KNOWN AS THE
2 ENVIRONMENTAL HEARING BOARD ACT.

3 "ENVIRONMENTAL QUALITY BOARD." THE BOARD ESTABLISHED UNDER
4 SECTION 1920-A OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
5 KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

6 "GROUNDWATER." WATER BENEATH THE SURFACE OF THE GROUND
7 WITHIN A ZONE OF SATURATION, WHETHER OR NOT FLOWING THROUGH
8 KNOWN AND DEFINITE CHANNELS OR PERCOLATING THROUGH UNDERGROUND
9 GEOLOGIC FORMATIONS, AND REGARDLESS OF WHETHER THE RESULT OF
10 NATURAL OR ARTIFICIAL RECHARGE. THE TERM INCLUDES WATER
11 CONTAINED IN AQUIFERS, ARTESIAN AND NONARTESIAN BASINS,
12 UNDERGROUND WATERCOURSES AND OTHER BODIES OF WATER BELOW THE
13 SURFACE OF THE EARTH.

14 "HYDROLOGIC UNIT." A UNIT OF SURFACE WATER OR GROUNDWATERS,
15 OR BOTH, WHICH ARE INTERCONNECTED AND HYDROLOGICALLY RELATED.
16 THE TERM INCLUDES A SURFACE WATERSHED OR BASIN, GROUNDWATER
17 BASIN, AQUIFER OR AQUIFER SYSTEM.

18 "MUNICIPALITIES PLANNING CODE." THE ACT OF JULY 31, 1968
19 (P.L.805, NO.247), KNOWN AS THE PENNSYLVANIA MUNICIPALITIES
20 PLANNING CODE.

21 "MUNICIPALITY." ANY COUNTY, CITY, BOROUGH, TOWN, TOWNSHIP OR
22 HOME RULE MUNICIPALITY OR ANY AGENCY OR AUTHORITY CREATED BY ANY
23 ONE OR MORE OF THE FOREGOING.

24 "NONCONSUMPTIVE USE." A USE OF WATER WITHDRAWN FROM WATER
25 RESOURCES OF THIS COMMONWEALTH IN SUCH MANNER THAT IT IS
26 RETURNED TO ITS BASIN OF ORIGIN. WHERE ONLY A PORTION OF THE
27 WATER WITHDRAWN IS RETURNED TO THE BASIN OF ORIGIN, THAT PORTION
28 WHICH IS RETURNED IS A NONCONSUMPTIVE USE; AND THE PORTION OF
29 WATER WITHDRAWN WHICH IS NOT RETURNED TO THE BASIN OF ORIGIN IS
30 A CONSUMPTIVE USE.

1 "NONWITHDRAWAL USE." THE FUNCTIONS OF OR ACTIVITIES IN WATER
2 THAT IS NOT WITHDRAWN FROM A WATER RESOURCE, INCLUDING, BUT NOT
3 LIMITED TO, NAVIGATION, INSTREAM HYDROPOWER PRODUCTION,
4 RECREATION, FISH AND WILDLIFE HABITAT AND THE AQUATIC
5 ENVIRONMENT.

6 "PERSON." AN INDIVIDUAL, PARTNERSHIP, ASSOCIATION, COMPANY,
7 CORPORATION, MUNICIPALITY, MUNICIPAL AUTHORITY, FEDERAL OR
8 COMMONWEALTH ADMINISTRATIVE AGENCY OR AN ENTITY WHICH IS
9 RECOGNIZED BY LAW AS THE SUBJECT OF RIGHTS AND OBLIGATIONS. THE
10 TERM SHALL INCLUDE THE OFFICERS, EMPLOYEES AND AGENTS OF ANY
11 LEGAL ENTITY.

12 "PUBLIC WATER SUPPLY AGENCY." A COMMUNITY WATER SYSTEM AS
13 DEFINED BY THE ACT OF MAY 1, 1984 (P.L.206, NO.43), KNOWN AS THE
14 PENNSYLVANIA SAFE DRINKING WATER ACT, OR ANY PERSON SUBJECT TO
15 THE ACT OF JUNE 24, 1939 (P.L.842, NO.365), REFERRED TO AS THE
16 WATER RIGHTS LAW.

17 "REASONABLE AND BENEFICIAL USE." THE USE OF WATER FOR A
18 USEFUL AND PRODUCTIVE PURPOSE, WHICH IS REASONABLE CONSIDERING
19 THE RIGHTS OF OTHER USERS AND CONSISTENT WITH THE PUBLIC
20 INTEREST, IN A QUANTITY AND MANNER AS IS NECESSARY FOR EFFICIENT
21 UTILIZATION. THE TERM INCLUDES WITHDRAWAL AND NONWITHDRAWAL
22 USES.

23 "REGION." ONE OF THE SIX REGIONS ESTABLISHED IN SECTION 3113
24 (RELATING TO REGIONAL COMMITTEES).

25 "REGIONAL COMMITTEE." A REGIONAL WATER RESOURCES COMMITTEE.

26 "SAFE DRINKING WATER ACT." THE ACT OF MAY 1, 1984 (P.L.206,
27 NO.43), KNOWN AS THE PENNSYLVANIA SAFE DRINKING WATER ACT.

28 "SAFE YIELD." FOR PURPOSES OF THE STATE WATER PLAN, THE
29 AMOUNT OF WATER THAT CAN BE WITHDRAWN FROM A WATER RESOURCE OVER
30 A PERIOD OF TIME WITHOUT IMPAIRING THE LONG-TERM UTILITY OF A

1 WATER RESOURCE SUCH AS DEWATERING OF AN AQUIFER; IMPAIRING THE
2 LONG-TERM WATER QUALITY OF A WATER RESOURCE; INDUCING A HEALTH
3 THREAT; OR CAUSING IRREPARABLE OR UNMITIGATED IMPACT UPON
4 REASONABLE AND BENEFICIAL USES OF THE WATER RESOURCE. SAFE YIELD
5 OF A PARTICULAR WATER SOURCE IS PRIMARILY TO BE DETERMINED BASED
6 UPON THE PREDICTABLE RATE OF NATURAL AND ARTIFICIAL
7 REPLENISHMENT OF THE WATER SOURCE OVER A REASONABLE PERIOD OF
8 TIME.

9 "SECRETARY." THE SECRETARY OF ENVIRONMENTAL PROTECTION OF
10 THE COMMONWEALTH.

11 "STATE WATER PLAN." THE PLAN ADOPTED UNDER SECTION 3115
12 (RELATING TO DEVELOPMENT, ADOPTION, AMENDMENT AND PERIODIC
13 REVIEW OF STATE WATER PLAN). PRIOR TO ADOPTION OF THE STATE
14 WATER PLAN IN ACCORDANCE WITH SECTION 3115, THE TERM SHALL MEAN
15 THE STATE WATER PLAN PREVIOUSLY ADOPTED AND PUBLISHED IN
16 ACCORDANCE WITH SECTION 1904-A OF THE ACT OF APRIL 9, 1929
17 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

18 "STATEWIDE COMMITTEE." THE STATEWIDE WATER RESOURCES
19 COMMITTEE.

20 "SURFACE WATER." WATER ON THE SURFACE OF THE EARTH,
21 INCLUDING WATER IN A PERENNIAL OR INTERMITTENT WATERCOURSE,
22 LAKE, RESERVOIR, POND, SPRING, WETLAND, ESTUARY, SWAMP OR MARSH,
23 OR DIFFUSED SURFACE WATER, WHETHER SUCH BODY OF WATER IS NATURAL
24 OR ARTIFICIAL. THE TERM DOES NOT INCLUDE RECIRCULATED PROCESS
25 WATER OR WASTEWATER STORED IN AN OFF-STREAM IMPOUNDMENT, POND,
26 TANK OR OTHER DEVICE UNLESS SUCH WATER OR WASTEWATER IS
27 WITHDRAWN AND USED BY A PERSON OTHER THAN THE PERSON WHO
28 INITIALLY WITHDREW THE WATER FROM A WATER RESOURCE OR OBTAINED
29 SUCH WATER FROM A PUBLIC WATER SUPPLY AGENCY.

30 "WATER AVAILABILITY EVALUATION." AN ASSESSMENT OF AVAILABLE

1 SAFE YIELD OF WATER IN AN AREA, BOTH GROUNDWATER AND SURFACE
2 WATER, INCLUDING NATURAL RECHARGE CAPABILITY, AND AN ESTIMATE OF
3 THE PRESENT REASONABLE AND BENEFICIAL USES AND OF THE REASONABLE
4 AND BENEFICIAL USES FOR 20 YEARS AHEAD, BY VARIOUS CATEGORIES,
5 SUCH AS IN-STREAM, AGRICULTURAL, DOMESTIC, ENERGY DEVELOPMENT
6 AND PRODUCTION, INDUSTRIAL AND RECREATIONAL USES.

7 "WATER CONSERVATION PRACTICES AND MEASURES." THOSE PRACTICES
8 AND MEASURES WHICH ARE TECHNICALLY FEASIBLE AND ECONOMICALLY
9 PRACTICABLE AND WHICH ARE DESIGNED TO ACCOMPLISH ANY OF THE
10 FOLLOWING:

11 (1) REDUCE THE DEMAND FOR WATER.

12 (2) IMPROVE EFFICIENCY IN WATER USE AND REDUCE LEAKAGE,
13 LOSSES AND WASTE OF WATER.

14 (3) IMPROVE REUSE AND RECYCLING OF WATER.

15 (4) IMPROVE LAND MANAGEMENT PRACTICES TO CONSERVE WATER
16 OR TO PRESERVE OR INCREASE GROUNDWATER RECHARGE.

17 "WATERCOURSE." A DISTINCT NATURAL OR ARTIFICIAL BODY OF
18 WATER FLOWING PERENNIALY OR INTERMITTENTLY IN A DEFINED CHANNEL
19 WITH BED AND BANKS. THE TERM INCLUDES A RIVER, CREEK, STREAM,
20 SLOUGH OR CANAL.

21 "WATER RESOURCE." SURFACE WATER OR GROUNDWATER, WITHIN OR ON
22 THE BOUNDARIES OF THIS COMMONWEALTH.

23 "WATER RESOURCES EMERGENCY." A DROUGHT OR OTHER WATER
24 RESOURCE SHORTAGE DECLARED BY PROCLAMATION OF THE GOVERNOR THAT
25 WOULD RESULT IN A SUBSTANTIAL AND IMMEDIATE SHORTAGE OF
26 AVAILABLE WATER SUPPLY IN A REGION AND THAT WOULD BE OF
27 SUFFICIENT SEVERITY AND MAGNITUDE TO WARRANT COORDINATED ACTION
28 TO PREVENT OR ALLEVIATE DAMAGE TO PROPERTY, HUMAN SUFFERING,
29 HARDSHIP OR THREATS TO HEALTH, SAFETY, WELFARE AND FISH AND
30 WILDLIFE HABITAT.

"WATER RIGHTS LAW." THE ACT OF JUNE 24, 1939 (P.L.842,
NO.365), REFERRED TO AS THE WATER RIGHTS LAW.

"WATERSHED." THE DRAINAGE AREA OF A WATERCOURSE OF A MINIMUM
DRAINAGE AREA DETERMINED IN ACCORDANCE WITH GUIDELINES DEVELOPED
PURSUANT TO SECTION 3115(A)(2) (RELATING TO DEVELOPMENT,
ADOPTION, AMENDMENT AND PERIODIC REVIEW OF STATE WATER PLAN).

"WITHDRAWAL." THE REMOVAL OR TAKING OF WATER FROM ANY WATER
RESOURCE, WHETHER OR NOT RETURNED TO THE WATER RESOURCE.

"WITHDRAWAL USE." ANY USE OF WATER WHICH IS WITHDRAWN,
INCLUDING, BUT NOT LIMITED TO, DOMESTIC, MUNICIPAL, PUBLIC,
COMMERCIAL, INDUSTRIAL, ENERGY DEVELOPMENT AND PRODUCTION AND
AGRICULTURAL WATER SUPPLY. THE TERM INCLUDES THE USE OF WATER
TRANSFERRED THROUGH INTERCONNECTIONS BUT SHALL NOT INCLUDE
TRANSFER OF WATER WITHIN A SYSTEM OPERATED BY THE SAME PUBLIC
WATER SUPPLY AGENCY.

§ 3103. INTERGOVERNMENTAL COOPERATION AND COORDINATION.

THE STATEWIDE COMMITTEE, THE REGIONAL COMMITTEES AND THE
DEPARTMENT SHALL COOPERATE AND COORDINATE WITH APPROPRIATE
COMPACT BASIN COMMISSIONS AND FEDERAL, INTERSTATE, STATE AND
POLITICAL SUBDIVISIONS, MUNICIPALITIES, PUBLIC WATER SUPPLY
AGENCIES AND OTHER AGENCIES FOR EFFICIENT PLANNING FOR THE
MAINTENANCE AND ENHANCEMENT OF THE WATER RESOURCES OF THIS
COMMONWEALTH.

§ 3104. ADMINISTRATIVE AGREEMENTS WITH OTHER AGENCIES.

IN CONSULTATION WITH THE STATEWIDE COMMITTEE, THE DEPARTMENT
SHALL, TO THE EXTENT PRACTICABLE, ENTER INTO ADMINISTRATIVE
AGREEMENTS WITH APPROPRIATE COMPACT BASIN COMMISSIONS AND
FEDERAL, STATE, INTERSTATE, MUNICIPAL AND OTHER AGENCIES FOR THE
FOLLOWING PURPOSES:

- (1) TO AVOID UNNECESSARY DUPLICATION OF STAFF FUNCTIONS

1 AND FACILITATE COORDINATED REVIEW OF PROJECTS AND ACTIONS
2 WITHIN THE JURISDICTION OF SUCH AGENCIES.

3 (2) TO PROVIDE A COORDINATED SYSTEM FOR REGISTRATION OF
4 SIGNIFICANT WATER USES AND THE COORDINATED COLLECTION AND
5 MAINTENANCE OF DATA REGARDING WATER RESOURCES.

6 (3) TO PROVIDE FOR COORDINATED INSPECTION, MONITORING
7 AND ENFORCEMENT OF APPLICABLE STATUTES AND REGULATIONS,
8 PROVIDED THAT NOTHING IN THIS SECTION SHALL BE DEEMED TO
9 CONFER ENFORCEMENT AUTHORITY ON THE STATEWIDE COMMITTEE.

10 (4) TO ACCEPT DELEGATIONS OF AUTHORITY FROM OR OBTAIN
11 THE SERVICES AND ASSISTANCE OF A COMPACT BASIN COMMISSION OR
12 FEDERAL OR INTERSTATE AGENCY CONCERNING PLANNING FOR THE
13 MAINTENANCE AND ENHANCEMENT OF WATER RESOURCES. NOTHING IN
14 THIS PARAGRAPH SHALL BE CONSTRUED TO AUTHORIZE A DELEGATION
15 TO THE STATEWIDE COMMITTEE OR THE DEPARTMENT OF ANY POWER TO
16 REGULATE, CONTROL OR REQUIRE PERMITS FOR THE WITHDRAWAL OR
17 USE OF WATER.

18 (5) TO ENSURE COORDINATED AND EFFECTIVE RESPONSES TO
19 WATER RESOURCES EMERGENCIES IN CONJUNCTION WITH THE
20 PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY AND THE COMPACT
21 BASIN COMMISSIONS.

22 SUBCHAPTER B

23 WATER RESOURCES PLANNING

24 SEC.

25 3111. STATE WATER PLAN.

26 3112. PLAN CONTENTS.

27 3113. REGIONAL COMMITTEES.

28 3114. STATEWIDE WATER RESOURCES COMMITTEE.

29 3115. DEVELOPMENT, ADOPTION, AMENDMENT AND PERIODIC REVIEW
30 OF STATE WATER PLAN.

1 3116. USE OF PLAN.

2 3117. STATEWIDE DATA SYSTEM.

3 3118. WATER USE REGISTRATION AND REPORTING.

4 3119. CONFIDENTIAL INFORMATION.

5 3120. WATER CONSERVATION.

6 3121. GRANTS.

7 § 3111. STATE WATER PLAN.

8 (A) PREPARATION AND ADOPTION.--IN ACCORDANCE WITH THIS
9 CHAPTER AND WITH ONGOING CONSULTATION WITH THE STATEWIDE
10 COMMITTEE AND THE DEPARTMENT, EACH REGIONAL COMMITTEE SHALL
11 GUIDE THE DEVELOPMENT OF AND RECOMMEND TO THE STATEWIDE
12 COMMITTEE A REGIONAL PLAN COMPONENT FOR REVIEW, APPROVAL AND
13 INCORPORATION INTO THE STATE WATER PLAN. THE STATEWIDE COMMITTEE
14 SHALL GUIDE THE DEVELOPMENT OF, APPROVE AND RECOMMEND TO THE
15 SECRETARY APPROVAL AND ADOPTION OF THE STATE WATER PLAN. THE
16 DEPARTMENT SHALL DRAFT AND DEVELOP THE STATE WATER PLAN,
17 INCLUDING REGIONAL PLAN COMPONENTS. THE STATE WATER PLAN SHALL
18 BE COMPLETED AND ADOPTED WITHIN FIVE YEARS OF THE EFFECTIVE DATE
19 OF THIS CHAPTER.

20 (B) MATTERS CONSIDERED.--THE STATE WATER PLAN SHALL REFLECT
21 THE MATTERS SET FORTH IN SECTION 3112 (RELATING TO PLAN
22 CONTENTS). THE LEVEL OF DETAIL WITHIN THE STATE WATER PLAN AND
23 EACH REGIONAL PLAN MAY VARY AMONG WATERSHEDS AND OTHER
24 HYDROLOGIC UNITS. IN CONSULTATION WITH THE REGIONAL COMMITTEE
25 AND THE STATEWIDE COMMITTEE, THE DEPARTMENT SHALL ESTABLISH WITH
26 THE APPROVAL OF THE STATEWIDE COMMITTEE PRIORITIES AND
27 GUIDELINES FOR THE LEVEL OF DETAIL APPROPRIATE FOR DIFFERENT
28 AREAS, CONSIDERING AMONG OTHER FACTORS THE CURRENT OR PROJECTED
29 FUTURE WATER DEMANDS IN COMPARISON TO THE SAFE YIELD OF
30 AVAILABLE WATER RESOURCES IN THE AREA.

(C) LIMITATION OF AUTHORITY.--NOTHING CONTAINED IN THIS CHAPTER SHALL BE CONSTRUED TO AUTHORIZE, EXPAND OR DIMINISH THE EXISTING AUTHORITY OF THE DEPARTMENT, INCLUDING THE ENVIRONMENTAL QUALITY BOARD, TO REGULATE, CONTROL OR REQUIRE PERMITS FOR THE WITHDRAWAL OR USE OF WATER.

§ 3112. PLAN CONTENTS.

(A) GENERAL RULE.--THE STATE WATER PLAN AND REGIONAL PLAN SHALL INCLUDE:

(1) AN INVENTORY OF THE SURFACE WATER RESOURCES OF EACH REGION OF THIS COMMONWEALTH, INCLUDING AN IDENTIFICATION OF THE BOUNDARIES OF SIGNIFICANT WATERSHEDS AND AN ESTIMATE OF THE SAFE YIELD OF SUCH SOURCES FOR WITHDRAWAL AND NONWITHDRAWAL USES DURING PERIODS OF NORMAL CONDITIONS AND DROUGHT.

(2) AN INVENTORY OF THE GROUNDWATER RESOURCES OF EACH REGION OF THIS COMMONWEALTH, INCLUDING AN IDENTIFICATION OF AQUIFERS AND GROUNDWATER BASINS AND AN ASSESSMENT OF THEIR SAFE YIELD, PRIME RECHARGE AREAS, RECHARGE CAPACITY, WITHDRAWAL LIMITS AND RELATIONSHIP TO STREAM BASE FLOWS.

(3) AN ASSESSMENT AND PROJECTION OF EXISTING AND FUTURE NONWITHDRAWAL USE NEEDS AND THE VALUES OF WATERCOURSES INCLUDED WITHIN THIS COMMONWEALTH OR FEDERAL WILD AND SCENIC RIVER SYSTEMS.

(4) AN ASSESSMENT AND PROJECTION OF EXISTING AND FUTURE WITHDRAWAL USE DEMANDS.

(5) AN IDENTIFICATION OF POTENTIAL PROBLEMS WITH WATER AVAILABILITY OR CONFLICTS AMONG WATER USES AND USERS.

(6) AN IDENTIFICATION OF CRITICAL WATER PLANNING AREAS COMPRISING ANY SIGNIFICANT HYDROLOGIC UNIT WHERE EXISTING OR FUTURE DEMANDS EXCEED OR THREATEN TO EXCEED THE SAFE YIELD OF

1 AVAILABLE WATER RESOURCES.

2 (7) AN ASSESSMENT OF THE CURRENT AND FUTURE CAPABILITIES
3 OF PUBLIC WATER SUPPLY AGENCIES TO PROVIDE AN ADEQUATE
4 QUANTITY AND QUALITY OF WATER TO THEIR SERVICE AREAS.

5 (8) AN ASSESSMENT OF FLOODPLAIN AND STORM WATER
6 MANAGEMENT PROBLEMS.

7 (9) AN ASSESSMENT OF NAVIGATION NEEDS AND THE MEANS FOR
8 RESTORATION, DEVELOPMENT AND IMPROVEMENT OF TRANSPORTATION BY
9 WATER.

10 (10) AN ASSESSMENT OF THE WATER RESOURCES REQUIRED TO
11 SERVE AREAS WITH IMPORTANT OR UNIQUE NATURAL, SCENIC,
12 ENVIRONMENTAL OR RECREATIONAL VALUES OF NATIONAL, REGIONAL,
13 LOCAL OR STATEWIDE SIGNIFICANCE, INCLUDING NATIONAL AND STATE
14 PARKS; DESIGNATED WILD, SCENIC AND RECREATIONAL RIVERS;
15 NATIONAL AND STATE WILDLIFE REFUGES; AND THE HABITATS OF
16 FEDERAL AND STATE ENDANGERED OR THREATENED SPECIES.

17 (11) A PROCESS FOR IDENTIFYING PROJECTS AND PRACTICES
18 THAT ARE BEING OR HAVE BEEN IMPLEMENTED BY WATER USERS THAT
19 REDUCE THE AMOUNT OF WATER WITHDRAWAL OR CONSUMPTIVE USE,
20 IMPROVE EFFICIENCY IN WATER USE, PROVIDE FOR REUSE AND
21 RECYCLING OF WATER, INCREASE THE SUPPLY OR STORAGE OF WATER
22 OR PRESERVE OR INCREASE GROUNDWATER RECHARGE AND A
23 RECOMMENDED PROCESS FOR PROVIDING APPROPRIATE POSITIVE
24 RECOGNITION OF SUCH PROJECTS OR PRACTICES IN ACTIONS,
25 PROGRAMS, POLICIES, PROJECTS OR MANAGEMENT ACTIVITIES
26 RECOMMENDED UNDER PARAGRAPH (16).

27 (12) AN IDENTIFICATION OF PRACTICAL ALTERNATIVES FOR AN
28 ADEQUATE SUPPLY OF WATER TO SATISFY EXISTING AND FUTURE
29 REASONABLE AND BENEFICIAL USES, INCLUDING IMPROVED STORAGE,
30 GROUNDWATER RECHARGE AND SURFACE WATER/GROUNDWATER

1 CONJUNCTIVE MANAGEMENT PROGRAMS.

2 (13) AN ASSESSMENT OF BOTH STRUCTURAL AND NONSTRUCTURAL
3 ALTERNATIVES TO ADDRESS IDENTIFIED WATER AVAILABILITY
4 PROBLEMS, ADVERSE IMPACTS ON WATER USES OR CONFLICTS BETWEEN
5 WATER USERS, INCLUDING POTENTIAL ACTIONS TO DEVELOP
6 ADDITIONAL OR ALTERNATIVE SUPPLIES, CONSERVATION MEASURES AND
7 MANAGEMENT TECHNIQUES.

8 (14) A REVIEW AND EVALUATION OF STATUTES, REGULATIONS,
9 POLICIES AND INSTITUTIONAL ARRANGEMENTS FOR THE DEVELOPMENT,
10 CONSERVATION, DISTRIBUTION AND EMERGENCY MANAGEMENT OF WATER
11 RESOURCES.

12 (15) A REVIEW AND EVALUATION OF WATER RESOURCES
13 MANAGEMENT ALTERNATIVES AND RECOMMENDED PROGRAMS, POLICIES,
14 INSTITUTIONAL ARRANGEMENTS, PROJECTS AND OTHER PROVISIONS TO
15 MEET THE WATER RESOURCES NEEDS OF EACH REGION AND OF THIS
16 COMMONWEALTH.

17 (16) PROPOSED METHODS OF IMPLEMENTING VARIOUS
18 RECOMMENDED ACTIONS, PROGRAMS, POLICIES, PROJECTS OR
19 MANAGEMENT ACTIVITIES.

20 (B) CONSIDERATIONS.--THE STATE WATER PLAN AND REGIONAL PLANS
21 SHALL CONSIDER:

22 (1) THE INTERCONNECTIONS AND RELATIONSHIPS BETWEEN
23 GROUNDWATER AND SURFACE WATER AS COMPONENTS OF A SINGLE
24 HYDROLOGIC RESOURCE.

25 (2) REGIONAL WATER RESOURCES NEEDS, OBJECTIVES AND
26 PRIORITIES AS IDENTIFIED AND EVALUATED BY THE REGIONAL
27 COMMITTEE.

28 (3) FEDERAL, STATE AND INTERSTATE WATER RESOURCES
29 POLICIES, PLANS, OBJECTIVES AND PRIORITIES, INCLUDING THOSE
30 IDENTIFIED IN STATUTES, REGULATIONS, COMPACTS, INTERSTATE

1 AGREEMENTS OR COMPREHENSIVE PLANS ADOPTED BY FEDERAL AND
2 STATE AGENCIES AND COMPACT BASIN COMMISSIONS.

3 (4) THE NEEDS AND PRIORITIES REFLECTED IN COMPREHENSIVE
4 PLANS AND ZONING ORDINANCES WHERE ONE OF THE FOLLOWING
5 CONDITIONS IS SATISFIED:

6 (I) A COUNTY ADOPTS A COMPREHENSIVE PLAN IN
7 ACCORDANCE WITH SECTION 301 OR 302 OF THE MUNICIPALITIES
8 PLANNING CODE AND MUNICIPALITIES IN THE COUNTY HAVE
9 ADOPTED COMPREHENSIVE PLANS AND ZONING ORDINANCES IN
10 ACCORDANCE WITH SECTIONS 301, 303(D) AND 603(J) OF THE
11 MUNICIPALITIES PLANNING CODE.

12 (II) MUNICIPALITIES HAVE ADOPTED A COUNTY PLAN OR A
13 MULTIMUNICIPAL PLAN UNDER ARTICLE XI OF THE
14 MUNICIPALITIES PLANNING CODE AND THE PARTICIPATING
15 MUNICIPALITIES HAVE CONFORMED THEIR LOCAL PLANS AND
16 ORDINANCES TO THE COUNTY OR MULTIMUNICIPAL PLAN BY
17 IMPLEMENTING COOPERATIVE AGREEMENTS AND ADOPTING
18 APPROPRIATE RESOLUTIONS AND ORDINANCES.

19 (III) A COUNTY ADOPTS A COMPREHENSIVE PLAN IN
20 ACCORDANCE WITH SECTION 301 OR 302 OF THE MUNICIPALITIES
21 PLANNING CODE AND EITHER:

22 (A) THE COUNTY HAS ADOPTED AND IS ADMINISTERING,
23 IN LIEU OF MUNICIPALITIES IN THE COUNTY, A COUNTY
24 COMPREHENSIVE PLAN AND COUNTY ZONING ORDINANCE IN
25 ACCORDANCE WITH SECTIONS 301, 303(D) AND 603(J) OF
26 THE MUNICIPALITIES PLANNING CODE; OR

27 (B) THE COUNTY HAS ADOPTED A COUNTY
28 COMPREHENSIVE PLAN IN ACCORDANCE WITH SECTION 301 OR
29 302 OF THE MUNICIPALITIES PLANNING CODE WHICH IS IN
30 EFFECT, IN LIEU OF COMPREHENSIVE PLANS ADOPTED BY

1 MUNICIPALITIES IN THE COUNTY, AND MUNICIPALITIES IN
2 THE COUNTY HAVE ADOPTED ZONING ORDINANCES GENERALLY
3 CONSISTENT WITH SUCH COUNTY COMPREHENSIVE PLAN IN
4 ACCORDANCE WITH SECTIONS 303(D) AND 603(J) OF THE
5 MUNICIPALITIES PLANNING CODE.

6 (5) THE WATER QUANTITY AND QUALITY NECESSARY TO SUPPORT
7 REASONABLE AND BENEFICIAL USES.

8 (6) A BALANCING AND ENCOURAGEMENT OF MULTIPLE USES OF
9 WATER RESOURCES, RECOGNIZING THAT ALL WATER RESOURCES OF THIS
10 COMMONWEALTH ARE CAPABLE OF SERVING MULTIPLE USES AND HUMAN
11 NEEDS, INCLUDING MULTIPLE USES OF WATER RESOURCES FOR
12 REASONABLE AND BENEFICIAL USES.

13 (7) THE DISTINCTIONS BETWEEN SHORT-TERM AND LONG-TERM
14 CONDITIONS, IMPACTS, NEEDS AND SOLUTIONS TO ENSURE
15 APPROPRIATE AND COST-EFFECTIVE RESPONSES TO WATER RESOURCES
16 ISSUES.

17 (8) THE BENEFITS AND COSTS AND SOCIAL AND ENVIRONMENTAL
18 IMPACTS OF ALTERNATIVE POLICIES, PROGRAMS, PROJECTS AND
19 ACTIONS.

20 (9) APPLICATION OF THE PRINCIPLE OF EQUAL AND UNIFORM
21 TREATMENT OF ALL WATER USERS THAT ARE SIMILARLY SITUATED AND
22 ALL USERS OF RELATED FACILITIES, WITHOUT REGARD TO
23 ESTABLISHED POLITICAL BOUNDARIES.

24 (C) BALANCING OF CONSIDERATIONS.--IN APPROVING, RECOMMENDING
25 AND ADOPTING THE STATE WATER PLAN, THE STATEWIDE COMMITTEE AND
26 SECRETARY SHALL PROVIDE SERIOUS AND DELIBERATIVE CONSIDERATION
27 TO REGIONAL PRIORITIES, OBJECTIVES AND RECOMMENDATIONS EXPRESSED
28 BY THE REGIONAL COMMITTEES, RECONCILE DIFFERENCES OR CONFLICTS
29 AMONG REGIONAL PLANS AND ASSURE THAT THE REGIONAL PLANS AND
30 STATE WATER PLAN ADEQUATELY CONSIDER AND REFLECT FEDERAL, STATE

1 AND COMPACT BASIN COMMISSION POLICIES, PLANS, OBJECTIVES AND
2 PRIORITIES OF NATIONAL, STATEWIDE OR INTERSTATE IMPORTANCE.

3 (D) DESIGNATION OF CRITICAL WATER PLANNING AREAS AND
4 PREPARATION AND APPROVAL OF CRITICAL AREA RESOURCE PLANS.--

5 (1) CRITICAL WATER PLANNING AREAS SHALL BE IDENTIFIED AS
6 PROVIDED UNDER SUBSECTION (A)(6). A REGIONAL COMMITTEE MAY,
7 IN ADVANCE OF THE FORMAL ADOPTION OF A REGIONAL PLAN OR THE
8 STATE WATER PLAN AND IF JUSTIFIED BY EVIDENCE DEVELOPED IN
9 THE PLANNING PROCESS, RECOMMEND THE DESIGNATION OF A CRITICAL
10 WATER PLANNING AREA. UPON SUCH RECOMMENDATION, THE STATEWIDE
11 COMMITTEE AND SECRETARY MAY DESIGNATE THE AREA FOR THE
12 DEVELOPMENT OF A CRITICAL AREA RESOURCE PLAN FOR ANY
13 WATERSHED OR WATERSHEDS WITHIN A CRITICAL WATER PLANNING AREA
14 PURSUANT TO THIS SUBSECTION.

15 (2) IN PREPARING A CRITICAL AREA RESOURCE PLAN FOR A
16 CRITICAL WATER PLANNING AREA, THE REGIONAL COMMITTEE SHALL
17 ESTABLISH A CRITICAL AREA ADVISORY COMMITTEE. THIS COMMITTEE
18 SHALL BE COMPOSED OF PERSONS REPRESENTATIVE OF APPROPRIATE
19 GOVERNMENTAL AGENCIES, AGRICULTURAL, PUBLIC WATER SUPPLY,
20 INDUSTRIAL AND OTHER WATER USERS IN THE AREA, CONSERVATION
21 AND ENVIRONMENTAL ORGANIZATIONS AND OTHER PERSONS WHO HAVE
22 KNOWLEDGE OF, BACKGROUND IN OR AN UNDERSTANDING OF WATER
23 RESOURCES PLANNING AND MANAGEMENT. THE CRITICAL AREA ADVISORY
24 COMMITTEE SHALL EVALUATE POLICY, PROGRAM AND MANAGEMENT
25 ALTERNATIVES AND ADVISE THE REGIONAL COMMITTEE AND DEPARTMENT
26 THROUGHOUT THE CRITICAL WATER AREA PLANNING PROCESS.

27 (3) FOR EACH CRITICAL WATER PLANNING AREA IDENTIFIED AND
28 DESIGNATED UNDER THIS SUBSECTION OR SUBSECTION (A)(6), THE
29 REGIONAL COMMITTEE SHALL, IN CONSULTATION WITH A CRITICAL
30 AREA ADVISORY COMMITTEE, GUIDE THE DEVELOPMENT OF AND

1 RECOMMEND TO THE STATEWIDE COMMITTEE AND SECRETARY AND THE
2 DEPARTMENT SHALL DRAFT A CRITICAL AREA RESOURCE PLAN. THE
3 REGIONAL COMMITTEE MAY RECOMMEND TO THE DEPARTMENT THE
4 ENGAGEMENT OF COUNTY OR REGIONAL AGENCIES OR EXPERT
5 CONSULTING FIRMS TO ASSIST IN THE PROCESS OF PREPARING SUCH A
6 PLAN.

7 (4) A CRITICAL AREA RESOURCE PLAN SHALL BE SUBJECT TO
8 REVIEW AND ADOPTION THROUGH THE SAME PROCESS AS A REGIONAL
9 PLAN AS PROVIDED IN THIS SECTION AND SECTION 3115 (RELATING
10 TO DEVELOPMENT, ADOPTION, AMENDMENT AND PERIODIC REVIEW OF
11 STATE WATER PLAN). PRIOR TO FINAL RECOMMENDATION BY THE
12 REGIONAL COMMITTEE TO THE STATEWIDE COMMITTEE, A COPY OF THE
13 PROPOSED CRITICAL AREA RESOURCE PLAN SHALL BE SUBMITTED TO
14 THE OFFICIAL PLANNING AGENCY AND GOVERNING BODY OF EACH
15 MUNICIPALITY IN THE DESIGNATED CRITICAL WATER PLANNING AREA,
16 THE APPROPRIATE COUNTY PLANNING AGENCY AND REGIONAL PLANNING
17 AGENCIES FOR REVIEW AND COMMENT AS TO CONSISTENCY WITH OTHER
18 PLANS AND PROGRAMS AFFECTING THE CRITICAL WATER PLANNING
19 AREA, AND EACH SUCH AGENCY AND GOVERNING BODY SHALL BE
20 PROVIDED 45 DAYS TO PROVIDE COMMENTS.

21 (5) THE CRITICAL AREA RESOURCE PLANS SHALL INCLUDE:

22 (I) AN IDENTIFICATION OF EXISTING AND FUTURE
23 REASONABLE AND BENEFICIAL USES.

24 (II) A WATER AVAILABILITY EVALUATION, INCLUDING A
25 QUANTITATIVE ASSESSMENT OF THE AVAILABLE WATER RESOURCES
26 AND THEIR RELATIONSHIP TO THE EXISTING AND FUTURE
27 REASONABLE AND BENEFICIAL USES.

28 (III) AN IDENTIFICATION OF THE QUANTITY OF WATER
29 AVAILABLE FOR NEW OR INCREASED USES OF WATER IN THE
30 FORSEEABLE FUTURE AND AN IDENTIFICATION OF QUANTITIES

1 REQUIRED FOR FUTURE WATER USES ASSOCIATED WITH PLANNED
2 PROJECTS OR DEVELOPMENTS.

3 (IV) AN ASSESSMENT OF WATER QUALITY ISSUES THAT HAVE
4 A DIRECT AND SUBSTANTIAL EFFECT ON WATER RESOURCE
5 AVAILABILITY.

6 (V) A CONSIDERATION OF STORM WATER AND FLOODPLAIN
7 MANAGEMENT WITHIN THE CRITICAL WATER PLANNING AREA AND
8 THEIR IMPACTS ON WATER QUALITY AND QUANTITY.

9 (VI) IDENTIFICATION OF EXISTING AND POTENTIAL
10 ADVERSE IMPACTS ON USES OR CONFLICTS AMONG USERS OR AREAS
11 OF THE CRITICAL WATER PLANNING AREA AND IDENTIFICATION OF
12 ALTERNATIVES FOR AVOIDING OR RESOLVING SUCH CONFLICTS.

13 (VII) AN IDENTIFICATION OF PRACTICABLE SUPPLY-SIDE
14 AND DEMAND-SIDE ALTERNATIVES FOR ASSURING AN ADEQUATE
15 SUPPLY OF WATER TO SATISFY EXISTING AND FUTURE REASONABLE
16 AND BENEFICIAL USES.

17 (6) CRITICAL AREA RESOURCE PLANS SHALL BE CONSTRUED AS A
18 COMPONENT OF THE STATE WATER PLAN AND MAY BE IMPLEMENTED
19 VOLUNTARILY.

20 § 3113. REGIONAL COMMITTEES.

21 (A) CREATION.--THERE IS CREATED WITHIN THE DEPARTMENT A
22 REGIONAL COMMITTEE FOR EACH OF THE FOLLOWING REGIONS IN THIS
23 COMMONWEALTH:

24 (1) THE WATERSHED DRAINAGE AREA OF THE DELAWARE RIVER
25 AND ITS TRIBUTARIES.

26 (2) THE WATERSHED DRAINAGE AREA OF THE WEST BRANCH
27 SUSQUEHANNA RIVER SUBBASIN AND THE UPPER SUSQUEHANNA, MIDDLE
28 SUSQUEHANNA AND CHEMUNG SUBBASINS AND THEIR TRIBUTARIES.

29 (3) THE WATERSHED DRAINAGE AREA OF THE JUNIATA RIVER AND
30 LOWER SUSQUEHANNA RIVER AND ITS TRIBUTARIES BELOW SUNBURY,

1 AND GUNPOWDER, NORTHEAST AND ELK CREEK WATERSHEDS DRAINING TO
2 THE CHESAPEAKE BAY.

3 (4) THE WATERSHED DRAINAGE AREA OF THE OHIO RIVER AND
4 ITS TRIBUTARIES.

5 (5) THE WATERSHED DRAINAGE AREA OF LAKE ERIE AND THE
6 GENESEE RIVER.

7 (6) THE WATERSHED DRAINAGE AREA OF THE POTOMAC RIVER AND
8 ITS TRIBUTARIES.

9 EACH REGIONAL COMMITTEE SHALL BE SUBJECT TO THE PROVISIONS
10 APPLICABLE GENERALLY TO BOARDS AND COMMISSIONS IDENTIFIED IN
11 SECTION 203 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN
12 AS THE ADMINISTRATIVE CODE OF 1929.

13 (B) MEMBERSHIP.--

14 (1) EACH REGIONAL COMMITTEE SHALL BE COMPOSED OF:

15 (I) FOUR MEMBERS WITH A KNOWLEDGE, BACKGROUND OR
16 UNDERSTANDING OF WATER RESOURCES PLANNING AND MANAGEMENT
17 WHO ARE COUNTY CONSERVATION DISTRICT OR PLANNING
18 COMMISSION DIRECTORS OR, WHERE A COUNTY CONSERVATION
19 DISTRICT DOES NOT COVER A PORTION OF A REGION, WHO ARE
20 REPRESENTATIVES OF THE GOVERNING BODY OF THE COUNTY OR
21 CITY OF THE FIRST CLASS, AS APPROPRIATE, AND SHALL
22 REPRESENT A GEOGRAPHIC CROSS-SECTION OF THE REGION. AT
23 LEAST TWO COUNTY CONSERVATION DISTRICT DIRECTORS SHALL BE
24 APPOINTED TO EACH REGIONAL COMMITTEE. SUCH MEMBERS SHALL
25 BE APPOINTED BY THE GOVERNOR FROM RECOMMENDATIONS MADE
26 SEPARATELY BY THE GOVERNING BODIES OF EACH COUNTY OR CITY
27 OF THE FIRST CLASS, WHICH IS IN WHOLE OR IN PART WITHIN
28 THE REGION.

29 (II) SEVENTEEN MEMBERS APPOINTED BY THE GOVERNOR
30 FROM RECOMMENDATIONS MADE SEPARATELY BY STATEWIDE AND

1 REGIONAL ORGANIZATIONS REPRESENTING SUCH INTERESTS, WHOSE
2 RESIDENCE OR PLACE OF BUSINESS IS WITHIN THE REGION AND
3 WHO MEET THE FOLLOWING CRITERIA:

4 (A) TWO MEMBERS SHALL BE REPRESENTATIVE OF
5 AGRICULTURE, ONE FROM PRODUCTION AGRICULTURE AND ONE
6 FROM HORTICULTURE.

7 (B) ONE MEMBER SHALL BE AN OFFICER OR EMPLOYEE
8 OF A PUBLIC WATER SUPPLY AGENCY PROVIDING RESIDENTIAL
9 SERVICE WITHIN THE REGION.

10 (C) ONE MEMBER SHALL BE AN OFFICER OR EMPLOYEE
11 OF A PUBLIC WASTEWATER AGENCY PROVIDING SERVICE
12 WITHIN THE REGION.

13 (D) THREE MEMBERS SHALL REPRESENT SIGNIFICANT
14 INDUSTRIAL AND COMMERCIAL ENTERPRISES, ENERGY
15 DEVELOPMENT AND PRODUCTION INTERESTS.

16 (E) THREE MEMBERS SHALL REPRESENT ENVIRONMENTAL
17 AND CONSERVATION INTERESTS.

18 (F) FOUR MEMBERS WITH EDUCATION AND EXPERIENCE
19 IN PROFESSIONS RELATING TO WATER RESOURCES
20 MANAGEMENT, INCLUDING ENGINEERING, HYDROLOGY,
21 GEOLOGY, PLANNING, LAW AND ECONOMICS, ONE OF WHOM
22 SHALL BE A REGISTERED PROFESSIONAL GEOLOGIST.

23 (G) THREE MEMBERS REPRESENTING LOCAL GOVERNMENTS
24 OTHER THAN COUNTIES.

25 THE MEMBERS APPOINTED UNDER THIS SUBPARAGRAPH SHALL
26 REPRESENT A CROSS-SECTION OF THE REGION, CONSIDERING THE
27 DISTRIBUTION OF POPULATION WITHIN EACH REGION.

28 (III) ONE MEMBER, APPOINTED BY THE SECRETARY, WHO IS
29 A DEPARTMENT EMPLOYEE. THIS MEMBER SHALL ADVISE THE
30 REGIONAL COMMITTEE WITHOUT VOTING ON ANY MATTER BEFORE

1 THE REGIONAL COMMITTEE.

2 (IV) WHERE A COMPACT BASIN COMMISSION EXISTS WITH
3 JURISDICTION OVER ALL OR A PORTION OF THE REGION, A
4 REPRESENTATIVE OF SUCH COMPACT BASIN COMMISSION SHALL BE
5 INVITED TO SERVE AS AN EX OFFICIO VOTING MEMBER OF THE
6 REGIONAL COMMITTEE.

7 (2) MEMBERS SHALL BE APPOINTED NO LATER THAN 180 DAYS
8 AFTER THE EFFECTIVE DATE OF THIS CHAPTER.

9 (3) A MEMBER SHALL BE APPOINTED FOR A TERM OF THREE
10 YEARS. OF THE MEMBERS FIRST APPOINTED BY THE GOVERNOR UNDER
11 PARAGRAPH (1)(I) AND (II), FIVE MEMBERS SHALL SERVE FOR TERMS
12 OF ONE YEAR, FIVE MEMBERS SHALL SERVE FOR TERMS OF TWO YEARS
13 AND FIVE MEMBERS SHALL SERVE FOR TERMS OF THREE YEARS.

14 (4) VACANCIES SHALL BE FILLED FOR THE REMAINDER OF AN
15 UNEXPIRED TERM IN THE SAME MANNER AS ORIGINAL APPOINTMENTS. A
16 MEMBER, UPON EXPIRATION OF THE TERM, SHALL CONTINUE TO HOLD
17 OFFICE UNTIL A SUCCESSOR IS APPOINTED.

18 (5) A MAJORITY OF THE MEMBERSHIP OF A REGIONAL COMMITTEE
19 SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF REGIONAL
20 COMMITTEE BUSINESS. ACTION MAY BE TAKEN ON A MATTER BEFORE
21 THE REGIONAL COMMITTEE BY A MAJORITY VOTE OF THE FULL
22 MEMBERSHIP OF THE REGIONAL COMMITTEE.

23 (6) MEMBERS OF A REGIONAL COMMITTEE SHALL SERVE WITHOUT
24 COMPENSATION BUT MAY BE REIMBURSED FROM FUNDS APPROPRIATED
25 FOR SUCH PURPOSES FOR NECESSARY AND REASONABLE TRAVEL AND
26 OTHER EXPENSES INCURRED DURING THE PERFORMANCE OF THEIR
27 DUTIES.

28 (7) A CHAIRPERSON SHALL BE ELECTED ANNUALLY BY A
29 MAJORITY VOTE OF THE FULL MEMBERSHIP OF THE REGIONAL
30 COMMITTEE.

(C) POWERS AND DUTIES.--A REGIONAL COMMITTEE HAS THE
FOLLOWING POWERS AND DUTIES:

(1) GUIDE THE DEVELOPMENT OF AND RECOMMEND TO THE
STATEWIDE COMMITTEE THE REGIONAL PLAN COMPONENT FOR REVIEW
AND INCORPORATION INTO THE STATE WATER PLAN.

(2) CONSULT WITH, ADVISE AND MAKE RECOMMENDATIONS TO THE
DEPARTMENT AND THE STATEWIDE COMMITTEE PRIOR TO AND
THROUGHOUT THE PROCESS OF PREPARING THE REGIONAL PLAN
COMPONENT OF THE STATE WATER PLAN AND AMENDMENTS TO THE
REGIONAL PLAN COMPONENT OF THE STATE WATER PLAN.

(3) ADVISE THE STATEWIDE COMMITTEE AND THE DEPARTMENT
REGARDING THE ENGAGEMENT AND SELECTION OF CONSULTANTS OR
EXPERTS TO ASSIST IN THE PREPARATION OF THE REGIONAL
COMPONENT OF THE STATE WATER PLAN.

(4) RECOMMEND TO THE STATEWIDE COMMITTEE AND THE
DEPARTMENT THE IDENTIFICATION OF CRITICAL WATER PLANNING
AREAS.

(5) UTILIZE AN OPEN PROCESS, INCLUDING PUBLIC NOTICE AND
AT LEAST ONE COMBINED PUBLIC MEETING AND HEARING, TO SOLICIT
COMMENTS FROM INTERESTED PERSONS ON WATER RESOURCES PLANNING
ISSUES RELATED TO THE PREPARATION OF THE REGIONAL COMPONENT
OF THE STATE WATER PLAN.

(6) MEET AS NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS
CHAPTER.

(7) ADOPT BYLAWS AND PROCEDURES FOR CONDUCTING BUSINESS.

§ 3114. STATEWIDE WATER RESOURCES COMMITTEE.

(A) ESTABLISHMENT.--THERE IS ESTABLISHED WITHIN THE
DEPARTMENT THE STATEWIDE WATER RESOURCES COMMITTEE. THE PURPOSE
OF THE COMMITTEE IS TO COORDINATE THE DEVELOPMENT OF THE STATE
WATER PLAN, RECOMMEND POLICIES AND GUIDELINES FOR AND OVERSEE

1 THE DEVELOPMENT OF THE STATE WATER PLAN, AND IN CONTINUING
2 CONSULTATION AND COLLABORATION WITH THE REGIONAL COMMITTEES AND
3 THE DEPARTMENT AND WITH THE FULL OPPORTUNITY FOR PUBLIC REVIEW
4 AND COMMENT, APPROVE AND RECOMMEND TO THE SECRETARY APPROVAL AND
5 ADOPTION OF THE STATE WATER PLAN. THE STATEWIDE COMMITTEE SHALL
6 BE SUBJECT TO THE PROVISIONS APPLICABLE GENERALLY TO BOARDS AND
7 COMMISSIONS IDENTIFIED IN SECTION 203 OF THE ACT OF APRIL 9,
8 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF
9 1929.

10 (B) MEMBERSHIP.--

11 (1) THE STATEWIDE COMMITTEE SHALL BE COMPOSED OF MEMBERS
12 SELECTED AS SET FORTH IN THIS SUBSECTION.

13 (2) EIGHTEEN MEMBERS SHALL BE APPOINTED AS FOLLOWS:

14 (I) SIX MEMBERS SHALL BE REPRESENTATIVES OF THE
15 REGIONAL COMMITTEES, APPOINTED AS PROVIDED IN THIS
16 PARAGRAPH. THE MAJORITY LEADER OF THE SENATE AND MAJORITY
17 LEADER OF THE HOUSE OF REPRESENTATIVES SHALL EACH APPOINT
18 TWO MEMBERS FROM AMONG THE MEMBERS OF THE REGIONAL
19 COMMITTEES. THE MINORITY LEADER OF THE SENATE AND THE
20 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL
21 EACH APPOINT ONE MEMBER FROM AMONG THE MEMBERS OF THE
22 REGIONAL COMMITTEES. EACH REGIONAL COMMITTEE SHALL
23 NOMINATE FROM AMONG THEIR MEMBERS INDIVIDUALS TO BE
24 CONSIDERED FOR APPOINTMENT UNDER THIS PARAGRAPH, AND NO
25 MORE THAN ONE MEMBER FROM EACH REGIONAL COMMITTEE SHALL
26 BE APPOINTED UNDER THIS PARAGRAPH.

27 (II) THE GOVERNOR SHALL APPOINT SIX MEMBERS,
28 REPRESENTING A CROSS-SECTION OF WATER USER INTERESTS,
29 INCLUDING AGRICULTURE, CONSERVATION DISTRICTS, INDUSTRIAL
30 AND COMMERCIAL ENTERPRISES, MINING, ENERGY DEVELOPMENT

1 AND PRODUCTION AND PUBLIC WATER SUPPLY. THE GOVERNOR
2 SHALL SEEK SUGGESTIONS AND RECOMMENDATIONS FOR STATEWIDE
3 COMMITTEE MEMBERSHIP FROM REPRESENTATIVE ORGANIZATIONS.

4 (III) THE GOVERNOR SHALL APPOINT SIX MEMBERS
5 REPRESENTING LOCAL GOVERNMENT, ENVIRONMENTAL AND
6 CONSERVATION INTERESTS AND PROFESSIONS RELATING TO WATER
7 RESOURCES MANAGEMENT. THE GOVERNOR SHALL SEEK SUGGESTIONS
8 AND RECOMMENDATIONS FOR STATEWIDE COMMITTEE MEMBERSHIP
9 FROM REPRESENTATIVE ORGANIZATIONS.

10 (3) THE SECRETARY OF ENVIRONMENTAL PROTECTION, SECRETARY
11 OF AGRICULTURE, SECRETARY OF CONSERVATION AND NATURAL
12 RESOURCES, EXECUTIVE DIRECTOR OF THE PENNSYLVANIA FISH AND
13 BOAT COMMISSION, CHAIRMAN OF THE PENNSYLVANIA PUBLIC UTILITY
14 COMMISSION AND EXECUTIVE DIRECTOR OF THE PENNSYLVANIA
15 EMERGENCY MANAGEMENT AGENCY OR THEIR DESIGNEES SHALL BE EX
16 OFFICIO VOTING MEMBERS OF THE STATEWIDE COMMITTEE. THE
17 SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT AND THE
18 EXECUTIVE DIRECTOR OF THE GOVERNOR'S CENTER FOR LOCAL
19 GOVERNMENT SERVICES OR THEIR DESIGNEES AND A REPRESENTATIVE
20 OF EACH COMPACT BASIN COMMISSION SHALL BE INVITED TO SERVE AS
21 EX OFFICIO NONVOTING MEMBERS OF THE STATEWIDE COMMITTEE.

22 (4) MEMBERS SHALL BE APPOINTED NO LATER THAN 180 DAYS
23 AFTER THE EFFECTIVE DATE OF THIS CHAPTER.

24 (5) A MEMBER SHALL BE APPOINTED FOR A TERM OF FOUR
25 YEARS. OF THE INITIAL MEMBERS APPOINTED BY THE GOVERNOR:

26 (I) SIX MEMBERS SHALL SERVE INITIAL TERMS OF TWO
27 YEARS.

28 (II) SIX MEMBERS SHALL SERVE INITIAL TERMS OF FOUR
29 YEARS.

30 (III) AFTER SUCH INITIAL TERMS, INDIVIDUALS

1 APPOINTED BY THE GOVERNOR SHALL SERVE FOR A TERM OF FOUR
2 YEARS.

3 (6) MEMBERS MUST, AS A RESULT OF EDUCATIONAL BACKGROUND,
4 TRAINING OR EXPERIENCE, HAVE AN UNDERSTANDING OF WATER
5 RESOURCES PLANNING AND MANAGEMENT ISSUES.

6 (7) THE CHAIRPERSON OF THE STATEWIDE COMMITTEE SHALL BE
7 ELECTED BY A MAJORITY VOTE OF THE FULL MEMBERSHIP OF THE
8 COMMITTEE.

9 (8) VACANCIES SHALL BE FILLED FOR THE REMAINDER OF AN
10 UNEXPIRED TERM IN THE SAME MANNER AS ORIGINAL APPOINTMENTS. A
11 MEMBER, UPON EXPIRATION OF THE TERM, SHALL CONTINUE TO HOLD
12 OFFICE UNTIL A SUCCESSOR IS APPOINTED.

13 (9) A MAJORITY OF THE MEMBERSHIP OF THE STATEWIDE
14 COMMITTEE SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF
15 BUSINESS. ACTION MAY BE TAKEN ON A MATTER BEFORE THE
16 COMMITTEE BY A MAJORITY VOTE OF THE FULL MEMBERSHIP OF THE
17 COMMITTEE.

18 (10) MEMBERS OF THE STATEWIDE COMMITTEE SHALL SERVE
19 WITHOUT COMPENSATION BUT MAY BE REIMBURSED FROM FUNDS
20 APPROPRIATED FOR SUCH PURPOSES FOR NECESSARY AND REASONABLE
21 TRAVEL AND OTHER EXPENSES INCURRED DURING THE PERFORMANCE OF
22 THEIR DUTIES.

23 (C) POWERS AND DUTIES.--THE STATEWIDE COMMITTEE SHALL:

24 (1) RECOMMEND TO THE SECRETARY THE APPROVAL AND ADOPTION
25 OF THE STATE WATER PLAN, INCLUDING REGIONAL PLAN COMPONENTS,
26 FOLLOWING CONSULTATION WITH THE REGIONAL COMMITTEES, THE
27 DEPARTMENT, COMPACT BASIN COMMISSION AND OTHER APPROPRIATE
28 AGENCIES AND AFTER THE PUBLIC COMMENT AND HEARING PROCESS
29 SPECIFIED IN SECTION 3115(B) (RELATING TO DEVELOPMENT,
30 ADOPTION, AMENDMENT AND PERIODIC REVIEW OF STATE WATER PLAN).

1 (2) ASSIST THE DEPARTMENT, IN COOPERATION WITH REGIONAL
2 COMMITTEES, WITH THE DEVELOPMENT OF A PUBLIC PARTICIPATION
3 PROCESS TO ENCOURAGE THE INPUT FROM PERSONS INTERESTED IN
4 WATER RESOURCES ISSUES THROUGHOUT THE PROCESS OF DEVELOPING
5 AND FORMULATING REGIONAL PLAN COMPONENTS AND THE STATE WATER
6 PLAN.

7 (3) RECOMMEND APPROVAL BY THE SECRETARY OF POLICIES AND
8 GUIDELINES FOR THE PREPARATION AND DEVELOPMENT OF REGIONAL
9 PLANS AND THE STATE WATER PLAN, IN ORDER TO ASSURE
10 CONSISTENCY IN THE METHODS USED TO CARRY OUT THE ASSESSMENTS
11 AND INVENTORIES REQUIRED UNDER SECTION 3112 (RELATING TO PLAN
12 CONTENTS).

13 (4) REVIEW AND COMMENT UPON REGULATIONS AND POLICIES
14 PROPOSED BY THE DEPARTMENT UNDER THIS CHAPTER. IN FURTHERANCE
15 OF THIS RESPONSIBILITY, THE STATEWIDE COMMITTEE SHALL BE
16 GIVEN A REASONABLE OPPORTUNITY TO REVIEW AND COMMENT ON
17 REGULATIONS PROMULGATED UNDER THIS CHAPTER AFFECTING WATER
18 RESOURCES PRIOR TO THE SUBMISSION TO THE ENVIRONMENTAL
19 QUALITY BOARD FOR BOTH INITIAL AND FINAL CONSIDERATION. THE
20 WRITTEN REPORT OF THE STATEWIDE COMMITTEE SHALL BE PRESENTED
21 TO THE ENVIRONMENTAL QUALITY BOARD WITH ANY REGULATORY
22 PROPOSAL UNDER THIS CHAPTER. THE CHAIRPERSON OF THE STATEWIDE
23 COMMITTEE SHALL BE INVITED TO PARTICIPATE IN THE PRESENTATION
24 OF ALL REGULATIONS PROMULGATED UNDER THIS CHAPTER AFFECTING
25 WATER RESOURCES BEFORE THE ENVIRONMENTAL QUALITY BOARD.

26 (5) CARRY OUT THE DUTIES AND RESPONSIBILITIES ASSIGNED
27 TO THE STATEWIDE COMMITTEE UNDER THIS CHAPTER OR OTHER
28 APPLICABLE STATUTES.

29 § 3115. DEVELOPMENT, ADOPTION, AMENDMENT AND PERIODIC REVIEW OF
30 STATE WATER PLAN.

1 (A) PREPARATION OF STATE WATER PLAN.--

2 (1) A STATE WATER PLAN SHALL BE DEVELOPED AND ADOPTED IN
3 ACCORDANCE WITH THIS SECTION WITHIN FIVE YEARS OF THE
4 EFFECTIVE DATE OF THIS CHAPTER. AFTER THE INITIAL ADOPTION OF
5 A STATE WATER PLAN, THE PLAN SHALL BE AMENDED AND UPDATED
6 EVERY FIVE YEARS.

7 (2) THE DEPARTMENT, IN CONSULTATION WITH THE STATEWIDE
8 COMMITTEE, SHALL DEVELOP POLICIES AND GUIDELINES FOR:

9 (I) PREPARING OR AMENDING THE REGIONAL PLAN
10 COMPONENTS AND THE STATE WATER PLAN.

11 (II) ENSURING PUBLIC PARTICIPATION IN THE
12 DEVELOPMENT OR AMENDMENT OF THE STATE WATER PLAN.

13 (III) IDENTIFYING CRITICAL WATER PLANNING AREAS.

14 (IV) DEVELOPING CRITICAL AREA RESOURCES PLANS.

15 POLICIES AND GUIDELINES SHALL BE ADOPTED ONLY UPON APPROVAL
16 BY BOTH THE STATEWIDE COMMITTEE AND THE SECRETARY.

17 (3) ALL MEETINGS, HEARINGS AND PUBLIC REVIEW UNDER THIS
18 CHAPTER SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF 65
19 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS) AND ANY REGULATIONS
20 PROMULGATED THEREUNDER.

21 (B) DEVELOPMENT OF THE STATE WATER PLAN.--

22 (1) EACH REGIONAL COMMITTEE SHALL:

23 (I) HOLD AT LEAST ONE COMBINED PUBLIC MEETING AND
24 HEARING WITHIN ITS REGION TO SOLICIT INPUT ON WATER
25 RESOURCES MANAGEMENT AND WATER RESOURCES PLANNING WITHIN
26 THE REGION.

27 (II) MAKE RECOMMENDATIONS TO THE DEPARTMENT AND THE
28 STATEWIDE COMMITTEE ON THE DEVELOPMENT OR AMENDMENT OF
29 THE STATE WATER PLAN.

30 (III) MAKE RECOMMENDATIONS ON THE IDENTIFICATION OF

1 CRITICAL WATER PLANNING AREAS WITHIN THE REGION.

2 (2) BASED UPON THE RECOMMENDATIONS AND GUIDANCE OF THE
3 REGIONAL COMMITTEES AND CONSISTENT WITH THE POLICIES AND
4 GUIDELINES ESTABLISHED UNDER SUBSECTION (A)(2), THE
5 DEPARTMENT, IN CONSULTATION WITH THE STATEWIDE COMMITTEE,
6 SHALL PREPARE DRAFTS OF THE INITIAL REGIONAL PLAN COMPONENTS
7 TO BE USED IN THE DEVELOPMENT OR AMENDMENT OF THE STATE WATER
8 PLAN. THE DEPARTMENT MAY ALSO UTILIZE OTHER AVAILABLE
9 RESOURCES TO ASSIST WITH THE PREPARATION OF THE DRAFTS.

10 (3) THE DEPARTMENT, IN CONJUNCTION WITH THE STATEWIDE
11 COMMITTEE AND THE REGIONAL COMMITTEE, SHALL HOLD AT LEAST ONE
12 COMBINED PUBLIC MEETING AND HEARING IN EACH REGION TO SOLICIT
13 INPUT ON THE DRAFTS OF THE INITIAL REGIONAL PLAN COMPONENTS
14 TO BE USED IN THE DEVELOPMENT OR AMENDMENT OF THE STATE WATER
15 PLAN.

16 (4) FOLLOWING PUBLIC PARTICIPATION AND THE COMBINED
17 PUBLIC MEETING AND HEARING REQUIRED UNDER PARAGRAPH (3), EACH
18 REGIONAL COMMITTEE SHALL SELECT, BY A MAJORITY VOTE, THE
19 PLANNING ALTERNATIVES AND PROVISIONS TO BE RECOMMENDED AS
20 PART OF THE REGIONAL PLAN COMPONENT OF THE STATE WATER PLAN.
21 EACH REGIONAL COMMITTEE SHALL RECOMMEND, BY A MAJORITY VOTE,
22 THE REGIONAL PLAN COMPONENT TO THE STATEWIDE COMMITTEE. EACH
23 REGIONAL COMMITTEE SHALL PROVIDE TO ANOTHER REGIONAL
24 COMMITTEE ANY PROPOSED REGIONAL PLAN COMPONENT RECOMMENDATION
25 THAT MAY AFFECT ANY OTHER REGION FOR REVIEW AND COMMENT PRIOR
26 TO RECOMMENDATION OF THE REGIONAL PLAN COMPONENT TO THE
27 STATEWIDE COMMITTEE.

28 (5) WITH CONSIDERATION OF THE REGIONAL PLAN COMPONENTS
29 DEVELOPED UNDER PARAGRAPHS (1) THROUGH (4), AND CONSISTENT
30 WITH THE POLICIES AND GUIDELINES ESTABLISHED UNDER SUBSECTION

1 (A)(2), THE DEPARTMENT, IN ONGOING CONSULTATION WITH THE
2 STATEWIDE COMMITTEE, SHALL PREPARE A DRAFT OF THE STATE WATER
3 PLAN OR AMENDMENTS TO THE STATE WATER PLAN. THE DEPARTMENT,
4 IN CONJUNCTION WITH THE STATEWIDE COMMITTEE, SHALL MAKE THE
5 DRAFT OF THE STATE WATER PLAN AVAILABLE FOR PUBLIC REVIEW TO
6 SOLICIT INPUT ON THE DRAFT OF THE STATE WATER PLAN OR
7 AMENDMENTS TO THE STATE WATER PLAN.

8 (C) ADOPTION OF REGIONAL PLAN COMPONENTS AND STATE WATER
9 PLAN.--REGIONAL PLANS AND THE STATE WATER PLAN SHALL BE
10 RECOMMENDED AND ADOPTED IN ACCORDANCE WITH THE FOLLOWING
11 PROCEDURES:

12 (1) EACH REGIONAL COMMITTEE SHALL, BY A MAJORITY VOTE,
13 RECOMMEND THE REGIONAL PLAN COMPONENTS TO THE STATEWIDE
14 COMMITTEE AS PROVIDED IN SUBSECTION (B).

15 (2) IF A REGIONAL COMMITTEE FAILS TO COMPLY WITH THE
16 OBLIGATIONS SET FORTH IN THIS CHAPTER, THE STATEWIDE
17 COMMITTEE SHALL, AFTER PROVIDING 90 DAYS' WRITTEN NOTICE TO
18 THE REGIONAL COMMITTEE, PROPOSE, APPROVE AND RECOMMEND THE
19 REGIONAL PLAN COMPONENTS FOR THAT REGION.

20 (3) THE STATEWIDE COMMITTEE OR THE SECRETARY MAY DIRECT
21 MODIFICATION OF A NEW OR PREVIOUSLY APPROVED REGIONAL PLAN,
22 IN WHOLE OR IN PART, UPON FINDING ONE OF THE FOLLOWING:

23 (I) RECOMMENDED PLANNING OR MANAGEMENT ALTERNATIVES
24 OR PROVISIONS OF TWO OR MORE REGIONAL PLANS ARE
25 INCONSISTENT, OR TWO OR MORE REGIONAL PLANNING COMMITTEES
26 ARE UNABLE TO AGREE ON AN ALTERNATIVE OR PROVISION
27 AFFECTING THEIR RESPECTIVE REGIONS.

28 (II) A RECOMMENDED PLANNING OR MANAGEMENT
29 ALTERNATIVE OR PROVISION IS INCONSISTENT WITH:

30 (A) THIS CHAPTER;

1 (B) FEDERAL OR STATE STATUTES, REGULATIONS OR
2 OFFICIALLY ADOPTED POLICIES OR PLANS; OR

3 (C) COMPACTS OR OTHER INTERSTATE AGREEMENTS AND
4 PLANS.

5 (III) A REGIONAL PLAN COMPONENT IS INCONSISTENT WITH
6 OR CONFLICTS WITH THE PROVISIONS OR OBJECTIVES OF THE
7 OVERALL STATE WATER PLAN.

8 (IV) THE RECOMMENDED REGIONAL PLAN COMPONENT FAILS
9 TO CONFORM TO SECTION 3112 (RELATING TO PLAN CONTENTS) OR
10 THE REQUIREMENTS ESTABLISHED BY POLICIES ADOPTED PURSUANT
11 TO SUBSECTION (A)(2).

12 (4) FOLLOWING CONSULTATION WITH THE REGIONAL COMMITTEES,
13 THE STATEWIDE COMMITTEE SHALL APPROVE AND RECOMMEND TO THE
14 SECRETARY APPROVAL AND ADOPTION OF REGIONAL PLAN COMPONENTS
15 AND THE STATE WATER PLAN, SUBJECT TO THE FOLLOWING
16 PROCEDURES:

17 (I) WITHIN 90 DAYS OF SUBMISSION OF A REGIONAL PLAN,
18 THE SECRETARY SHALL IN WRITING EITHER APPROVE THE
19 REGIONAL PLAN OR DISAPPROVE THE REGIONAL PLAN IF THE
20 SECRETARY FINDS THAT THE REGIONAL PLAN FAILS TO MEET ANY
21 OF THE CRITERIA SET FORTH IN PARAGRAPH (3)(I) THROUGH
22 (IV).

23 (II) WITHIN 90 DAYS OF SUBMISSION OF THE STATE WATER
24 PLAN, THE SECRETARY SHALL IN WRITING EITHER APPROVE THE
25 STATE WATER PLAN OR DISAPPROVE THE PLAN IF THE SECRETARY
26 FINDS THAT THE STATE WATER PLAN FAILS TO CONFORM TO THE
27 REQUIREMENTS OF SECTION 3112 OR THE POLICIES ADOPTED
28 PURSUANT TO SUBSECTION (A)(2).

29 (III) UPON DISAPPROVAL OF A REGIONAL PLAN OR STATE
30 WATER PLAN, THE SECRETARY SHALL ADVISE THE STATEWIDE

1 COMMITTEE AND AFFECTED REGIONAL COMMITTEE IN WRITING OF
2 THE REASONS FOR SUCH DISAPPROVAL.

3 (IV) UPON RECEIPT OF ANY NOTICE OF DISAPPROVAL, THE
4 STATEWIDE COMMITTEE, ANY AFFECTED REGIONAL COMMITTEE AND
5 THE DEPARTMENT SHALL UNDERTAKE EXPEDITIOUS AND DILIGENT
6 EFFORTS TO CONFER AND RESOLVE THE ISSUES IDENTIFIED AS
7 THE REASONS FOR DISAPPROVAL. WITHIN 90 DAYS OF RECEIPT OF
8 ANY DISAPPROVAL NOTICE, THE STATEWIDE COMMITTEE SHALL
9 RECOMMEND A REVISED PLAN WHICH ADDRESSES AND RESOLVES THE
10 ISSUES.

11 (5) FINAL ADOPTION OF EACH REGIONAL PLAN COMPONENT AND
12 THE STATE WATER PLAN SHALL OCCUR ONLY UPON THE APPROVAL AND
13 RECOMMENDATION BY THE STATEWIDE COMMITTEE TO THE SECRETARY
14 FOR THE APPROVAL AND ADOPTION OF THE STATE WATER PLAN AND
15 SUBSEQUENT ADOPTION BY THE SECRETARY.

16 (6) UPON ADOPTION OF THE STATE WATER PLAN, THE
17 DEPARTMENT SHALL PUBLISH NOTICE OF THE ADOPTION OR AMENDMENT
18 OF THE STATE WATER PLAN IN THE PENNSYLVANIA BULLETIN AND ON
19 THE DEPARTMENT'S WORLD WIDE WEB SITE.

20 (D) PERIODIC REVIEW.--THE STATEWIDE COMMITTEE AND THE
21 DEPARTMENT SHALL, AT LEAST ONCE EVERY FIVE YEARS AND AFTER
22 CONSULTATION WITH THE REGIONAL COMMITTEES, REVIEW THE STATE
23 WATER PLAN TO DETERMINE WHETHER IT REFLECTS THE OBJECTIVES,
24 POLICIES AND PURPOSES OF THIS CHAPTER. THIS DETERMINATION,
25 INCLUDING RECOMMENDATIONS FOR REVISIONS TO REGIONAL PLANS, SHALL
26 BE SET FORTH IN WRITING.

27 (E) PLAN AMENDMENT.--THE STATE WATER PLAN MAY BE AMENDED IN
28 ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

29 § 3116. USE OF PLAN.

30 (A) GENERAL USE OF PLAN.--THE STATE WATER PLAN IS INTENDED

1 TO SERVE AS A POLICY AND GUIDANCE DOCUMENT, PROVIDING
2 INFORMATION, OBJECTIVES, PRIORITIES AND RECOMMENDATIONS TO BE
3 CONSIDERED AND WEIGHED IN A BROAD RANGE OF STATE, LOCAL AND
4 PRIVATE DECISIONS. THE STATE WATER PLAN IS NOT INTENDED TO
5 CONSTITUTE OR CONTAIN LEGALLY BINDING REGULATIONS, PROHIBITIONS
6 OR PRESCRIPTIONS.

7 (B) SPECIFIC USES OF PLAN.--AMONG OTHER USES, IT IS INTENDED
8 THAT THE STATE WATER PLAN WILL BE USED TO:

9 (1) IDENTIFY AND PRIORITIZE WATER RESOURCE AND WATER
10 SUPPLY DEVELOPMENT PROJECTS TO BE CARRIED OUT BY PRIVATE
11 ORGANIZATIONS OR GOVERNMENT AGENCIES.

12 (2) PROVIDE INFORMATION TO PUBLIC AND PRIVATE DECISION
13 MAKERS REGARDING WATER AVAILABILITY TO HELP GUIDE EFFICIENT
14 INVESTMENT AND ECONOMIC DEVELOPMENT.

15 (3) IDENTIFY OPPORTUNITIES FOR IMPROVING OPERATION OF
16 THIS COMMONWEALTH'S EXISTING WATER RESOURCES INFRASTRUCTURE.

17 (4) GUIDE THE DEVELOPMENT AND IMPLEMENTATION OF POLICIES
18 AND PROGRAMS BY STATE AGENCIES THAT WILL REDUCE THE RISK OF
19 FLOODING, WATER SHORTAGES FROM DROUGHT AND CONFLICTS BETWEEN
20 WATER USERS OR USES.

21 (5) GUIDE POLICIES ON ACTIVITIES THAT DIRECTLY AND
22 SIGNIFICANTLY AFFECT THE QUANTITY AND QUALITY OF WATER
23 AVAILABLE WITH THE OBJECTIVE OF BALANCING AND ENCOURAGING
24 MULTIPLE USES OF WATER RESOURCES.

25 (6) EDUCATE PUBLIC OFFICIALS AND THE PUBLIC AT LARGE
26 REGARDING THE SOURCES AND USES OF WATER IN THIS COMMONWEALTH.

27 § 3117. STATEWIDE DATA SYSTEM.

28 (A) GENERAL RULE.--IN COOPERATION WITH THE COMPACT BASIN
29 COMMISSIONS AND FEDERAL, STATE AND REGIONAL AGENCIES WITH
30 RESPONSIBILITIES RELATING TO WATER RESOURCES MANAGEMENT, THE

1 DEPARTMENT SHALL ESTABLISH AND MAINTAIN A STATEWIDE SYSTEM TO
2 GATHER, PROCESS AND DISTRIBUTE INFORMATION ON THE AVAILABILITY,
3 DISTRIBUTION, QUALITY AND USE OF WATER RESOURCES OF THIS
4 COMMONWEALTH.

5 (B) OTHER COMMISSIONS AND AGENCIES.--THE DEPARTMENT SHALL
6 INVITE INTERESTED COMPACT BASIN COMMISSIONS AND FEDERAL, STATE
7 AND REGIONAL AGENCIES WITH RESPONSIBILITIES RELATING TO WATER
8 RESOURCES MANAGEMENT TO JOIN THE STATEWIDE DATA SYSTEM AND SHALL
9 COOPERATE WITH ANY SUCH AGENCY CHOOSING TO JOIN THE SYSTEM.

10 (C) FEE.--INFORMATION GATHERED IN THE STATEWIDE DATA SYSTEM,
11 SUBJECT TO PROTECTION PROVIDED TO CONFIDENTIAL BUSINESS
12 INFORMATION UNDER SECTION 3119 (RELATING TO CONFIDENTIAL
13 INFORMATION), SHALL BE MADE AVAILABLE TO ANY PERSON ON PAYMENT
14 OF A REASONABLE FEE, AS ESTABLISHED BY THE DEPARTMENT WITH THE
15 ADVICE OF THE STATEWIDE COMMITTEE, TO COVER THE EXPENSES OF
16 MAKING SUCH INFORMATION AVAILABLE TO THAT PERSON.

17 § 3118. WATER USE REGISTRATION AND REPORTING.

18 (A) INTERIM REGISTRATION PROGRAM.--PENDING THE ADOPTION OF
19 REGULATIONS FOR REGISTRATION AND REPORTING UNDER SUBSECTION (B),
20 EACH PUBLIC WATER SUPPLY AGENCY AND EACH HYDROPOWER FACILITY,
21 IRRESPECTIVE OF THE AMOUNT OF WITHDRAWAL, AND EACH PERSON WHOSE
22 TOTAL WITHDRAWAL OR WITHDRAWAL USE FROM ONE OR MORE POINTS OF
23 WITHDRAWAL WITHIN A WATERSHED OPERATED AS A SYSTEM EITHER
24 CONCURRENTLY OR SEQUENTIALLY EXCEEDS AN AVERAGE RATE OF 10,000
25 GALLONS A DAY IN A 30-DAY PERIOD SHALL REGISTER WITH THE
26 DEPARTMENT THE SOURCE, LOCATION AND AMOUNT OF WITHDRAWAL OR USE
27 OR BOTH. REGISTRATIONS SHALL BE SUBMITTED NOT LATER THAN 12
28 MONTHS AFTER THE EFFECTIVE DATE OF THIS CHAPTER OR 30 DAYS
29 FOLLOWING THE INITIATION OF ANY SUCH WITHDRAWAL OR USE,
30 WHICHEVER IS LATER. REGISTRATIONS SHALL BE SUBMITTED ON FORMS AS

1 PRESCRIBED BY THE DEPARTMENT.

2 (B) GENERAL RULE; REQUIREMENTS FOR REGISTRATION AND
3 REPORTING.--IN ORDER TO PROVIDE ACCURATE INFORMATION FOR WATER
4 RESOURCES PLANNING, THE DEPARTMENT IN CONSULTATION WITH THE
5 STATEWIDE COMMITTEE SHALL RECOMMEND, AND THE ENVIRONMENTAL
6 QUALITY BOARD SHALL ADOPT, REGULATIONS ESTABLISHING REQUIREMENTS
7 FOR THE REGISTRATION, PERIODIC REPORTING AND RECORDKEEPING OF
8 WITHDRAWALS IN ACCORDANCE WITH THE FOLLOWING PROVISIONS:

9 (1) EACH PUBLIC WATER SUPPLY AGENCY AND EACH HYDROPOWER
10 FACILITY, IRRESPECTIVE OF THE AMOUNT OF WITHDRAWAL, AND EACH
11 PERSON WHOSE TOTAL WITHDRAWAL OR WITHDRAWAL USE FROM ONE OR
12 MORE POINTS OF WITHDRAWAL WITHIN A WATERSHED OPERATED AS A
13 SYSTEM EITHER CONCURRENTLY OR SEQUENTIALLY EXCEEDS AN AVERAGE
14 RATE OF 10,000 GALLONS A DAY IN A 30-DAY PERIOD SHALL COMPLY
15 WITH RECORDKEEPING AND PERIODIC REPORTING REQUIREMENTS
16 ESTABLISHED BY REGULATION. SUCH REGULATIONS SHALL REQUIRE
17 WATER USERS SUBJECT TO THE REGISTRATION REQUIREMENTS OF THIS
18 SECTION TO MONITOR, MAINTAIN RECORDS AND SUBMIT TO THE
19 DEPARTMENT PERIODIC REPORTS REGARDING THE SOURCE, LOCATION
20 AND AMOUNT OF WITHDRAWALS OR USES OR BOTH FROM SURFACE WATERS
21 AND GROUNDWATERS, INCLUDING THE AMOUNT OF CONSUMPTIVE AND
22 NONCONSUMPTIVE USES, THE LOCATIONS AND AMOUNTS OF ANY WATERS
23 RETURNED AND DISCHARGED AND THE AMOUNTS OF WATER TRANSFERRED
24 BETWEEN PUBLIC WATER SUPPLY AGENCIES VIA INTERCONNECTIONS.
25 SUCH REGULATIONS SHALL NOT REQUIRE SUBMISSION OF PERIODIC
26 REPORTS MORE FREQUENTLY THAN ANNUALLY. WHERE ALTERNATIVE
27 METHODS EXIST TO OBTAIN A REASONABLY ACCURATE EVALUATION OF
28 WITHDRAWALS OR WITHDRAWAL USES, CONSUMPTIVE OR NONCONSUMPTIVE
29 USES AND RETURN FLOWS, SUCH REGULATIONS SHALL ALLOW FOR USE
30 OF THE ALTERNATIVE METHODS TO OBTAIN A REASONABLE ESTIMATE OR

1 INDIRECT CALCULATION OF SUCH IN LIEU OF DIRECT METERING OR
2 MEASUREMENT. WITH RESPECT TO WITHDRAWAL USES, OTHER THAN
3 PUBLIC WATER SUPPLY AGENCY WITHDRAWALS AND HYDROPOWER
4 FACILITIES, INVOLVING A WITHDRAWAL OF LESS THAN 50,000
5 GALLONS PER DAY IN A 30-DAY PERIOD, THE REGULATIONS SHALL
6 PROVIDE FOR THE USE OF ALTERNATIVE METHODS TO OBTAIN A
7 REASONABLE ESTIMATE OR INDIRECT CALCULATION OF SUCH IN LIEU
8 OF DIRECT METERING OR MEASUREMENT.

9 (2) THE REGULATIONS ~~SHALL~~ MAY PROVIDE FOR THE ADJUSTMENT <—
10 OF OR VARIATIONS IN REGISTRATION, RECORDKEEPING OR PERIODIC
11 REPORTING REQUIREMENTS FOR IDENTIFIED CLASSIFICATION OF USER
12 OR VOLUME OF WITHDRAWAL IF SUCH REQUIREMENTS ARE NOT
13 NECESSARY TO OBTAIN INFORMATION REQUIRED TO ADEQUATELY ASSESS
14 WATER USES, MONITOR DEMANDS AND OTHERWISE PREPARE ACCURATE
15 AND COMPLETE REGIONAL AND STATE WATER PLANS AND, IF
16 APPLICABLE, CRITICAL AREA RESOURCE PLANS.

17 (3) THE REGULATIONS SHALL INCLUDE A PROCESS UNDER WHICH
18 WATER USERS MAY DOCUMENT AND REGISTER PRACTICES OR PROJECTS
19 THAT THEY HAVE IMPLEMENTED TO REDUCE WATER WITHDRAWALS OR
20 CONSUMPTIVE USE, PROMOTE GROUNDWATER RECHARGE OR OTHERWISE
21 CONSERVE OR ENHANCE WATER SUPPLIES FOR CONSIDERATION AND USE
22 IN PROVIDING APPROPRIATE RECOGNITION AND CREDIT DURING THE
23 IMPLEMENTATION OF EXISTING OR FUTURE WATER SUPPLY PROGRAMS.

24 (4) TO AVOID DUPLICATION OF EFFORTS, REGULATIONS
25 IMPLEMENTING THE PERIODIC REPORTING REQUIREMENTS OF THIS
26 SUBSECTION SHALL PROVIDE THAT THE REQUIREMENTS MAY BE
27 SATISFIED BY THE FILING OF DISCHARGE MONITORING REPORTS
28 PREPARED UNDER THE CLEAN STREAMS LAW, WATER SUPPLY REPORTS
29 PREPARED UNDER THE SAFE DRINKING WATER ACT, WATER WITHDRAWAL
30 AND USE REPORTS PREPARED AND SUBMITTED PURSUANT TO

1 REGULATIONS ADOPTED BY THE DELAWARE RIVER BASIN COMMISSION
2 AND SUSQUEHANNA RIVER BASIN COMMISSION, OR OTHER REPORTS
3 SUBMITTED UNDER OTHER APPLICABLE STATUTES AND REGULATIONS, TO
4 THE EXTENT THAT THE REPORTS PROVIDE THE REQUIRED INFORMATION.

5 (5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
6 AUTHORIZE THE DEPARTMENT OR THE ENVIRONMENTAL QUALITY BOARD
7 TO REQUIRE METERING OF HOMEOWNER WELLS.

8 (6) WHERE A REGISTERED WITHDRAWAL IS TERMINATED OR IS
9 REDUCED TO AN AMOUNT WHICH OVER A 12-MONTH PERIOD IS LESS
10 THAN THE 30-DAY AVERAGE THRESHOLD AMOUNTS REQUIRING
11 REGISTRATION, THE PERSON RESPONSIBLE FOR SUCH WITHDRAWAL MAY
12 FILE A WRITTEN NOTICE WITH THE DEPARTMENT OF SUCH TERMINATION
13 AND REDUCTION. AFTER FILING SUCH NOTICE, THE PERSON SHALL BE
14 RELIEVED OF FURTHER OBLIGATIONS RELATING TO PERIOD REPORTING
15 UNDER THIS SECTION.

16 (7) PERSONS REQUIRED TO REGISTER AND REPORT WATER
17 WITHDRAWALS OR USES UNDER THIS SECTION SHALL KEEP RECORDS
18 REQUIRED BY REGULATION FOR A PERIOD OF FIVE YEARS AND MAKE
19 SUCH RECORDS AVAILABLE FOR INSPECTION BY THE DEPARTMENT UPON
20 REQUEST.

21 (8) REGISTRATION OF A WITHDRAWAL OR USE SHALL NOT BE
22 CONSTRUED AS A DETERMINATION OF A PERSON'S WATER RIGHTS OR
23 APPROVAL OF A WITHDRAWAL OR USE BY ANY AGENCY OF THE
24 COMMONWEALTH OR BY A COMPACT BASIN COMMISSION.

25 (C) CONFIDENTIALITY OF INFORMATION.--INFORMATION PROVIDED TO
26 THE DEPARTMENT UNDER THIS SECTION SHALL BE SUBJECT TO THE
27 PROVISIONS OF SECTION 3119 (RELATING TO CONFIDENTIAL
28 INFORMATION).

29 § 3119. CONFIDENTIAL INFORMATION.

30 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B),

1 INFORMATION REQUIRED TO BE SUBMITTED TO THE DEPARTMENT UNDER
2 THIS CHAPTER SHALL BE SUBJECT TO THE PROVISIONS OF THE ACT OF
3 JUNE 21, 1957 (P.L.390, NO.212), REFERRED TO AS THE RIGHT-TO-
4 KNOW LAW.

5 (B) EXCEPTION.--THE DEPARTMENT, THE STATEWIDE COMMITTEE AND
6 ANY REGIONAL COMMITTEE SHALL NOT DISCLOSE CONFIDENTIAL
7 INFORMATION REQUIRED TO BE SUBMITTED TO THE DEPARTMENT UNDER
8 THIS CHAPTER UNLESS:

9 (1) THE CONFIDENTIAL INFORMATION IS CONTAINED IN A
10 REPORT IN WHICH THE IDENTITY OF THE SUBMITTING PERSON HAS
11 BEEN REMOVED AND THE CONFIDENTIAL INFORMATION IS AGGREGATED
12 BY HYDROLOGIC UNIT OR REGION; OR

13 (2) THE CONFIDENTIAL INFORMATION IS DISCLOSED TO
14 EMPLOYEES, CONTRACTORS, AGENTS OR AUTHORIZED REPRESENTATIVES
15 OF THE DEPARTMENT, INCLUDING THE STATE AND REGIONAL PLANNING
16 COMMITTEES FOR THE PURPOSES OF THIS CHAPTER.

17 (C) CONFIDENTIAL INFORMATION SUBMITTED.--IF A PERSON SUBMITS
18 CONFIDENTIAL INFORMATION UNDER THIS CHAPTER, THE PERSON MUST
19 IDENTIFY THE INFORMATION THAT IS CONFIDENTIAL INFORMATION AND
20 PROVIDE A JUSTIFICATION FOR ITS CONFIDENTIAL NATURE. THE
21 DEPARTMENT, STATEWIDE COMMITTEE OR REGIONAL COMMITTEES SHALL
22 HOLD THE CONFIDENTIAL INFORMATION IN A FILE SEPARATE FROM THE
23 GENERAL RECORDS RELATING TO THE PERSON.

24 § 3120. WATER CONSERVATION.

25 (A) TECHNICAL ASSISTANCE CENTER.--THE DEPARTMENT SHALL
26 ESTABLISH AND MAINTAIN A WATER RESOURCES TECHNICAL ASSISTANCE
27 CENTER TO PROMOTE VOLUNTARY WATER CONSERVATION AND TO PROVIDE
28 TECHNICAL ASSISTANCE ON WATER RESOURCES USES ISSUES, INCLUDING
29 METHODS FOR EFFICIENT WATER USE, INCLUDING REDUCTION OF
30 UNACCOUNTED FOR WATER LOSS AND THE REPLENISHMENT AND

1 CONSERVATION OF WATER RESOURCES. THE CENTER SHALL:

2 (1) ESTABLISH A VOLUNTARY STATEWIDE WATER CONSERVATION
3 PROGRAM FOR ALL WATER USERS.

4 (2) ESTABLISH GUIDELINES FOR THE DEVELOPMENT OF
5 VOLUNTARY WATER USE REDUCTION PLANS IN CRITICAL WATER
6 PLANNING AREAS.

7 (3) ESTABLISH VOLUNTARY WATER USE REDUCTION GOALS FOR
8 ALL WATER USERS.

9 (4) IDENTIFY WATER CONSERVATION PRINCIPLES, PRACTICES
10 AND TECHNOLOGY TO ASSIST ALL WATER USERS IN CONSERVING WATER.

11 (5) DEVELOP A WATER CONSERVATION EDUCATIONAL PROGRAM FOR
12 HOUSEHOLDS, INDUSTRY AND OTHER WATER USERS.

13 (6) ESTABLISH A GOVERNOR'S WATER CONSERVATION AWARD TO
14 RECOGNIZE OUTSTANDING CONSERVATION OF WATER.

15 (7) DEVELOP A PROGRAM TO PROMOTE VOLUNTARY REDUCTION OF
16 UNACCOUNTED FOR WATER LOSS.

17 (8) IDENTIFY PRINCIPLES, PRACTICES AND TECHNOLOGIES TO
18 ENCOURAGE GROUNDWATER RECHARGE.

19 (B) GRANT APPROVAL.--WHEN APPROVING FUNDING PURSUANT TO THE
20 ACT OF MARCH 1, 1988 (P.L.82, NO.16), KNOWN AS THE PENNSYLVANIA
21 INFRASTRUCTURE INVESTMENT AUTHORITY ACT, THE PENNSYLVANIA
22 INFRASTRUCTURE INVESTMENT AUTHORITY SHALL GIVE SPECIAL
23 CONSIDERATION TO FUNDING PROJECTS THAT:

24 (1) ADDRESS UNACCOUNTED FOR WATER LOSS OR THAT IMPLEMENT
25 WATER CONSERVATION PRACTICES BY A PUBLIC WATER SUPPLY AGENCY
26 WHOSE UNACCOUNTED FOR WATER LOSS RATE EXCEEDS 20%, PROVIDED
27 THAT AS A CONDITION FOR SUCH ASSISTANCE, THE APPLICANT SHALL
28 AGREE TO ATTEMPT TO RECOVER THE TRUE COST OF SERVICE FROM
29 RATEPAYERS AND ADOPT AND IMPLEMENT A WATER SYSTEM MANAGEMENT
30 PROGRAM THAT CONFORMS TO MINIMUM STANDARDS ESTABLISHED BY THE

DEPARTMENT, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION OR ANY
COMPACT BASIN COMMISSION FOR WATER METERING, METER TESTING
AND REPLACEMENT, LEAK DETECTION, UNACCOUNTED-FOR WATER
TRACKING AND REPORTING AND CONSERVATION EDUCATION; OR

(2) PROVIDE FOR INTERCONNECTION BETWEEN WATER SYSTEMS TO
IMPROVE RELIABILITY.

§ 3121. GRANTS.

(A) AUTHORIZATION.--THE DEPARTMENT IS AUTHORIZED TO PROVIDE
GRANTS FOR THE FOLLOWING PURPOSES:

(1) REIMBURSEMENT OF UP TO 75% OF THE COST OF PREPARING
A VOLUNTARY WATER USE REDUCTION PLAN UNDER SECTION 3120(A)(2)
(RELATING TO WATER CONSERVATION).

(2) WATER RESOURCES EDUCATION, TECHNICAL ASSISTANCE AND
WATER CONSERVATION, INCLUDING THE PROMOTION OF VOLUNTARY
REDUCTION OF UNACCOUNTED FOR WATER LOSS, UNDER SECTION
3120(A).

(B) FUNDING.--GRANTS SHALL BE MADE FROM FUNDS AVAILABLE FOR
THIS PURPOSE.

SUBCHAPTER C

ADMINISTRATION AND ENFORCEMENT

SEC.

3131. ADMINISTRATION.

3132. PUBLIC NUISANCE.

3133. ENFORCEMENT ORDERS.

3134. CIVIL REMEDIES.

3135. PRESERVATION OF RIGHTS AND REMEDIES.

3136. RELATION TO OTHER LAWS.

§ 3131. ADMINISTRATION.

(A) USE OF FUNDS.--THE DEPARTMENT SHALL USE FEES COLLECTED
FROM THE USE OF THE STATEWIDE DATA SYSTEM TO DEFRAY THE

1 REASONABLE COSTS OF ADMINISTERING SECTIONS 3117 (RELATING TO
2 STATEWIDE DATA SYSTEM) AND 3118 (RELATING TO WATER USE
3 REGISTRATION AND REPORTING).

4 (B) PUBLIC RECORDS AND CONFIDENTIALITY OF INFORMATION.--
5 EXCEPT AS PROVIDED IN SECTION 3119 (RELATING TO CONFIDENTIAL
6 INFORMATION) OR IN ANOTHER STATUTE, REPORTS AND OTHER
7 INFORMATION OBTAINED BY THE STATEWIDE COMMITTEE, A REGIONAL
8 COMMITTEE OR THE DEPARTMENT UNDER THIS CHAPTER SHALL BE A MATTER
9 OF PUBLIC RECORD AND SHALL BE AVAILABLE FOR INSPECTION AND
10 REVIEW AT THE OFFICES OF THE DEPARTMENT, THE STATEWIDE COMMITTEE
11 OR THE APPROPRIATE REGIONAL COMMITTEE.

12 (C) INVESTIGATIONS AND INSPECTIONS.--TO DETERMINE COMPLIANCE
13 WITH THIS CHAPTER, THE DEPARTMENT IS AUTHORIZED, DURING
14 REASONABLE HOURS AND UPON REASONABLE NOTICE, TO MAKE SUCH
15 REASONABLE INSPECTIONS, CONDUCT SUCH REASONABLE TESTS OR
16 SAMPLING OR EXAMINE BOOKS, PAPERS AND RECORDS RELATED
17 SPECIFICALLY TO ANY WITHDRAWAL UNDER INVESTIGATION PURSUANT TO
18 SECTION 3118 (RELATING TO WATER USE REGISTRATION AND REPORTING)
19 AS IT DEEMS NECESSARY.

20 (D) WATER RESOURCES FUND.--FINES AND PENALTIES COLLECTED
21 UNDER THIS CHAPTER SHALL BE PAID INTO THE STATE TREASURY IN A
22 SPECIAL FUND KNOWN AS THE WATER RESOURCES FUND. THIS FUND SHALL
23 BE ADMINISTERED BY THE DEPARTMENT TO CARRY OUT THE PURPOSES OF
24 THIS CHAPTER.

25 (E) USE OF OTHER FUNDS.--MONEY IN THE CLEAN WATER FUND,
26 ESTABLISHED BY THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394),
27 KNOWN AS THE CLEAN STREAMS LAW, MAY BE USED BY THE DEPARTMENT
28 FOR PURPOSES OF THIS CHAPTER.

29 § 3132. PUBLIC NUISANCE.

30 (A) GENERAL RULE.--A VIOLATION OF THIS CHAPTER OR AN ORDER

1 OR REGULATION UNDER THIS CHAPTER SHALL CONSTITUTE A PUBLIC
2 NUISANCE.

3 (B) APPLICABILITY OF OTHER LAW.--NOTHING IN THIS CHAPTER
4 SHALL BE CONSTRUED AS AFFECTING THE APPLICATION OF 18 PA.C.S. §
5 5101 (RELATING TO OBSTRUCTING ADMINISTRATION OF LAW OR OTHER
6 GOVERNMENTAL FUNCTION).

7 § 3133. ENFORCEMENT ORDERS.

8 (A) ISSUANCE.--THE DEPARTMENT MAY ISSUE ORDERS NECESSARY TO
9 AID IN THE ENFORCEMENT OF THIS CHAPTER. AN ORDER MAY BE ISSUED
10 IF THE DEPARTMENT FINDS THAT A PERSON IS IN VIOLATION OF THIS
11 CHAPTER OR OF A REGULATION ISSUED UNDER THIS CHAPTER. THE
12 DEPARTMENT MAY, IN ITS ORDER, REQUIRE COMPLIANCE WITH TERMS AND
13 CONDITIONS NECESSARY TO EFFECT THE PURPOSES OF THIS CHAPTER.

14 (B) EFFECTIVE DATE.--AN ORDER ISSUED UNDER THIS SECTION
15 SHALL TAKE EFFECT UPON NOTICE UNLESS THE ORDER SPECIFIES
16 OTHERWISE.

17 (C) OTHER REMEDIES PRESERVED.--THE RIGHT OF THE DEPARTMENT
18 TO ISSUE AN ORDER UNDER THIS SECTION IS IN ADDITION TO ANY
19 PENALTY WHICH MAY BE IMPOSED OR ANY OTHER ACTION TAKEN UNDER
20 THIS CHAPTER.

21 (D) DUTY TO COMPLY.--IT SHALL BE THE DUTY OF ANY PERSON TO
22 PROCEED DILIGENTLY TO COMPLY WITH ANY ORDER ISSUED BY THE
23 DEPARTMENT UNDER THIS SECTION. IF SUCH PERSON FAILS TO PROCEED
24 DILIGENTLY OR FAILS TO COMPLY WITH THE ORDER WITHIN SUCH TIME,
25 IF ANY, WHICH MAY BE SPECIFIED IN THE ORDER, THE PERSON SHALL BE
26 GUILTY OF CONTEMPT AND SHALL BE PUNISHED BY THE COURT IN AN
27 APPROPRIATE MANNER. FOR THIS PURPOSE, APPLICATION MAY BE MADE BY
28 THE DEPARTMENT TO THE COMMONWEALTH COURT, WHICH COURT IS HEREBY
29 GRANTED JURISDICTION.

30 § 3134. CIVIL REMEDIES.

1 (A) ABATEMENT OF NUISANCES.--AN ACTIVITY OR CONDITION
2 DECLARED TO BE A PUBLIC NUISANCE UNDER SECTION 3132 (RELATING TO
3 PUBLIC NUISANCE) SHALL BE RESTRAINED OR PREVENTED IN THE MANNER
4 PROVIDED BY LAW OR EQUITY FOR ABATEMENT OF PUBLIC NUISANCES, AND
5 THE REASONABLE EXPENSE THEREOF MAY BE RECOVERED FROM THE
6 VIOLATOR.

7 (B) CIVIL REMEDIES.--THE DEPARTMENT MAY BRING AN ACTION IN
8 ANY COURT OF COMPETENT JURISDICTION TO RESTRAIN AND ABATE THE
9 VIOLATION OF THIS CHAPTER OR ANY REGULATION ISSUED UNDER THIS
10 CHAPTER. ANY OTHER PROVISION OF LAW TO THE CONTRARY
11 NOTWITHSTANDING, THE COURTS OF COMMON PLEAS AND COMMONWEALTH
12 COURT SHALL HAVE JURISDICTION OF SUCH ACTIONS, AND VENUE IN SUCH
13 ACTIONS SHALL BE SET FORTH IN THE PENNSYLVANIA RULES OF CIVIL
14 PROCEDURE CONCERNING ACTIONS IN ASSUMPSIT.

15 (C) CIVIL PENALTIES.--IN ADDITION TO PROCEEDING UNDER ANY
16 OTHER REMEDY AVAILABLE UNDER THIS CHAPTER FOR THE VIOLATION OF
17 ANY PROVISION OF THIS CHAPTER, OR ANY REGULATION OR ORDER ISSUED
18 UNDER THIS CHAPTER, THE DEPARTMENT MAY ASSESS A CIVIL PENALTY
19 UPON A PERSON FOR SUCH VIOLATION. THE MAXIMUM CIVIL PENALTY THAT
20 MAY BE ASSESSED IS \$1,000 PER DAY FOR EACH VIOLATION. EACH
21 VIOLATION OF ANY PROVISION OF THIS CHAPTER AND EACH VIOLATION
22 FOR EACH SEPARATE DAY SHALL CONSTITUTE A SEPARATE AND DISTINCT
23 OFFENSE. THE CIVIL PENALTY MAY BE ASSESSED, WHETHER OR NOT THE
24 VIOLATION WAS WILLFUL OR NEGLIGENT. IN DETERMINING THE AMOUNT OF
25 A CIVIL PENALTY, THE DEPARTMENT SHALL CONSIDER THE DEGREE OF
26 WILLFULNESS AND DURATION OF THE VIOLATION, SAVINGS RESULTING TO
27 THE PERSON AS THE RESULT OF THE VIOLATION, THE DAMAGE TO WATER
28 RESOURCES OF THIS COMMONWEALTH RESULTING FROM THE VIOLATION AND
29 OTHER RELEVANT FACTORS. WHEN THE DEPARTMENT PROPOSES TO ASSESS A
30 CIVIL PENALTY, IT SHALL INFORM THE PERSON OF THE PROPOSED AMOUNT

1 OF SUCH PENALTY. THE PERSON CHARGED WITH THE CIVIL PENALTY SHALL
2 THEN HAVE 30 DAYS TO PAY THE PROPOSED PENALTY IN FULL OR, IF THE
3 PERSON WISHES TO CONTEST EITHER THE AMOUNT OF THE PENALTY OR THE
4 FACT OF THE VIOLATION, THE PERSON SHALL WITHIN THE 30-DAY PERIOD
5 FILE AN APPEAL OF THE ACTION WITH THE ENVIRONMENTAL HEARING
6 BOARD. FAILURE TO APPEAL WITHIN THE 30-DAY PERIOD SHALL RESULT
7 IN A WAIVER OF ALL LEGAL RIGHTS TO CONTEST THE VIOLATION AND THE
8 AMOUNT OF THE CIVIL PENALTY.

9 (D) REMEDIES TO BE CONCURRENT.--THE REMEDIES PRESCRIBED IN
10 THIS CHAPTER SHALL BE DEEMED CONCURRENT, AND THE EXISTENCE OR
11 EXERCISE OF ANY REMEDY SHALL NOT PREVENT THE DEPARTMENT FROM
12 EXERCISING ANY OTHER REMEDY UNDER THIS CHAPTER, AT LAW OR IN
13 EQUITY.

14 § 3135. PRESERVATION OF RIGHTS AND REMEDIES.

15 (A) OTHER REMEDIES.--THE COLLECTION OF A PENALTY UNDER THIS
16 CHAPTER SHALL NOT BE CONSTRUED AS ESTOPPING THE COMMONWEALTH, A
17 MUNICIPALITY OR AN AUTHORIZED AGENCY FROM PROCEEDING IN COURTS
18 OF LAW OR EQUITY TO ABATE PUBLIC NUISANCES UNDER EXISTING LAW.

19 (B) REMEDIES ADDITIONAL AND CUMULATIVE.--IT IS DECLARED TO
20 BE THE PURPOSE OF THIS SECTION TO PROVIDE ADDITIONAL AND
21 CUMULATIVE REMEDIES TO PROTECT THE PUBLIC INTEREST IN THE WATER
22 RESOURCES OF THIS COMMONWEALTH.

23 (C) PENDING SUITS.--THIS CHAPTER DOES NOT APPLY TO SUITS
24 INSTITUTED PRIOR TO ITS EFFECTIVE DATE.

25 § 3136. RELATION TO OTHER LAWS.

26 (A) LIMITATIONS UPON DEPARTMENT.--NOTHING CONTAINED IN THIS
27 CHAPTER SHALL BE CONSTRUED TO AUTHORIZE, DIMINISH OR EXPAND THE
28 EXISTING AUTHORITY OF THE DEPARTMENT, INCLUDING THE
29 ENVIRONMENTAL QUALITY BOARD, TO REGULATE, CONTROL OR REQUIRE
30 PERMITS FOR THE WITHDRAWAL OR USE OF WATER. NOTHING CONTAINED IN

1 THIS CHAPTER SHALL BE CONSTRUED TO AUTHORIZE, DIMINISH OR EXPAND
2 THE EXISTING AUTHORITY OF THE DEPARTMENT UNDER THE ACT OF JUNE
3 22, 1937 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW.
4 FURTHER, NOTHING SET FORTH IN THIS CHAPTER, ANY REGULATIONS
5 ADOPTED UNDER THIS CHAPTER OR IN THE STATE WATER PLAN SHALL
6 AUTHORIZE THE DEPARTMENT TO TAKE ANY ACTION TO:

7 (1) MODIFY OR IMPAIR ANY PERMITS, AGREEMENTS OR OTHER
8 APPROVALS ISSUED UNDER OTHER STATE STATUTES OR VESTED RIGHTS
9 RELATED TO WATER WITHDRAWALS OR USES.

10 (2) INTERFERE WITH OR IMPOSE ADDITIONAL CONDITIONS UPON
11 THE USE OR OPERATION OF ANY EXISTING RESERVOIR OR WATER
12 STORAGE FACILITY.

13 (3) REGULATE OR IMPOSE ANY CONDITIONS UPON ANY ACTIVITY
14 OR USE NOT CURRENTLY AUTHORIZED UNDER APPLICABLE STATE
15 STATUTES AND REGULATIONS.

16 (B) LIMITATIONS ON WATER ALLOCATION AUTHORITY.--THE GENERAL
17 ASSEMBLY REITERATES THE DECLARATIONS OF OTHER STATUTES
18 REFLECTING THE NEED TO MANAGE WATER RESOURCES ON A WATERSHED
19 BASIS WITHOUT RESPECT TO POLITICAL BOUNDARIES AND THE
20 UNDERSTANDING THAT WATER MANAGEMENT PROGRAMS SHOULD BE BASED
21 UPON AN ACCURATE AND CURRENT STATE WATER PLAN. ACCORDINGLY, NO
22 POLITICAL SUBDIVISION SHALL HAVE ANY POWER TO ALLOCATE WATER
23 RESOURCES OR TO REGULATE THE LOCATION, AMOUNT, TIMING, TERMS OR
24 CONDITIONS OF ANY WATER WITHDRAWAL BY ANY PERSON.

25 (C) LIMITATIONS ON MUNICIPALITIES.--NOTHING IN SUBSECTION
26 (B) SHALL AFFECT THE POWER OF ANY MUNICIPALITY TO ADOPT AND
27 ENFORCE ORDINANCES PURSUANT TO 35 PA.C.S. PT. V (RELATING TO
28 EMERGENCY MANAGEMENT SERVICES) OR REGULATE THE USE OF LAND
29 PURSUANT TO THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE OR
30 OTHER LAWS. FURTHER, EACH MUNICIPALITY SHALL RETAIN AND MAY

EXERCISE SUCH AUTHORITY AS CONFERRED BY OTHER STATUTES TO ADOPT
ORDINANCES AND REGULATIONS CONCERNING:

(1) MANDATORY CONNECTION TO AND USE OF AVAILABLE PUBLIC
WATER SUPPLIES; AND

(2) THE PROHIBITION OR REGULATION OF WITHDRAWALS FROM
PARTICULAR SOURCES OF WATER THAT MAY BE CONTAMINATED IN ORDER
TO PROTECT PUBLIC HEALTH AND SAFETY FROM EXPOSURE TO THE
CONTAMINATION OR AVOID THE INDUCED MIGRATION OF THE
CONTAMINATION.

(D) LIMITATIONS RELATING TO COMPACTS.--NOTHING IN THIS
CHAPTER SHALL BE CONSTRUED TO SUPERSEDE OR ABROGATE ANY
PROVISIONS OF THE ACT OF JULY 7, 1961 (P.L.518, NO.268), KNOWN
AS THE DELAWARE RIVER BASIN COMPACT, OR THE ACT OF JULY 17, 1968
(P.L.368, NO.181), REFERRED TO AS THE SUSQUEHANNA RIVER BASIN
COMPACT LAW, AND THIS CHAPTER SHALL BE CONSTRUED IN PARI MATERIA
WITH SUCH COMPACTS.

SECTION 3. REPEALS ARE AS FOLLOWS:

(1) THE ACT OF MAY 20, 1993 (P.L.38, NO.11), KNOWN AS
THE DEPARTMENT OF ENVIRONMENTAL RESOURCES AGRICULTURAL
ADVISORY BOARD ACT, IS REPEALED.

(2) ALL ACTS AND PARTS OF ACTS ARE REPEALED INSOFAR AS
THEY ARE INCONSISTENT WITH THE ADDITION OF 27 PA.C.S. CH. 31.

SECTION 4. THE ADDITION OF 27 PA.C.S. CH. 7 IS A
CONTINUATION OF THE ACT OF MAY 20, 1993 (P.L.38, NO.11), KNOWN
AS THE DEPARTMENT OF ENVIRONMENTAL RESOURCES AGRICULTURAL
ADVISORY BOARD ACT. THE FOLLOWING APPLY:

(1) EXCEPT AS OTHERWISE PROVIDED IN 27 PA.C.S. CH. 7,
ALL ACTIVITIES INITIATED UNDER THE DEPARTMENT OF
ENVIRONMENTAL RESOURCES AGRICULTURAL ADVISORY BOARD ACT SHALL
CONTINUE AND REMAIN IN FULL FORCE AND EFFECT AND MAY BE

1 COMPLETED UNDER 27 PA.C.S. CH. 7. ORDERS, REGULATIONS, RULES
2 AND DECISIONS WHICH WERE MADE UNDER THE DEPARTMENT OF
3 ENVIRONMENTAL RESOURCES AGRICULTURAL ADVISORY BOARD ACT AND
4 WHICH ARE IN EFFECT ON THE EFFECTIVE DATE OF SECTION 3 OF
5 THIS ACT SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REVOKED,
6 VACATED OR MODIFIED UNDER 27 PA.C.S. CH. 7.

7 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3), ANY DIFFERENCE
8 IN LANGUAGE BETWEEN 27 PA.C.S. CH. 7 AND THE DEPARTMENT OF
9 ENVIRONMENTAL RESOURCES AGRICULTURAL ADVISORY ACT IS INTENDED
10 ONLY TO CONFORM TO THE STYLE OF THE PENNSYLVANIA CONSOLIDATED
11 STATUTES AND IS NOT INTENDED TO CHANGE OR AFFECT THE
12 LEGISLATIVE INTENT, JUDICIAL CONSTRUCTION OR ADMINISTRATION
13 AND IMPLEMENTATION OF THE DEPARTMENT OF ENVIRONMENTAL
14 RESOURCES AGRICULTURAL ADVISORY BOARD ACT.

15 (3) PARAGRAPH (2) DOES NOT APPLY TO THE ADDITION OF 27
16 PA.C.S. § 702(B) AND (C).

17 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

18 (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

19 (2) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT IN 60
20 DAYS:

21 (I) THE ADDITION OF 27 PA.C.S. CH. 7.

22 (II) SECTION 3(1) OF THIS ACT.

23 (III) SECTION 4 OF THIS ACT.

24 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 90
25 DAYS.