

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1444 Session of  
1991

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

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, NOVEMBER 23, 1992

AN ACT

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

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

25 ~~Section 1. Short title.~~ <—

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

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

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

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

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

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

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

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

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

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

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

20 ~~Section 3. Legislative purpose.~~

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

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

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

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

~~SECTION 4. DEFINITIONS.~~

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

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

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

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

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

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

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

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

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

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

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

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

2   ~~Section 5 6. Powers and duties of Department of Environmental~~       <—  
3                               ~~Resources.~~

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

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

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

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

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

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

30   ~~Section 6 7. Environmental Education Report.~~       <—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

11 ~~SECTION 13. FUNDING.~~

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

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

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

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

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

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

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

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

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



1 EDUCATION AND NUTRIENT MANAGEMENT ACT.

2 CHAPTER 3

3 ENVIRONMENTAL EDUCATION

4 SECTION 301. DECLARATION OF POLICY.

5 THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

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

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

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

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

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

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

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

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

21 SECTION 302. LEGISLATIVE PURPOSE.

22 THE PURPOSES OF THIS CHAPTER ARE AS FOLLOWS:

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

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

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

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

7 SECTION 303. 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 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OF  
12 THE COMMONWEALTH.

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

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

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

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

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

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

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



1 THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL HAVE THE  
2 FOLLOWING POWERS AND DUTIES:

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

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

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

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

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

27 SECTION 306. ENVIRONMENTAL EDUCATION REPORT.

28 THE SECRETARY OF EDUCATION AND THE SECRETARY OF ENVIRONMENTAL  
29 RESOURCES SHALL PREPARE A PERIODIC REPORT TO THE GOVERNOR AND  
30 THE GENERAL ASSEMBLY OUTLINING ENVIRONMENTAL EDUCATION PROGRAMS

1 AND ACHIEVEMENTS, HIGHLIGHTING NEW INITIATIVES AND RECOMMENDING  
2 FUTURE PROGRAM NEEDS.

3 SECTION 307. ADVISORY COUNCIL ON ENVIRONMENTAL EDUCATION.

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

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

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

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

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

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

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

1 PUBLIC INTEREST ORGANIZATIONS.

2 (C) APPOINTMENT, TERMS AND EXPENSES.--THE 13 COUNCIL MEMBERS  
3 SHALL BE APPOINTED FOR FIVE-YEAR TERMS. THE INITIAL TERM OF FOUR  
4 OF THE COUNCIL MEMBERS SHALL BE FOR ONE YEAR, THE INITIAL TERM  
5 OF FOUR MEMBERS SHALL BE FOR THREE YEARS, AND THE INITIAL TERM  
6 OF THE REMAINDER SHALL BE FOR FIVE YEARS. A MEMBER MAY BE  
7 APPOINTED FOR MORE THAN ONE TERM AND SHALL SERVE UNTIL A  
8 SUCCESSOR HAS BEEN APPOINTED. MEMBERS SHALL NOT BE COMPENSATED  
9 BUT SHALL BE REIMBURSED FOR ACTUAL EXPENSES IN ACCORDANCE WITH  
10 THE RULES OF THE EXECUTIVE BOARD.

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

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

17 SECTION 308. ENVIRONMENTAL EDUCATION FUND.

18 (A) ESTABLISHMENT.--THERE IS HEREBY CREATED A SPECIAL  
19 NONLAPSING FUND IN THE STATE TREASURY TO BE KNOWN AS THE  
20 ENVIRONMENTAL EDUCATION FUND. AN AMOUNT EQUAL TO 5% OF THE  
21 MONEYS COLLECTED ANNUALLY FROM FINES AND PENALTIES DEPOSITED IN  
22 SPECIAL FUNDS OR RESTRICTED REVENUE ACCOUNTS ADMINISTERED BY THE  
23 DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL BE DEPOSITED IN THIS  
24 FUND. THIS ANNUAL ALLOCATION AMOUNT SHALL BE BASED UPON THE  
25 AMOUNTS COLLECTED IN THE PREVIOUS FISCAL YEAR. ALL MONEYS PLACED  
26 IN THE FUND AND THE INTEREST IT ACCRUES ARE HEREBY APPROPRIATED,  
27 UPON AUTHORIZATION BY THE GOVERNOR, TO THE DEPARTMENT OF  
28 ENVIRONMENTAL RESOURCES TO ACCOMPLISH THE PURPOSES OF THIS  
29 CHAPTER. BEGINNING IN FISCAL YEAR 1992-1993, AND EACH YEAR  
30 THEREAFTER, MONEYS APPROPRIATED TO THE DEPARTMENT UNDER THIS

1 SECTION SHALL NOT AFFECT AND ARE IN ADDITION TO FUNDING FOR  
2 ENVIRONMENTAL EDUCATION PROGRAMS ADMINISTERED BY THE DEPARTMENT  
3 AND THE DEPARTMENT OF EDUCATION THAT ARE IN EXISTENCE PRIOR TO  
4 PASSAGE OF THIS CHAPTER.

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

## 11 CHAPTER 5

### 12 NUTRIENT MANAGEMENT

13 SECTION 501. DECLARATION OF LEGISLATIVE PURPOSE.

14 THE PURPOSES OF THIS CHAPTER ARE AS FOLLOWS:

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

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

28 (3) TO REQUIRE THE STATE CONSERVATION COMMISSION, IN  
29 CONJUNCTION WITH THE COOPERATIVE EXTENSION SERVICE OF THE  
30 PENNSYLVANIA STATE UNIVERSITY, DEPARTMENT OF ENVIRONMENTAL

1       RESOURCES, DEPARTMENT OF AGRICULTURE AND THE NUTRIENT  
2       MANAGEMENT ADVISORY BOARD TO DEVELOP AND PROVIDE TECHNICAL  
3       AND FINANCIAL ASSISTANCE FOR NUTRIENT MANAGEMENT AND  
4       ALTERNATIVE USES OF ANIMAL MANURE, INCLUDING A MANURE  
5       MARKETING AND DISTRIBUTION PROGRAM.

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

12   SECTION 502.  DEFINITIONS.

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

16       "AEU."  ANIMAL EQUIVALENT UNIT.

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

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

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

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

1 ROTATION; SOIL TESTING; MANURE TESTING; DIVERSIONS, MANURE  
2 STORAGE FACILITIES; STORM WATER MANAGEMENT PRACTICES; AND  
3 NUTRIENT APPLICATION.

4 "BOARD." THE NUTRIENT MANAGEMENT ADVISORY BOARD CREATED BY  
5 SECTION 507.

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

9 "CONCENTRATED ANIMAL OPERATION." AGRICULTURAL OPERATIONS  
10 MEETING THE CRITERIA ESTABLISHED UNDER THIS CHAPTER.

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

14 "COOPERATIVE EXTENSION." THE COOPERATIVE EXTENSION SERVICE  
15 OF THE PENNSYLVANIA STATE UNIVERSITY.

16 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES OF  
17 THE COMMONWEALTH.

18 "FUND." THE NUTRIENT MANAGEMENT FUND.

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

25 "NUTRIENT MANAGEMENT PLAN." A WRITTEN SITE-SPECIFIC PLAN  
26 WHICH INCORPORATES BEST MANAGEMENT PRACTICES TO MANAGE THE USE  
27 OF PLANT NUTRIENTS FOR CROP PRODUCTION AND WATER QUALITY  
28 PROTECTION CONSISTENT WITH THE CRITERIA ESTABLISHED IN SECTIONS  
29 503 AND 505.

30 "NUTRIENT MANAGEMENT SPECIALIST." A PERSON SATISFYING THE

1 CERTIFICATION REQUIREMENTS OF SECTION 506.

2 SECTION 503. POWERS AND DUTIES OF COMMISSION.

3 THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

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

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

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

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

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

30 (V) THE ESTABLISHMENT OF MINIMUM STANDARDS OF

1 CONSTRUCTION, LOCATION, STORAGE CAPACITY AND OPERATION OF  
2 FACILITIES INTENDED TO BE USED FOR STORAGE OF ANIMAL  
3 MANURE.

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

8 (2) WITHIN FIVE YEARS AFTER THE EFFECTIVE DATE OF THIS <—  
9 ~~CHAPTER~~ REGULATIONS ADOPTED PURSUANT TO PARAGRAPH (1), AND <—  
10 PERIODICALLY THEREAFTER, TO EVALUATE THE CRITERIA FOR  
11 CONCENTRATED ANIMAL OPERATIONS IN THIS COMMONWEALTH AND TO  
12 MAKE APPROPRIATE CHANGES BY REGULATION.

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

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



1 WATER.

2 (5) TO CONSULT WITH THE BOARD AS PROVIDED IN SECTION  
3 507.

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

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

10 SECTION 504. POWERS AND DUTIES OF THE DEPARTMENT.

11 THE DEPARTMENT SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

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

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

28 (3) WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS  
29 CHAPTER, TO MAKE AN ASSESSMENT OF AND REPORT TO THE  
30 ENVIRONMENTAL QUALITY BOARD AND THE GENERAL ASSEMBLY ON THE

1 EXTENT TO WHICH THE APPLICATION OF CHEMICAL FERTILIZERS AND  
2 OTHER PLANT NUTRIENTS FOR NONAGRICULTURAL PURPOSES  
3 CONTRIBUTES TO THE POLLUTION OF THE WATERS OF THIS  
4 COMMONWEALTH AND TO IDENTIFY WHAT REGULATORY OR LEGISLATIVE  
5 INITIATIVES, IF ANY, THE DEPARTMENT DEEMS NECESSARY TO ABATE  
6 THAT POLLUTION.

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

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

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

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

29 SECTION 505. NUTRIENT MANAGEMENT PLANS.

30 (A) CONCENTRATED ANIMAL OPERATIONS.--CONCENTRATED ANIMAL

1 OPERATIONS ARE THOSE AGRICULTURAL OPERATIONS WHERE THE ANIMAL  
2 DENSITY EXCEEDS TWO AEU'S PER ACRE ON AN ANNUALIZED BASIS. FIVE <—  
3 YEARS AFTER THE EFFECTIVE DATE OF ~~THIS CHAPTER~~ REGULATIONS <—  
4 ADOPTED PURSUANT TO SECTION 503(1), AND FROM TIME TO TIME  
5 THEREAFTER, THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT  
6 OF AGRICULTURE, THE BOARD, THE DEPARTMENT, AND THE COOPERATIVE  
7 EXTENSION SERVICE SHALL REVIEW THE CRITERIA USED TO IDENTIFY  
8 CONCENTRATED ANIMAL OPERATIONS AND MAKE APPROPRIATE CHANGES TO  
9 THE DEFINITION OF CONCENTRATED ANIMAL OPERATIONS BY REGULATION.

10 (B) DEVELOPMENT OF NUTRIENT MANAGEMENT PLANS.--THE OPERATOR  
11 OF ANY CONCENTRATED ANIMAL OPERATION SHALL DEVELOP AND IMPLEMENT  
12 A NUTRIENT MANAGEMENT PLAN CONSISTENT WITH THE REQUIREMENTS OF  
13 THIS SECTION.

14 (C) CERTIFICATION OF PLANS.--ALL PLANS ~~MUST BE DEVELOPED AND~~ <—  
15 ~~CERTIFIED BY A NUTRIENT MANAGEMENT SPECIALIST~~ SHALL BE DEVELOPED <—  
16 BY NUTRIENT MANAGEMENT SPECIALISTS WHO SHALL CERTIFY THAT SUCH  
17 PLANS ARE IN ACCORDANCE WITH THE REQUIREMENTS OF THIS CHAPTER  
18 AND THE REGULATIONS PROMULGATED UNDER THIS CHAPTER.

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

22 (1) FOR OPERATIONS IN EXISTENCE ON THE EFFECTIVE DATE OF  
23 REGULATIONS PROMULGATED UNDER THIS CHAPTER, WITHIN ONE YEAR  
24 AFTER THE EFFECTIVE DATE OF THE REGULATIONS.

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

29 (3) FOR OPERATIONS WHICH, BECAUSE OF EXPANSION, MEET THE  
30 CRITERIA FOR CONCENTRATED AGRICULTURAL OPERATIONS WITHIN

1 THREE MONTHS AFTER THE DATE OF EXPANSION.

2 ~~(E) PLAN REVIEW AND APPROVAL. PLANS REQUIRED UNDER THIS~~ <—  
3 ~~SECTION MUST BE SUBMITTED TO THE LOCAL CONSERVATION DISTRICTS~~  
4 ~~FOR REVIEW AND APPROVAL OR ALTERNATIVELY TO THE STATE~~  
5 ~~CONSERVATION COMMISSION FOR AGRICULTURAL OPERATIONS LOCATED IN~~  
6 ~~COUNTIES NOT DELEGATED ADMINISTRATIVE AUTHORITY UNDER SECTION~~  
7 ~~503. ANY PERSON PERFORMING THE PLAN REVIEW MUST BE CERTIFIED IN~~  
8 ~~ACCORDANCE WITH SECTION 506. WITHIN 90 DAYS OF RECEIPT OF A~~  
9 ~~NUTRIENT MANAGEMENT PLAN, A LOCAL CONSERVATION DISTRICT SHALL~~  
10 ~~EITHER APPROVE, MODIFY OR DISAPPROVE THE PLAN. APPROVALS SHALL~~  
11 ~~ONLY BE GRANTED FOR THOSE PLANS WHICH SATISFY THE REQUIREMENTS~~  
12 ~~OF THIS CHAPTER AND THE REGULATIONS PROMULGATED UNDER THIS~~  
13 ~~CHAPTER. NOTICE OF DETERMINATION TO APPROVE, MODIFY OR~~  
14 ~~DISAPPROVE A PLAN SHALL BE PROVIDED IN WRITING BY THE~~  
15 ~~CONSERVATION DISTRICT TO THE PERSON SUBMITTING THE PLAN. NOTICE~~  
16 ~~OF A DETERMINATION TO MODIFY OR DISAPPROVE A PLAN SHALL INCLUDE~~  
17 ~~AN EXPLANATION SPECIFICALLY STATING THE REASONS FOR MODIFICATION~~  
18 ~~OR DISAPPROVAL. IF A PLAN IS DISAPPROVED BY THE CONSERVATION~~  
19 ~~DISTRICT, THE PERSON SUBMITTING A PLAN FOR THE FIRST TIME SHALL~~  
20 ~~HAVE 90 DAYS AFTER RECEIPT OF NOTICE OF DISAPPROVAL TO RESUBMIT~~  
21 ~~AN AMENDED PLAN. AN AGRICULTURAL OPERATION THAT SUBMITS A~~  
22 ~~COMPLETE PLAN IS AUTHORIZED TO IMPLEMENT THE PLAN IF THE~~  
23 ~~CONSERVATION DISTRICT FAILS TO ACT WITHIN 90 DAYS OF SUBMITTAL~~  
24 ~~TO THE DISTRICT. WHERE THE DISTRICT FAILS TO SO ACT AND THE PLAN~~  
25 ~~IS RESUBMITTED TO THE DISTRICT AND THE DISTRICT AGAIN FAILS TO~~  
26 ~~ACT WITHIN 90 DAYS OF RESUBMITTAL THE PLAN SHALL BE DEEMED~~  
27 ~~APPROVED.~~

28 (E) PLAN REVIEW AND APPROVAL.--PLANS OR PLAN MODIFICATIONS <—  
29 REQUIRED UNDER THIS CHAPTER SHALL BE SUBMITTED TO LOCAL  
30 CONSERVATION DISTRICTS FOR REVIEW AND APPROVAL, OR ALTERNATIVELY

1 TO THE COMMISSION FOR AGRICULTURAL OPERATIONS LOCATED IN  
2 COUNTIES NOT DELEGATED ADMINISTRATIVE AUTHORITY UNDER SECTION  
3 503. ANY PERSON PERFORMING THE PLAN REVIEW MUST BE CERTIFIED IN  
4 ACCORDANCE WITH SECTION 506. WITHIN 90 DAYS OF RECEIPT OF A  
5 NUTRIENT MANAGEMENT PLAN OR PLAN MODIFICATION, THE REVIEWING  
6 AGENCY SHALL EITHER APPROVE, MODIFY OR DISAPPROVE THE PLAN OR  
7 PLAN MODIFICATION. APPROVALS SHALL ONLY BE GRANTED FOR THOSE  
8 PLANS OR PLAN MODIFICATIONS WHICH SATISFY THE REQUIREMENTS OF  
9 THIS CHAPTER AND THE REGULATIONS PROMULGATED UNDER THIS CHAPTER.  
10 NOTICE OF DETERMINATION TO APPROVE, MODIFY OR DISAPPROVE A PLAN  
11 OR PLAN MODIFICATION SHALL BE PROVIDED IN WRITING TO THE PERSON  
12 SUBMITTING SAME. NOTICE OF A DETERMINATION TO MODIFY OR  
13 DISAPPROVE SHALL INCLUDE AN EXPLANATION SPECIFICALLY STATING THE  
14 REASONS FOR MODIFICATION OR DISAPPROVAL. IF A PLAN OR PLAN  
15 MODIFICATION IS DISAPPROVED, THE PERSON SUBMITTING A PLAN OR  
16 PLAN MODIFICATION FOR THE FIRST TIME SHALL HAVE 90 DAYS AFTER  
17 RECEIPT OF NOTICE OF DISAPPROVAL TO RESUBMIT AN AMENDED PLAN OR  
18 PLAN MODIFICATION. AN AGRICULTURAL OPERATION THAT SUBMITS A  
19 COMPLETE PLAN OR PLAN MODIFICATION IS AUTHORIZED TO IMPLEMENT  
20 THE PLAN IF THE REVIEWING AGENCY FAILS TO ACT WITHIN 90 DAYS OF  
21 SUBMITTAL. WHERE THE REVIEWING AGENCY FAILS TO SO ACT AND THE  
22 PLAN OR PLAN MODIFICATION IS RESUBMITTED AND THE REVIEWING  
23 AGENCY AGAIN FAILS TO ACT WITHIN 90 DAYS OF RESUBMITTAL, THE  
24 PLAN SHALL BE DEEMED APPROVED.

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

1 YEAR IMPLEMENTATION SCHEDULE SHALL HOWEVER BE AUTOMATICALLY  
2 EXTENDED AN ADDITIONAL TWO YEARS FOR SUBSTANTIAL CAPITAL  
3 IMPROVEMENTS REQUIRED UNDER APPROVED PLANS FOR OPERATIONS  
4 REQUIRED TO SUBMIT PLANS UNDER SUBSECTION (D)(1) WHERE THE OWNER  
5 OR OPERATOR DEMONSTRATES THAT THE COST OF ALL OR PART OF SUCH  
6 IMPROVEMENTS CANNOT BE FINANCED THROUGH AVAILABLE FUNDING  
7 MECHANISMS UNLESS AT LEAST \$2,000,000 OTHER THAN CHESAPEAKE BAY  
8 NONPOINT SOURCE POLLUTION ABATEMENT FUNDS IS APPROPRIATED FOR  
9 GRANTS AND LOANS TO THE NUTRIENT MANAGEMENT FUND CREATED UNDER  
10 SECTION 509 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF REGULATIONS  
11 ADOPTED PURSUANT TO SECTION 503(1).

12 (G) VOLUNTARY PLANS.--ANY AGRICULTURAL OPERATION THAT IS NOT  
13 A CONCENTRATED ANIMAL OPERATION MAY VOLUNTARILY DEVELOP A  
14 NUTRIENT MANAGEMENT PLAN AND HAVE IT REVIEWED PURSUANT TO THIS  
15 SECTION. TO THE EXTENT POSSIBLE, THE COMMISSION, THE COOPERATIVE  
16 EXTENSION SERVICE, THE DEPARTMENT OF AGRICULTURE, THE DEPARTMENT  
17 AND CONSERVATION DISTRICTS SHALL ASSIST AND PROMOTE THE  
18 DEVELOPMENT OF VOLUNTARILY PLANS.

19 (H) FINANCIAL ASSISTANCE.--ANY AGRICULTURAL OPERATION  
20 RECEIVING FINANCIAL ASSISTANCE UNDER THE CHESAPEAKE BAY NONPOINT  
21 SOURCE POLLUTION ABATEMENT PROGRAM OR OTHERWISE RECEIVING  
22 FINANCIAL ASSISTANCE UNDER THIS CHAPTER FOR THE DEVELOPMENT OF A  
23 NUTRIENT MANAGEMENT PLAN SHALL AGREE TO DEVELOP AND IMPLEMENT A <—  
24 NUTRIENT MANAGEMENT PLAN AS A CONDITION FOR RECEIVING SUCH  
25 FINANCIAL ASSISTANCE.

26 (I) COMPLIANCE PLANS.--ANY AGRICULTURAL OPERATION POLLUTING  
27 SURFACE OR GROUND WATER MAY BE REQUIRED TO ~~DEVELOP~~ SUBMIT A <—  
28 NUTRIENT MANAGEMENT PLAN WITHIN THREE MONTHS AND IMPLEMENT A <—  
29 ~~NUTRIENT MANAGEMENT~~ THE PLAN IN ORDER TO PREVENT OR ABATE SUCH <—  
30 POLLUTION.

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

7 SECTION 506. NUTRIENT MANAGEMENT CERTIFICATION PROGRAM.

8 (A) CONTENT OF PROGRAM.--THE DEPARTMENT OF AGRICULTURE SHALL  
9 ESTABLISH, IN CONSULTATION WITH THE COMMISSION, A PROGRAM TO  
10 CERTIFY INDIVIDUALS THAT HAVE DEMONSTRATED THE COMPETENCE  
11 NECESSARY TO DEVELOP NUTRIENT MANAGEMENT PLANS. THE DEPARTMENT  
12 OF AGRICULTURE, OR ITS DESIGNEE, SHALL DEVELOP SUCH WRITTEN  
13 TESTING PROCEDURES, EDUCATIONAL REQUIREMENTS AND EXAMINATIONS  
14 AND RENEWAL FEES AS IT DEEMS APPROPRIATE TO CARRY OUT ITS  
15 RESPONSIBILITIES UNDER THIS SECTION. THE PROGRAM SHALL PROVIDE  
16 FOR SUCH FEES AND TERMS OF CERTIFICATION AS THE DEPARTMENT DEEMS  
17 APPROPRIATE AND SHALL ALSO PROVIDE FOR INDIVIDUAL, COMMERCIAL  
18 AND PUBLIC CERTIFICATION CATEGORIES. THE PROGRAM SHALL INCLUDE A  
19 CERTIFICATION CATEGORY FOR FARMERS TO DEVELOP AND CERTIFY  
20 NUTRIENT MANAGEMENT PLANS FOR THEIR OWN AGRICULTURAL OPERATIONS.

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

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

28 (2) THE PERSON ~~HAS DEVELOPED~~ IS APPROVED TO DEVELOP <—  
29 NUTRIENT MANAGEMENT PLANS APPROVED UNDER THE CHESAPEAKE BAY  
30 NONPOINT SOURCE POLLUTION ABATEMENT PROGRAM, THE UNITED <—

1 STATES DEPARTMENT OF AGRICULTURE'S WATER QUALITY IMPROVEMENT  
2 PROJECTS PROGRAM OR OTHER PROGRAMS REQUIRING SUBMISSION AND  
3 APPROVAL OF A NUTRIENT MANAGEMENT PLAN INCLUDING SLUDGE  
4 DISPOSAL UNDER THE ACT OF JULY 7, 1980 (P.L.380, NO.97),  
5 KNOWN AS THE SOLID WASTE MANAGEMENT ACT; OR

6 (3) THE PERSON IS A FARMER WHO HAS BEEN PROVIDED  
7 TRAINING AND ASSISTANCE IN DEVELOPING AND IMPLEMENTING  
8 NUTRIENT MANAGEMENT PLANS.

9 (C) NUTRIENT MANAGEMENT SPECIALIST.--NO PERSON SHALL CERTIFY  
10 A NUTRIENT MANAGEMENT PLAN WITHOUT THAT PERSON FIRST SATISFYING  
11 THE REQUIREMENTS OF THIS SECTION.

12 SECTION 507. NUTRIENT MANAGEMENT ADVISORY BOARD.

13 (A) CREATION.--THERE IS HEREBY CREATED THE NUTRIENT  
14 MANAGEMENT ADVISORY BOARD. THE BOARD SHALL CONSIST OF 15 MEMBERS  
15 APPOINTED BY THE CHAIRMAN OF THE COMMISSION AND APPROVED BY A  
16 TWO-THIRDS VOTE OF THE COMMISSION. THE MEMBERS SO APPOINTED  
17 SHALL CONSIST OF FIVE ACTIVE COMMERCIAL FARM OWNERS ~~AND~~ OR <—  
18 OPERATORS REPRESENTING THE LIVESTOCK, SWINE, MEAT POULTRY, EGG  
19 POULTRY AND DAIRY INDUSTRY NOMINATED BY STATEWIDE GENERAL FARM  
20 ORGANIZATIONS WITH AT LEAST ONE REPRESENTATIVE FROM EACH  
21 STATEWIDE FARM ORGANIZATION, ONE VETERINARY NUTRITION  
22 SPECIALIST, ONE REPRESENTATIVE FROM THE FEED INDUSTRY, ONE  
23 REPRESENTATIVE FROM THE FERTILIZER INDUSTRY, ONE REPRESENTATIVE  
24 OF COMMERCIAL AGRICULTURAL LENDERS, ONE REPRESENTATIVE OF LOCAL  
25 GOVERNMENT, ONE REPRESENTATIVE OF ACADEMIA WHO SHALL BE AN  
26 AGRONOMIST OR PLANT SCIENTIST FACULTY MEMBER OF THE SCHOOL OF  
27 AGRICULTURE OF A PENNSYLVANIA COLLEGE OR UNIVERSITY, ONE  
28 HYDROLOGIST, TWO CITIZEN REPRESENTATIVES WHO ARE NOT FARMERS AND  
29 ONE ENVIRONMENTAL REPRESENTATIVE, ALL OF WHOM SHALL HAVE  
30 SUFFICIENT KNOWLEDGE, EXPERIENCE OR FAMILIARITY WITH AGRONOMIC



1 OR NUTRIENT MANAGEMENT PRACTICES AND ALL OF WHOM SHALL BE  
2 RESIDENTS OF THIS COMMONWEALTH.

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

6 (C) MEETINGS.--A MAJORITY OF THE BOARD SHALL CONSTITUTE A  
7 QUORUM. ALL ACTIONS OF THE BOARD SHALL BE BY A MAJORITY VOTE.  
8 THE BOARD SHALL MEET UPON THE CALL OF THE COMMISSION, BUT NOT  
9 LESS THAN SEMIANNUALLY, TO CARRY OUT ITS DUTIES UNDER THIS  
10 CHAPTER. THE BOARD SHALL SELECT A CHAIRMAN AND SUCH OTHER  
11 OFFICERS AS IT DEEMS APPROPRIATE.

12 (D) DUTIES.--THE BOARD SHALL PROVIDE REVIEW AND COMMENT ON  
13 ALL REGULATIONS AND THE INTERIM CRITERIA ESTABLISHED UNDER  
14 SECTION 503(3) OF THE COMMISSION DEVELOPED TO IMPLEMENT THE  
15 PROVISION OF THIS CHAPTER. THE COMMISSION SHALL HAVE NO POWER TO  
16 PROMULGATE REGULATIONS UNDER THIS CHAPTER UNTIL RECEIPT OF  
17 WRITTEN COMMENTS ON THE PROPOSED REGULATIONS FROM THE BOARD OR  
18 UNTIL 60 DAYS HAVE EXPIRED FROM THE DATE WHEN SUCH REGULATIONS  
19 WERE SUBMITTED BY THE COMMISSION TO THE BOARD FOR THEIR  
20 COMMENTS. EXISTING REGULATIONS SHALL CONTINUE UNTIL MODIFIED,  
21 SUPERSEDED OR REPEALED BY THE COMMISSION UNDER THIS SECTION.

22 (E) TERM.--THE TERM OF OFFICE FOR EACH BOARD MEMBER SHALL BE  
23 THREE YEARS EXCEPT THAT THE COMMISSION SHALL STAGGER THE INITIAL  
24 TERMS OF THE CHARTER MEMBERS SUCH THAT FIVE SHALL SERVE FOR ONE  
25 YEAR, FIVE SHALL SERVE FOR TWO YEARS AND FIVE SHALL SERVE FOR  
26 THREE YEARS. BOARD MEMBERS MAY BE APPOINTED TO SUCCESSIVE TERMS  
27 AT THE DISCRETION OF THE COMMISSION, PROVIDED THAT NO MEMBER MAY  
28 SERVE MORE THAN TWO THREE-YEAR TERMS.

29 SECTION 508. FINANCIAL ASSISTANCE.

30 (A) LOANS, GRANTS, ETC.--THE COMMISSION SHALL, TO THE EXTENT

1 FUNDS ARE AVAILABLE, PROVIDE FINANCIAL ASSISTANCE IN THE FORM OF  
2 LOANS, LOAN GUARANTEES AND GRANTS FOR THE IMPLEMENTATION OF  
3 NUTRIENT MANAGEMENT PLANS FOR EXISTING AGRICULTURAL OPERATIONS.

4 (B) CRITERIA FOR ELIGIBILITY.--IN REVIEWING APPLICATIONS FOR  
5 FINANCIAL ASSISTANCE, THE COMMISSION SHALL CONSIDER THE  
6 FOLLOWING:

7 (1) WHETHER THE PROJECT WILL IMPROVE THE HEALTH, SAFETY  
8 OR ENVIRONMENT OF THE PEOPLE OF THIS COMMONWEALTH AND  
9 OTHERWISE SATISFY THE PURPOSES OF THIS CHAPTER.

10 (2) THE COST EFFECTIVENESS OF THE PROPOSED PRACTICES IN  
11 COMPARISON WITH OTHER ALTERNATIVES.

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

14 (C) ISSUANCE AND TERMS.--THE COMMISSION SHALL ISSUE SUCH  
15 LOANS AND SET TERMS APPLICABLE THERETO IN ANY MANNER IT DEEMS  
16 APPROPRIATE SUBJECT TO THIS SECTION. THE COMMISSION MAY CONSIDER  
17 SUCH FACTORS AS IT DEEMS RELEVANT, INCLUDING CURRENT MARKET  
18 INTEREST RATES, THE FINANCIAL ABILITY OF THE APPLICANT TO REPAY,  
19 AND THE NECESSITY TO MAINTAIN THE FUNDS CREATED HEREUNDER IN A  
20 FINANCIALLY SOUND MANNER. LOANS MAY BE BASED ON THE ABILITY TO  
21 REPAY FROM FUTURE REVENUE TO BE DERIVED FROM THE APPLICANT'S  
22 AGRICULTURAL OPERATION, BY A MORTGAGE OR OTHER SECURITY  
23 INTEREST, OR BY ANY OTHER FISCAL MANNER WHICH THE COMMISSION  
24 DEEMS APPROPRIATE. THE BOARD SHALL HAVE THE POWER TO DEFER  
25 ~~PRINCIPLE~~ PRINCIPAL ON LOANS FOR UP TO 12 MONTHS. THE MINIMUM <—  
26 RATE OF INTEREST TO BE PAID ON ANY LOAN MADE PURSUANT HERETO  
27 SHALL BE 1%.

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

29 (1) WHERE FUNDS THEREFORE HAVE BEEN MADE AVAILABLE TO  
30 THE COMMISSION, SUBJECT TO ANY CONDITIONS THAT MAY HAVE

1 ACCOMPANIED THE RECEIPT OF SUCH FUNDS;

2 (2) WHERE THE COMMISSION IN ITS SOLE DISCRETION,  
3 DETERMINES THAT THE FINANCIAL CONDITION OF THE RECIPIENT IS  
4 SUCH THAT REPAYMENT OF A LOAN IS UNLIKELY AND THAT THE  
5 RECIPIENT WILL BE FINANCIALLY DISTRESSED BY THE  
6 IMPLEMENTATION OF PRACTICES WITHOUT A GRANT; AND

7 (3) WHERE FUNDS ARE MADE AVAILABLE THEREFORE, OR WHERE  
8 THE COMMISSION DETERMINES THAT A GRANT IS NECESSARY, IT SHALL  
9 ATTEMPT TO MIX GRANT FUNDS WITH LOAN FUNDS, IF FINANCIALLY  
10 POSSIBLE.

11 SECTION 509. NUTRIENT MANAGEMENT FUND.

12 (A) ESTABLISHMENT OF FUND.--THERE IS HEREBY CREATED A  
13 SPECIAL NONLAPSING FUND IN THE STATE TREASURY TO BE KNOWN AS THE  
14 NUTRIENT MANAGEMENT FUND. ALL FEES, FINES, JUDGMENTS AND  
15 INTEREST COLLECTED BY THE COMMISSION UNDER THIS CHAPTER SHALL BE  
16 PAID INTO THE FUND. ALL MONEY PLACED IN THE FUND AND THE  
17 INTEREST IT ACCRUES ARE HEREBY APPROPRIATED TO THE COMMISSION ON  
18 A CONTINUING BASIS FOR ANY ACTIVITIES NECESSARY TO MEET THE  
19 REQUIREMENTS OF THIS CHAPTER.

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

22 (1) STATE FUNDS APPROPRIATED TO THE COMMISSION.

23 (2) FEDERAL FUNDS APPROPRIATED TO THE COMMISSION.

24 (3) PROCEEDS FROM THE SALE OF ANY BONDS MADE AVAILABLE  
25 TO THE COMMISSION.

26 (4) REPAYMENT OF LOAN PRINCIPAL.

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

28 (6) GIFTS AND OTHER CONTRIBUTIONS FROM PUBLIC AND  
29 PRIVATE SOURCES.

30 (C) FUND ADMINISTRATION.--THE COMMISSION SHALL HAVE

1 AUTHORITY TO ADOPT PROCEDURES FOR THE USE OF MONEYS IN THE FUND  
2 INCLUDING THE CREATION OF ACCOUNTS WITHIN THE FUND FOR THE  
3 PURPOSES OF ADMINISTERING THE LOAN AND GRANT PROGRAMS AUTHORIZED  
4 BY THIS CHAPTER.

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

8 (E) DEPOSIT AND USE OF FUNDS.--NO ADMINISTRATIVE ACTION  
9 SHALL PREVENT THE DEPOSIT OF MONEYS INTO THE FUND IN THE FISCAL  
10 YEAR IN WHICH THEY ARE RECEIVED. THE FUNDS SHALL ONLY BE USED  
11 FOR THE PURPOSES AUTHORIZED BY THIS CHAPTER AND SHALL NOT BE  
12 TRANSFERRED OR DIVERTED TO ANY OTHER PURPOSE BY ADMINISTRATIVE  
13 ACTION.

14 SECTION 510. UNLAWFUL CONDUCT.

15 IT SHALL BE UNLAWFUL TO FAIL TO COMPLY WITH OR TO CAUSE OR  
16 ASSIST IN THE VIOLATION OF ANY ORDER OR ANY OF THE PROVISIONS OF  
17 THIS CHAPTER OR THE RULES AND REGULATIONS ADOPTED UNDER THIS  
18 CHAPTER OR TO FAIL TO COMPLY WITH A NUTRIENT MANAGEMENT PLAN OR  
19 TO HINDER, OBSTRUCT, PREVENT OR INTERFERE WITH THE COMMISSION OR  
20 ANY CONSERVATION DISTRICT OR THEIR PERSONNEL IN THE PERFORMANCE  
21 OF ANY DUTY HEREUNDER OR TO DENY A CONSERVATION DISTRICT  
22 EMPLOYEE OR AGENT CERTIFIED AS A NUTRIENT MANAGEMENT SPECIALIST <—  
23 UNDER SECTION 506 ACCESS TO AN AGRICULTURAL OPERATION. AN OWNER <—  
24 OR OPERATOR OF AN AGRICULTURAL OPERATION MAY, HOWEVER, IMPOSE  
25 REASONABLE LIMITATIONS UPON ACCESS TO A SITE THAT ARE NEEDED TO  
26 PREVENT THE SPREAD OR OUTBREAK OF CONTAGIOUS DISEASES.

27 SECTION 511. CIVIL PENALTIES AND REMEDIES.

28 (A) CIVIL PENALTY.--IN ADDITION TO PRECEDING UNDER ANY OTHER  
29 REMEDY AVAILABLE AT LAW OR IN EQUITY FOR A VIOLATION OF A  
30 PROVISION OF THIS CHAPTER OR A RULE OR REGULATION ADOPTED, ORDER

1 ISSUED OR NUTRIENT MANAGEMENT PLAN APPROVED UNDER THIS CHAPTER,  
2 THE COMMISSION MAY ASSESS A CIVIL PENALTY OF NOT MORE THAN \$500  
3 FOR ~~EACH OFFENSE~~ THE FIRST DAY OF EACH OFFENSE AND \$100 FOR EACH <—  
4 ADDITIONAL DAY OF CONTINUING VIOLATION. THE FACTORS FOR  
5 CONSIDERATION IN DETERMINING THE AMOUNT OF THE PENALTY ARE: THE  
6 GRAVITY OF THE VIOLATION, THE POTENTIAL HARM TO THE PUBLIC, THE  
7 POTENTIAL EFFECT ON THE ENVIRONMENT, THE WILLFULNESS OF THE  
8 VIOLATION, PREVIOUS VIOLATIONS AND THE ECONOMIC BENEFIT TO THE  
9 VIOLATOR FOR FAILING TO COMPLY WITH THIS CHAPTER. WHENEVER THE  
10 COMMISSION FINDS THAT A VIOLATION DID NOT CAUSE HARM TO HUMAN  
11 HEALTH OR AN ADVERSE EFFECT ON THE ENVIRONMENT, THE COMMISSION  
12 MAY ISSUE A WARNING IN LIEU OF ASSESSING A PENALTY WHERE THE <—  
13 OPERATOR, UPON NOTICE, TAKES IMMEDIATE ACTION TO RESOLVE THE  
14 VIOLATION AND COME INTO COMPLIANCE. IF THE COMMISSION FINDS THE  
15 NUTRIENT POLLUTION OR THE DANGER OF NUTRIENT POLLUTION RESULTS  
16 FROM CONDITIONS, ACTIVITIES OR PRACTICES WHICH ARE BEING OR HAVE  
17 BEEN IMPLEMENTED IN ACCORDANCE WITH A NUTRIENT MANAGEMENT PLAN  
18 DEVELOPED AND APPROVED PURSUANT TO AND CONSISTENT WITH THIS  
19 CHAPTER AND THE REGULATIONS DEVELOPED UNDER THIS CHAPTER AND  
20 WHICH IS BEING OR HAS BEEN FULLY IMPLEMENTED AND MAINTAINED, THE  
21 OWNER OR OPERATOR OF THE AGRICULTURAL OPERATION SHALL BE EXEMPT  
22 FROM THE IMPOSITION OF PENALTIES UNDER THIS CHAPTER.

23 (B) COLLECTION.--IN CASES OF INABILITY TO COLLECT THE CIVIL  
24 PENALTY OR FAILURE OF ANY PERSON TO PAY ALL OR A PORTION OF THE  
25 PENALTY, AS THE COMMISSION MAY DETERMINE, THE COMMISSION MAY  
26 REFER THE MATTER TO THE OFFICE OF GENERAL COUNSEL OR THE OFFICE  
27 OF ATTORNEY GENERAL WHICH SHALL RECOVER THE AMOUNT BY ACTION IN  
28 THE APPROPRIATE COURT. ANY PENALTY ASSESSED SHALL ACT AS A LIEN  
29 ON THE PROPERTY OF THE PERSON AGAINST WHOM THE PENALTY HAS BEEN  
30 ASSESSED.

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

26 (D) EQUITABLE RELIEF.--IN CASES WHERE THE CIRCUMSTANCES  
27 REQUIRE IT OR THE PUBLIC HEALTH IS ENDANGERED, A MANDATORY  
28 PRELIMINARY INJUNCTION, SPECIAL INJUNCTION OR TEMPORARY  
29 RESTRAINING ORDER MAY BE ISSUED UPON THE TERMS PRESCRIBED BY THE  
30 COURT, NOTICE OF THE APPLICATION THEREFORE HAVING BEEN GIVEN TO

1 THE DEFENDANT IN ACCORDANCE WITH THE RULES OF EQUITY PRACTICE,  
2 AND IN ANY SUCH CASE THE ATTORNEY GENERAL, THE GENERAL COUNSEL,  
3 THE DISTRICT ATTORNEY OR THE SOLICITOR OF ANY MUNICIPALITY OR  
4 CONSERVATION DISTRICT SHALL NOT BE REQUIRED TO GIVE BOND. IN ANY  
5 SUCH PROCEEDING, THE COURT SHALL ISSUE A PROHIBITORY OR  
6 MANDATORY PRELIMINARY INJUNCTION IF IT FINDS THAT THE DEFENDANT  
7 IS ENGAGING IN UNLAWFUL CONDUCT AS DEFINED BY THIS CHAPTER OR IS  
8 ENGAGED IN CONDUCT WHICH IS CAUSING IMMEDIATE AND IRREPARABLE  
9 HARM TO THE PUBLIC. IN ADDITION TO AN INJUNCTION, THE COURT IN  
10 SUCH EQUITY PROCEEDING MAY ASSESS CIVIL PENALTIES IN ACCORDANCE  
11 WITH THIS SECTION.

12 SECTION 512. LIMITATION OF LIABILITY.

13 IF A PERSON IS FULLY AND PROPERLY IMPLEMENTING A NUTRIENT  
14 MANAGEMENT PLAN DEVELOPED, APPROVED BY THE LOCAL CONSERVATION  
15 DISTRICT OR THE COMMISSION AND MAINTAINED UNDER THIS CHAPTER FOR <—  
16 AN AGRICULTURAL OPERATION, SUCH IMPLEMENTATION SHALL BE GIVEN  
17 APPROPRIATE CONSIDERATION AS A MITIGATING FACTOR IN ANY CIVIL  
18 ACTION FOR PENALTIES OR DAMAGES ALLEGED TO HAVE BEEN CAUSED BY  
19 THE MANAGEMENT OR UTILIZATION OF NUTRIENTS PURSUANT TO SUCH  
20 IMPLEMENTATION.

21 SECTION 513. ENFORCEMENT ORDERS.

22 THE COMMISSION OR ANY CONSERVATION DISTRICT DELEGATED  
23 ENFORCEMENT AUTHORITY MAY ISSUE SUCH ORDERS AS ARE NECESSARY TO  
24 AID IN THE ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER. ANY  
25 ORDER ISSUED UNDER THIS SECTION SHALL TAKE EFFECT UPON NOTICE  
26 UNLESS THE ORDER SPECIFIES OTHERWISE. AN APPEAL TO THE  
27 ENVIRONMENTAL HEARING BOARD OF THE ORDER SHALL NOT ACT AS A  
28 SUPERSEDEAS; PROVIDED THAT UPON APPLICATION FOR AND CAUSE SHOWN,  
29 THE HEARING BOARD MAY ISSUE SUCH A SUPERSEDEAS UNDER THE RULES  
30 ESTABLISHED BY THE HEARING BOARD.

1 SECTION 514. APPEALABLE ACTIONS.

2 ANY PERSON AGGRIEVED BY AN ORDER OR OTHER ADMINISTRATIVE  
3 ACTION OF THE COMMISSION ISSUED PURSUANT TO THIS CHAPTER SHALL  
4 HAVE THE RIGHT, WITHIN 30 DAYS FROM ACTUAL OR CONSTRUCTIVE  
5 NOTICE OF THE ACTION, TO APPEAL THE ACTION TO THE ENVIRONMENTAL  
6 HEARING BOARD.

7 SECTION 515. POWERS RESERVED UNDER EXISTING LAWS.

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

19 SECTION 516. PREEMPTION OF LOCAL ORDINANCES.

20 THIS CHAPTER AND ITS PROVISIONS ARE OF STATEWIDE CONCERN AND  
21 OCCUPY THE WHOLE FIELD OF REGULATION REGARDING NUTRIENT  
22 MANAGEMENT TO THE EXCLUSION OF ALL ~~INCONSISTENT~~ LOCAL  
23 REGULATIONS. UPON ADOPTION OF THE REGULATIONS AUTHORIZED BY  
24 SECTION 503, NO ORDINANCE OR REGULATION OF ANY POLITICAL  
25 SUBDIVISION OR HOME RULE MUNICIPALITY MAY PROHIBIT OR IN ANY WAY  
26 REGULATE PRACTICES RELATED TO THE STORAGE, HANDLING OR LAND  
27 APPLICATION OF ANIMAL MANURE OR NUTRIENTS OR TO THE  
28 CONSTRUCTION, LOCATION OR OPERATION OF FACILITIES USED FOR  
29 STORAGE OR ANIMAL MANURE OR NUTRIENTS OR PRACTICES OTHERWISE  
30 REGULATED BY THIS CHAPTER IF THE MUNICIPAL ORDINANCE OR

<—

<—



1 REGULATION IS IN CONFLICT WITH THIS CHAPTER AND THE REGULATIONS  
2 PROMULGATED THEREUNDER. NOTHING HEREIN SHALL PREVENT A POLITICAL  
3 SUBDIVISION OR HOME RULE MUNICIPALITY FROM ADOPTING AND  
4 ENFORCING ORDINANCES OR REGULATIONS WHICH ARE CONSISTENT WITH  
5 THE REQUIREMENTS OF THIS CHAPTER AND THE REGULATIONS PROMULGATED  
6 HEREUNDER.

7 CHAPTER 11

8 MISCELLANEOUS PROVISIONS

9 SECTION 1101. REPEALS.

10 ALL ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS THEY ARE  
11 INCONSISTENT WITH THIS ACT.

12 SECTION 1102. EFFECTIVE DATE.

13 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.