

AGRICULTURE CODE (3 PA.C.S.) AND ENVIRONMENTAL RESOURCES (27
PA.C.S.) - NUTRIENT MANAGEMENT ADVISORY BOARD, ESTABLISHMENT
OF BOARD, POWERS OF BOARD AND REVIEW OF REGULATIONS
Act of Oct. 24, 2018, P.L. 1179, No. 162 Cl. 03
Session of 2018
No. 2018-162

SB 1171

AN ACT

Amending Titles 3 (Agriculture) and 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, in nutrient management and odor management, further providing for the Nutrient Management Advisory Board; and, in Agricultural Advisory Board, further providing for establishment of board, for powers of board and for review of regulations.

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

Section 1. Section 510(a) and (d) of Title 3 of the Pennsylvania Consolidated Statutes are amended to read:
§ 510. Nutrient Management Advisory Board.

(a) Creation.--There is created the Nutrient Management Advisory Board. The board shall consist of 16 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] **six** active commercial farm owners or operators representing the livestock, swine, meat poultry, egg poultry and dairy industry nominated by Statewide general farm organizations, one veterinary nutrition specialist, one representative from the feed industry, one representative from the fertilizer industry, [one representative of commercial agricultural lenders,] one representative of local government, one representative of academia who shall be an agronomist or plant scientist faculty member of the school of agriculture of a Pennsylvania college or university, one representative of academia who shall be an animal science faculty member with an expertise in odor management from the school of agriculture of a college or university within this Commonwealth, one hydrologist, two citizen representatives who are not farmers and one environmental representative, all of whom shall have sufficient knowledge, experience or familiarity with agronomic practices, nutrient management practices or odor management practices and all of whom shall be residents of this Commonwealth. **The six active commercial farm owners or operators shall be nominated in a manner that provides representation of the northwest, north central, northeast, southwest, south central and southeast regions of this Commonwealth, corresponding to the regions served by the Department of Environmental Protection regional offices. Two of the six active commercial farm owners or operators shall hold an active concentrated animal feeding operation permit as required by the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.**

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(d) Duties.--The board shall review and comment on all commission proposed regulations[, the interim guidelines under section 504(2) (relating to powers and duties of commission) and the interim criteria under section 504(5)] developed to

implement the provisions of this chapter. The commission shall have no power to promulgate regulations[, interim guidelines or interim criteria] under this chapter until receipt of written comments on the proposed regulations[, guidelines or criteria] from the board or until [60] **90** days have expired from the date when the regulations[, guidelines or criteria] were submitted by the commission to the board for its comments. Existing regulations[, guidelines and criteria] shall continue until modified, superseded or repealed by the commission.

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Section 2. Sections 702(b)(2) and 703 of Title 27 are amended to read:

§ 702. Establishment of board.

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

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(2) A dairy producer, a livestock producer, a poultry producer, a grain producer, a fruit producer, a vegetable producer, a representative of the ornamental horticultural industry, a producer engaged in sustainable agriculture, a representative from the agricultural chemical manufacturers industry and a representative from the agribusiness industry. The Governor shall appoint these representatives to sit for a three-year term. Representatives appointed under this paragraph must receive a majority of their gross income from the activity which they represent. **Two of the representatives appointed under this paragraph shall hold an active concentrated animal feeding operation permit as required by the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.**

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§ 703. Powers of board.

(a) General rule.--The board shall have the following powers:

(1) Provide advice and expertise to the [secretary] **department** regarding the nature of agriculture in this Commonwealth.

(2) [Assist the secretary and provide written comments on new departmental policy that will impact upon agriculture in this Commonwealth.

(3) Assist the secretary and provide comment on regulatory proposals pursuant to section 704 (relating to review of regulations).] **Consult with the department on new departmental policy and revisions to existing departmental policy and on proposed technical guidance that will affect agriculture in this Commonwealth.**

(4) [Provide comment to the secretary regarding existing departmental policy and regulations affecting agriculture in this Commonwealth.] **Consult with the department on proposed regulations and proposed general permits that regulate agriculture in this Commonwealth.**

(b) Exempt regulations.--Regulations subject to review by the seasonal farm labor committee under the act of June 23, 1978 (P.L.537, No.93), known as the Seasonal Farm Labor Act, are exempt from review under subsection (a).

Section 2.1. Section 704 heading, (a) and (b) of Title 27 are amended and the section is amended by adding a subsection to read:

§ 704. Review of regulations **and other documents.**

(a) Notice to board.--The department shall notify **and provide** the board [of the development of] **with** any regulatory proposal **or proposed general permit** which would regulate agriculture [as early as possible but not less than 120 days prior to the date the Environmental Quality Board meets to initially consider any proposed rulemaking resulting from the regulatory proposal.

(b) Meeting and consultation with board.--At the request of the board, if the request is made within 30 days from the date of receipt of the notice required by subsection (a), the department shall meet and consult with the board in the formulation of any such regulatory proposal, and thereafter the board may provide the department with written comments thereon.] **or any proposed technical guidance that would affect agriculture.**

(b.1) Board review.--The department may not publish any proposed regulation or proposed general permit that regulates agriculture or proposed technical guidance that affects agriculture prior to:

(1) consultation with the board in the formulation of the proposed regulation, proposed general permit or proposed technical guidance, as reflected in the minutes or by written comments of the board; or

(2) sixty days from the date when the proposed regulation, proposed general permit or proposed technical guidance was provided under subsection (a), unless the board sooner decides by majority vote that no consultation under paragraph (1) is required.

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Section 3. Members of the Nutrient Management Advisory Board and members of the Agricultural Advisory Board, as of the effective date of this section, shall continue to serve as members of their respective boards until their present terms of office expire.

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

APPROVED--The 24th day of October, A.D. 2018.

TOM WOLF