

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 575 Session of 2019

INTRODUCED BY YAW, KILLION, ARGALL, BARTOLOTTA, STEFANO, COSTA, SCARNATI, MARTIN, CORMAN, YUDICHAK, REGAN, LAUGHLIN AND MENSCH, MAY 31, 2019

SENATOR YAW, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED, JUNE 4, 2019

AN ACT

1 ~~Establishing the Pennsylvania Clean Water Procurement Program and the Watershed Innovation and Improvement Fund; and making an appropriation.~~ <--

2
3
4 AMENDING TITLE 27 (ENVIRONMENTAL RESOURCES) OF THE PENNSYLVANIA <--
5 CONSOLIDATED STATUTES, IN ENVIRONMENTAL STEWARDSHIP AND
6 WATERSHED PROTECTION, FURTHER PROVIDING FOR AGENCIES;
7 PROVIDING FOR PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM;
8 ESTABLISHING THE WATERSHED INNOVATION AND IMPROVEMENT FUND;
9 AND MAKING AN APPROPRIATION.

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

12 ~~Section 1. Short title.~~ <--

13 ~~This act shall be known and may be cited as the Pennsylvania~~
14 ~~Clean Water Procurement Program Act.~~

15 ~~Section 2. Definitions.~~

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

19 ~~"Aggregator." A person that arranges for the sale of~~
20 ~~nutrient and sediment reductions generated by another person.~~

~~1 The term includes an agricultural business acting on behalf of
2 farmers via a production contract or cooperative membership.~~

~~3 "Authority." The Pennsylvania Infrastructure Investment
4 Authority.~~

~~5 "Chesapeake Bay TMDL." The Chesapeake Bay TMDL for nitrogen,
6 phosphorus and sediment as established by the United States
7 Environmental Protection Agency on December 29, 2010.~~

~~8 "Department." The Department of Environmental Protection of
9 the Commonwealth.~~

~~10 "Fund." The Watershed Innovation and Improvement Fund
11 established under section 3.~~

~~12 "Nutrient." Nitrogen or phosphorous.~~

~~13 "Nutrient or sediment reductions." Nitrogen, phosphorus and
14 sediment pollution load reductions to surface water and
15 groundwater resources that can be directly measured and
16 quantified or modeled by any of the following:~~

~~17 (1) The Chesapeake Bay Program Watershed Model.~~

~~18 (2) Any other model approved by the United States
19 Environmental Protection Agency or the department, including,
20 but not limited to, nonpoint source phosphorous, nitrogen and
21 sediment loads to surface water and groundwater resources and
22 pathogens using quantification methodologies and modeling
23 tools.~~

~~24 "Program." The Pennsylvania Clean Water Procurement Program
25 established under section 4.~~

~~26 "Qualified bidder." A bidder with an approved verification
27 plan.~~

~~28 "Request for proposals." A request for competitive sealed
29 proposals that define contract terms, future delivery dates and
30 technical specifications that is issued by the authority, in~~

1 ~~conjunction with the department, to procure verified nutrient~~
2 ~~and sediment reductions that count toward achievement of the~~
3 ~~Chesapeake Bay TMDL nutrient and sediment pollutant reduction~~
4 ~~requirements.~~

5 ~~"Sediment." Soils or other erodible materials transported by~~
6 ~~water as a product of erosion.~~

7 ~~"Small farm." An agricultural operation that is not large~~
8 ~~enough to meet the definition of CAFO as set forth in 25 Pa.~~
9 ~~Code § 92a.2 (relating to definitions).~~

10 ~~"TMDL." Total maximum daily load.~~

11 ~~"Verification plan." As follows:~~

12 ~~(1) A plan that details the method that a qualified~~
13 ~~bidder will use to produce verified nutrient or sediment~~
14 ~~reductions, including mass balance calculation.~~

15 ~~(2) In the case of an aggregator, a plan as specified~~
16 ~~under paragraph (1) that describes the process that the~~
17 ~~aggregator will use to certify verified nutrient or sediment~~
18 ~~reductions from approved contracting parties under section~~
19 ~~4(b)(4), including the aggregator's contract farmers,~~
20 ~~cooperative members or other similar entities.~~

21 ~~"Verified nutrient and sediment reductions." Nutrient or~~
22 ~~sediment reductions measured in pounds created by an action,~~
23 ~~activity or technology pursuant to a verification plan and~~
24 ~~approved by the department.~~

25 ~~Section 3. Watershed Innovation and Improvement Fund.~~

26 ~~(a) Establishment. The Watershed Innovation and Improvement~~
27 ~~Fund is established in the State Treasury.~~

28 ~~(b) Source of funding. The fund shall consist of~~
29 ~~appropriations made to the fund and interest earned on money in~~
30 ~~the fund.~~

1 ~~(c) Appropriation. The sum of \$20,000,000 is hereby~~
2 ~~appropriated from the General Fund to the fund for the purposes~~
3 ~~specified under subsection (d).~~

4 ~~(d) Use of fund. The following apply:~~

5 ~~(1) Except as provided under paragraph (2), money in the~~
6 ~~fund shall be used by the authority for the purchase of~~
7 ~~verified nutrient and sediment reductions under section 4.~~

8 ~~(2) No more than 5% of the money in the fund may be used~~
9 ~~by the department and the authority to implement the program.~~

10 ~~Section 4. Pennsylvania Clean Water Procurement Program.~~

11 ~~(a) Establishment. The Pennsylvania Clean Water Procurement~~
12 ~~Program is established and shall provide for the purchase of~~
13 ~~verified nutrient and sediment reductions from approved~~
14 ~~contracting parties through a competitive sealed proposal~~
15 ~~procurement procedure consistent with 62 Pa.C.S. Pt. I (relating~~
16 ~~to Commonwealth Procurement Code) or any other competitive~~
17 ~~bidding process determined to be appropriate by the authority.~~

18 ~~(b) Duties of authority. The authority shall have all of~~
19 ~~the following duties:~~

20 ~~(1) Within 60 days of an appropriation to the fund, in~~
21 ~~consultation with the department, issue a request for~~
22 ~~proposals or initiate a competitive bidding process under 62~~
23 ~~Pa.C.S. Pt. I for the supply of long term nutrient and~~
24 ~~sediment reductions for future delivery to accelerate~~
25 ~~progress towards the achievement of the Chesapeake Bay TMDL~~
26 ~~nutrient and sediment pollutant reduction requirements.~~

27 ~~(2) Administer the fund for the purpose of implementing~~
28 ~~this act.~~

29 ~~(3) Evaluate the responses to the request for proposals~~
30 ~~or competitive bidding process under paragraph (1) and~~

1 ~~execute contracts with verified nutrient and sediment~~
2 ~~reduction producers or aggregators. Contracts under this~~
3 ~~paragraph shall be for at least 10 years and shall provide~~
4 ~~sufficient time for the construction and permitting of~~
5 ~~facilities and the delivery of verified nutrient and~~
6 ~~sediment reductions.~~

7 ~~(4) Require a contracting party for the supply of long-~~
8 ~~term nutrient and sediment reductions to make available 20%~~
9 ~~of its total nutrient or sediment reduction allotment for~~
10 ~~participation for 30 days by small farms or aggregators of~~
11 ~~small farms. The purpose of this requirement is to enable~~
12 ~~small farms or aggregators of small farms to sell their~~
13 ~~credits from modeled reductions into the nutrient or~~
14 ~~sediment reduction allotment and receive the winning bid~~
15 ~~price without participating in the request for proposals or~~
16 ~~competitive bidding process under paragraph (1).~~

17 ~~(5) Purchase verified nutrient and sediment reductions~~
18 ~~in accordance with the terms of the contracts under~~
19 ~~paragraph (3) after the department has verified the nutrient~~
20 ~~and sediment reductions. The verification of nutrient and~~
21 ~~sediment reductions shall be performed monthly, based upon~~
22 ~~required data submissions from nutrient credit generators~~
23 ~~certified by the department.~~

24 ~~(c) Publicly funded reductions. Nutrient and sediment~~
25 ~~reductions funded entirely by public grants are not eligible to~~
26 ~~bid or respond to the request for proposals or competitive~~
27 ~~bidding process under subsection (b) (1). If a percentage of~~
28 ~~nutrient and sediment reductions are funded partially by public~~
29 ~~grants, the percentage of the remaining nutrient and sediment~~
30 ~~reductions that are eligible to bid or respond to a request for~~

1 ~~proposals or competitive bidding process under subsection (b) (1)~~
2 ~~shall be commensurate with the percentage of the reduction~~
3 ~~activity that is not provided by public grants.~~

4 ~~(d) Criteria. The criteria for the evaluation of responses~~
5 ~~to the request for proposals or competitive bidding process~~
6 ~~under subsection (b) (1) and the weighted percentage to be~~
7 ~~applied to each factor in the evaluation of the responses shall~~
8 ~~be published by the department as part of the request for~~
9 ~~proposals or competitive bidding process under subsection (b) (1)~~
10 ~~and include, but not be limited to, all of the following:~~

11 ~~(1) The environmental and recreational benefits to this~~
12 ~~Commonwealth and local communities resulting from the~~
13 ~~nutrient and sediment reduction activities.~~

14 ~~(2) The cost effectiveness of the proposed nutrient and~~
15 ~~sediment reduction activity.~~

16 ~~(3) Any additional criteria determined relevant and~~
17 ~~necessary by the department.~~

18 ~~(e) Annual report. The authority shall publish and make~~
19 ~~available to the public an annual report on the program~~
20 ~~detailing all of following information for the prior year:~~

21 ~~(1) The total cost for the program.~~

22 ~~(2) The nutrient and sediment reduction activities~~
23 ~~implemented.~~

24 ~~(3) The verified nutrient and sediment reductions~~
25 ~~achieved towards the satisfaction of the Chesapeake Bay TMDL~~
26 ~~nutrient and sediment pollutant reduction requirements.~~

27 ~~(4) The total cost for each verified nutrient and~~
28 ~~sediment reduction.~~

29 ~~Section 5. Duties of department.~~

30 ~~The department shall have all of the following duties:~~

1 ~~(1) Administer the program and take any action necessary~~
2 ~~to effectuate the purposes of this act.~~

3 ~~(2) Verify the generated nutrient and sediment load~~
4 ~~reductions achieved by a contracting party under section 4(b)~~
5 ~~(4).~~

6 ~~(3) Review and approve the verification plans and mass~~
7 ~~balance calculations submitted with the responses to the~~
8 ~~request for proposals or competitive bidding process under~~
9 ~~section 4(b)(1) and advise the authority regarding the~~
10 ~~acceptability of the verification plans and mass balance~~
11 ~~calculations.~~

12 ~~(4) Evaluate the responses to the request for proposals~~
13 ~~or competitive bidding process based on the criteria under~~
14 ~~section 4(d), other than the price considerations, and advise~~
15 ~~the authority regarding the acceptability of the responses.~~

16 ~~Section 6. Regulations.~~

17 ~~The department may promulgate regulations necessary to~~
18 ~~administer the provisions of this act.~~

19 ~~Section 7. Effective date.~~

20 ~~This act shall take effect in 60 days.~~

21 SECTION 1. SECTION 6105(A)(1) OF TITLE 27 OF THE
22 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:

<--

23 § 6105. AGENCIES.

24 (A) THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES.--

25 (1) THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
26 SHALL UTILIZE MONEY IT RECEIVES FROM THE FUND FOR THE
27 FOLLOWING PURPOSES:

28 (I) TO REHABILITATE, REPAIR AND DEVELOP STATE PARK
29 AND STATE FOREST LANDS AND FACILITIES AND THE ACQUISITION
30 OF INTERIOR LANDS WITHIN STATE PARKS AND STATE FORESTS.

1 (II) TO PROVIDE GRANTS TO A COUNTY OR OTHER
2 MUNICIPALITY, COUNCIL OF GOVERNMENTS, CONSERVATION
3 DISTRICTS AND AUTHORIZED ORGANIZATIONS FOR THE PURPOSE OF
4 PLANNING, EDUCATION, ACQUISITION, DEVELOPMENT,
5 REHABILITATION AND REPAIR OF GREENWAYS, RECREATIONAL
6 TRAILS, INCLUDING CONNECTION BETWEEN TRAILS, OPEN SPACE,
7 NATURAL AREAS, RIVER CORRIDORS AND ACCESS TO LAKEFRONTS
8 OR RIVERFRONTS, WATERSHEDS, COMMUNITY [AND HERITAGE]
9 PARKS AND RECREATION FACILITIES; COMMUNITY CONSERVATION
10 AND BEAUTIFICATION PROJECTS; FOREST CONSERVATION[;],
11 INCLUDING CONSERVATION OF FORESTED RIPARIAN BUFFERS;
12 HERITAGE AREAS; AND OTHER CONSERVATION AND RECREATION
13 PURPOSES. GRANTS UNDER THIS PARAGRAPH MAY NOT BE USED BY
14 AN AUTHORIZED ORGANIZATION FOR LAND ACQUISITION UNLESS
15 THE AUTHORIZED ORGANIZATION OBTAINS THE APPROVAL OF ALL
16 COUNTIES IN WHICH THE LAND IS SITUATED. GRANT MONEYS MAY
17 ALSO BE USED FOR THE ACQUISITION OF FARMLAND FOR THE
18 PURPOSES SET FORTH IN THIS PARAGRAPH.

19 (III) TO PROVIDE GRANTS TO A COUNTY OR OTHER
20 MUNICIPALITY AND AUTHORIZED ORGANIZATIONS FOR THE PURPOSE
21 OF RESEARCH, PLANNING, INVENTORIES AND TECHNICAL
22 ASSISTANCE INTENDED TO PROTECT AND CONSERVE THE
23 BIOLOGICAL DIVERSITY OF THIS COMMONWEALTH.

24 * * *

25 SECTION 2. TITLE 27 IS AMENDED BY ADDING A CHAPTER TO READ:

26 CHAPTER 67

27 CLEAN WATER PROCUREMENT PROGRAM

28 SEC.

29 6701. SHORT TITLE OF CHAPTER.

30 6702. DEFINITIONS.

1 6703. WATERSHED INNOVATION AND IMPROVEMENT FUND.
2 6704. PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM.
3 6705. DUTIES OF DEPARTMENT.
4 6706. REGULATIONS.

5 § 6701. SHORT TITLE OF CHAPTER.

6 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE
7 PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM ACT.

8 § 6702. DEFINITIONS.

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

12 "AGGREGATOR." A PERSON THAT ARRANGES FOR THE SALE OF
13 NUTRIENT AND SEDIMENT REDUCTIONS GENERATED BY ANOTHER PERSON.
14 THE TERM INCLUDES AN AGRICULTURAL BUSINESS ACTING ON BEHALF OF
15 FARMERS VIA A PRODUCTION CONTRACT OR COOPERATIVE MEMBERSHIP.

16 "AUTHORITY." THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT
17 AUTHORITY.

18 "CHESAPEAKE BAY TMDL." THE CHESAPEAKE BAY TMDL FOR NITROGEN,
19 PHOSPHORUS AND SEDIMENT AS ESTABLISHED BY THE UNITED STATES
20 ENVIRONMENTAL PROTECTION AGENCY ON DECEMBER 29, 2010.

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

23 "FUND." THE WATERSHED INNOVATION AND IMPROVEMENT FUND
24 ESTABLISHED UNDER SECTION 6703 (RELATING TO WATERSHED INNOVATION
25 AND IMPROVEMENT FUND).

26 "NUTRIENT." NITROGEN OR PHOSPHOROUS.

27 "NUTRIENT OR SEDIMENT REDUCTIONS." NITROGEN, PHOSPHORUS AND
28 SEDIMENT POLLUTION LOAD REDUCTIONS TO SURFACE WATER AND
29 GROUNDWATER RESOURCES THAT CAN BE DIRECTLY MEASURED AND
30 QUANTIFIED OR MODELED BY ANY OF THE FOLLOWING:

1 (1) THE CHESAPEAKE BAY PROGRAM WATERSHED MODEL.

2 (2) ANY OTHER MODEL APPROVED BY THE UNITED STATES
3 ENVIRONMENTAL PROTECTION AGENCY OR THE DEPARTMENT, INCLUDING,
4 BUT NOT LIMITED TO, NONPOINT SOURCE PHOSPHOROUS, NITROGEN AND
5 SEDIMENT LOADS TO SURFACE WATER AND GROUNDWATER RESOURCES AND
6 PATHOGENS USING QUANTIFICATION METHODOLOGIES AND MODELING
7 TOOLS.

8 "PROGRAM." THE PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM
9 ESTABLISHED UNDER SECTION 6704 (RELATING TO PENNSYLVANIA CLEAN
10 WATER PROCUREMENT PROGRAM).

11 "QUALIFIED BIDDER." A BIDDER WITH AN APPROVED VERIFICATION
12 PLAN.

13 "REQUEST FOR PROPOSALS." A REQUEST FOR COMPETITIVE SEALED
14 PROPOSALS THAT DEFINE CONTRACT TERMS, FUTURE DELIVERY DATES AND
15 TECHNICAL SPECIFICATIONS THAT IS ISSUED BY THE AUTHORITY, IN
16 CONJUNCTION WITH THE DEPARTMENT, TO PROCURE VERIFIED NUTRIENT
17 AND SEDIMENT REDUCTIONS THAT COUNT TOWARD ACHIEVEMENT OF THE
18 CHESAPEAKE BAY TMDL NUTRIENT AND SEDIMENT POLLUTANT REDUCTION
19 REQUIREMENTS.

20 "SEDIMENT." SOILS OR OTHER ERODIBLE MATERIALS TRANSPORTED BY
21 WATER AS A PRODUCT OF EROSION.

22 "SMALL FARM." AN AGRICULTURAL OPERATION THAT IS NOT LARGE
23 ENOUGH TO MEET THE DEFINITION OF CAFO AS SET FORTH IN 25 PA.
24 CODE § 92A.2 (RELATING TO DEFINITIONS).

25 "TMDL." TOTAL MAXIMUM DAILY LOAD.

26 "VERIFICATION PLAN." AS FOLLOWS:

27 (1) A PLAN THAT DETAILS THE METHOD THAT A QUALIFIED
28 BIDDER WILL USE TO PRODUCE VERIFIED NUTRIENT OR SEDIMENT
29 REDUCTIONS, INCLUDING MASS BALANCE CALCULATION.

30 (2) IN THE CASE OF AN AGGREGATOR, A PLAN AS SPECIFIED

1 UNDER PARAGRAPH (1) THAT DESCRIBES THE PROCESS THAT THE
2 AGGREGATOR WILL USE TO CERTIFY VERIFIED NUTRIENT OR SEDIMENT
3 REDUCTIONS FROM APPROVED CONTRACTING PARTIES UNDER SECTION
4 6704(B)(4), INCLUDING THE AGGREGATOR'S CONTRACT FARMERS,
5 COOPERATIVE MEMBERS OR OTHER SIMILAR ENTITIES.

6 "VERIFIED NUTRIENT AND SEDIMENT REDUCTIONS." NUTRIENT OR
7 SEDIMENT REDUCTIONS MEASURED IN POUNDS CREATED BY AN ACTION,
8 ACTIVITY OR TECHNOLOGY PURSUANT TO A VERIFICATION PLAN AND
9 APPROVED BY THE DEPARTMENT.

10 § 6703. WATERSHED INNOVATION AND IMPROVEMENT FUND.

11 (A) ESTABLISHMENT.--THE WATERSHED INNOVATION AND IMPROVEMENT
12 FUND IS ESTABLISHED IN THE STATE TREASURY.

13 (B) SOURCE OF FUNDING.--THE FUND SHALL CONSIST OF
14 APPROPRIATIONS MADE TO THE FUND AND INTEREST EARNED ON MONEY IN
15 THE FUND.

16 (C) APPROPRIATION.--THE SUM OF \$20,000,000 IS HEREBY
17 APPROPRIATED FROM THE GENERAL FUND TO THE FUND FOR THE PURPOSES
18 SPECIFIED UNDER SUBSECTION (D).

19 (D) USE OF FUND.--THE FOLLOWING APPLY:

20 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), MONEY IN THE
21 FUND SHALL BE USED BY THE AUTHORITY FOR THE PURCHASE OF
22 VERIFIED NUTRIENT AND SEDIMENT REDUCTIONS UNDER SECTION 6704
23 (RELATING TO PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM).

24 (2) NO MORE THAN 5% OF THE MONEY IN THE FUND MAY BE USED
25 BY THE DEPARTMENT AND THE AUTHORITY TO IMPLEMENT THE PROGRAM.

26 § 6704. PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM.

27 (A) ESTABLISHMENT.--THE PENNSYLVANIA CLEAN WATER PROCUREMENT
28 PROGRAM IS ESTABLISHED AND SHALL PROVIDE FOR THE PURCHASE OF
29 VERIFIED NUTRIENT AND SEDIMENT REDUCTIONS FROM APPROVED
30 CONTRACTING PARTIES THROUGH A COMPETITIVE SEALED PROPOSAL

1 PROCUREMENT PROCEDURE CONSISTENT WITH 62 PA.C.S. PT. I (RELATING
2 TO COMMONWEALTH PROCUREMENT CODE) OR ANY OTHER COMPETITIVE
3 BIDDING PROCESS DETERMINED TO BE APPROPRIATE BY THE AUTHORITY.

4 (B) DUTIES OF AUTHORITY.--THE AUTHORITY SHALL HAVE ALL OF
5 THE FOLLOWING DUTIES:

6 (1) WITHIN 60 DAYS OF AN APPROPRIATION TO THE FUND, IN
7 CONSULTATION WITH THE DEPARTMENT, ISSUE A REQUEST FOR
8 PROPOSALS OR INITIATE A COMPETITIVE BIDDING PROCESS UNDER 62
9 PA.C.S. PT. I FOR THE SUPPLY OF LONG-TERM NUTRIENT AND
10 SEDIMENT REDUCTIONS FOR FUTURE DELIVERY TO ACCELERATE
11 PROGRESS TOWARDS THE ACHIEVEMENT OF THE CHESAPEAKE BAY TMDL
12 NUTRIENT AND SEDIMENT POLLUTANT REDUCTION REQUIREMENTS.

13 (2) ADMINISTER THE FUND FOR THE PURPOSE OF IMPLEMENTING
14 THIS CHAPTER.

15 (3) EVALUATE THE RESPONSES TO THE REQUEST FOR PROPOSALS
16 OR COMPETITIVE BIDDING PROCESS UNDER PARAGRAPH (1) AND
17 EXECUTE CONTRACTS WITH VERIFIED NUTRIENT AND SEDIMENT
18 REDUCTION PRODUCERS OR AGGREGATORS. CONTRACTS UNDER THIS
19 PARAGRAPH SHALL BE FOR AT LEAST 10 YEARS AND SHALL PROVIDE
20 SUFFICIENT TIME FOR THE CONSTRUCTION AND PERMITTING OF
21 FACILITIES AND THE DELIVERY OF VERIFIED NUTRIENT AND
22 SEDIMENT REDUCTIONS.

23 (4) REQUIRE A CONTRACTING PARTY FOR THE SUPPLY OF LONG-
24 TERM NUTRIENT AND SEDIMENT REDUCTIONS TO MAKE AVAILABLE 20%
25 OF ITS TOTAL NUTRIENT OR SEDIMENT REDUCTION ALLOTMENT FOR
26 PARTICIPATION FOR 30 DAYS BY SMALL FARMS OR AGGREGATORS OF
27 SMALL FARMS. THE PURPOSE OF THIS REQUIREMENT IS TO ENABLE
28 SMALL FARMS OR AGGREGATORS OF SMALL FARMS TO SELL THEIR
29 CREDITS FROM MODELED REDUCTIONS INTO THE NUTRIENT OR
30 SEDIMENT REDUCTION ALLOTMENT AND RECEIVE THE WINNING BID

1 PRICE WITHOUT PARTICIPATING IN THE REQUEST FOR PROPOSALS OR
2 COMPETITIVE BIDDING PROCESS UNDER PARAGRAPH (1).

3 (5) PURCHASE VERIFIED NUTRIENT AND SEDIMENT REDUCTIONS
4 IN ACCORDANCE WITH THE TERMS OF THE CONTRACTS UNDER
5 PARAGRAPH (3) AFTER THE DEPARTMENT HAS VERIFIED THE NUTRIENT
6 AND SEDIMENT REDUCTIONS. THE VERIFICATION OF NUTRIENT AND
7 SEDIMENT REDUCTIONS SHALL BE PERFORMED MONTHLY, BASED UPON
8 REQUIRED DATA SUBMISSIONS FROM NUTRIENT CREDIT GENERATORS
9 CERTIFIED BY THE DEPARTMENT.

10 (C) PUBLICLY FUNDED REDUCTIONS.--NUTRIENT AND SEDIMENT
11 REDUCTIONS FUNDED ENTIRELY BY PUBLIC GRANTS ARE NOT ELIGIBLE TO
12 BID OR RESPOND TO THE REQUEST FOR PROPOSALS OR COMPETITIVE
13 BIDDING PROCESS UNDER SUBSECTION (B) (1). IF A PERCENTAGE OF
14 NUTRIENT AND SEDIMENT REDUCTIONS ARE FUNDED PARTIALLY BY PUBLIC
15 GRANTS, THE PERCENTAGE OF THE REMAINING NUTRIENT AND SEDIMENT
16 REDUCTIONS THAT ARE ELIGIBLE TO BID OR RESPOND TO A REQUEST FOR
17 PROPOSALS OR COMPETITIVE BIDDING PROCESS UNDER SUBSECTION (B) (1)
18 SHALL BE COMMENSURATE WITH THE PERCENTAGE OF THE REDUCTION
19 ACTIVITY THAT IS NOT PROVIDED BY PUBLIC GRANTS.

20 (D) CRITERIA.--THE CRITERIA FOR THE EVALUATION OF RESPONSES
21 TO THE REQUEST FOR PROPOSALS OR COMPETITIVE BIDDING PROCESS
22 UNDER SUBSECTION (B) (1) AND THE WEIGHTED PERCENTAGE TO BE
23 APPLIED TO EACH FACTOR IN THE EVALUATION OF THE RESPONSES SHALL
24 BE PUBLISHED BY THE DEPARTMENT AS PART OF THE REQUEST FOR
25 PROPOSALS OR COMPETITIVE BIDDING PROCESS UNDER SUBSECTION (B) (1)
26 AND INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

27 (1) THE ENVIRONMENTAL AND RECREATIONAL BENEFITS TO THIS
28 COMMONWEALTH AND LOCAL COMMUNITIES RESULTING FROM THE
29 NUTRIENT AND SEDIMENT REDUCTION ACTIVITIES.

30 (2) THE COST EFFECTIVENESS OF THE PROPOSED NUTRIENT AND

1 SEDIMENT REDUCTION ACTIVITY.

2 (3) ANY ADDITIONAL CRITERIA DETERMINED RELEVANT AND
3 NECESSARY BY THE DEPARTMENT.

4 (E) ANNUAL REPORT.--THE AUTHORITY SHALL PUBLISH AND MAKE
5 AVAILABLE TO THE PUBLIC AN ANNUAL REPORT ON THE PROGRAM
6 DETAILING ALL OF FOLLOWING INFORMATION FOR THE PRIOR YEAR:

7 (1) THE TOTAL COST FOR THE PROGRAM.

8 (2) THE NUTRIENT AND SEDIMENT REDUCTION ACTIVITIES
9 IMPLEMENTED.

10 (3) THE VERIFIED NUTRIENT AND SEDIMENT REDUCTIONS
11 ACHIEVED TOWARDS THE SATISFACTION OF THE CHESAPEAKE BAY TMDL
12 NUTRIENT AND SEDIMENT POLLUTANT REDUCTION REQUIREMENTS.

13 (4) THE TOTAL COST FOR EACH VERIFIED NUTRIENT AND
14 SEDIMENT REDUCTION.

15 § 6705. DUTIES OF DEPARTMENT.

16 THE DEPARTMENT SHALL HAVE ALL OF THE FOLLOWING DUTIES:

17 (1) ADMINISTER THE PROGRAM AND TAKE ANY ACTION NECESSARY
18 TO EFFECTUATE THE PURPOSES OF THIS CHAPTER.

19 (2) VERIFY THE GENERATED NUTRIENT AND SEDIMENT LOAD
20 REDUCTIONS ACHIEVED BY A CONTRACTING PARTY UNDER SECTION
21 6704(B)(4) (RELATING TO PENNSYLVANIA CLEAN WATER PROCUREMENT
22 PROGRAM).

23 (3) REVIEW AND APPROVE THE VERIFICATION PLANS AND MASS
24 BALANCE CALCULATIONS SUBMITTED WITH THE RESPONSES TO THE
25 REQUEST FOR PROPOSALS OR COMPETITIVE BIDDING PROCESS UNDER
26 SECTION 6704(B)(1) AND ADVISE THE AUTHORITY REGARDING THE
27 ACCEPTABILITY OF THE VERIFICATION PLANS AND MASS BALANCE
28 CALCULATIONS.

29 (4) EVALUATE THE RESPONSES TO THE REQUEST FOR PROPOSALS
30 OR COMPETITIVE BIDDING PROCESS BASED ON THE CRITERIA UNDER

1 SECTION 6704(D), OTHER THAN THE PRICE CONSIDERATIONS, AND
2 ADVISE THE AUTHORITY REGARDING THE ACCEPTABILITY OF THE
3 RESPONSES.

4 § 6706. REGULATIONS.

5 THE DEPARTMENT MAY PROMULGATE REGULATIONS NECESSARY TO
6 ADMINISTER THE PROVISIONS OF THIS CHAPTER.

7 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.