

No. 2002-220

AN ACT

HB 2302

Amending Title 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, codifying the act of May 20, 1993 (P.L.38, No.11), entitled "An act establishing the Agricultural Advisory Board in the Department of Environmental Resources and prescribing its powers; and providing for review by the board of certain proposed rules and regulations," further providing for establishment of the Agricultural Advisory Board; providing for water resources planning, administration and enforcement; making a repeal; and making editorial changes.

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

Section 1. Part I of Title 27 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 7
AGRICULTURAL ADVISORY BOARD

Sec.

- 701. Definitions.
- 702. Establishment of board.
- 703. Powers of board.
- 704. Review of regulations.

§ 701. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agriculture." Normal farming practices or innovative techniques used in the production and preparation for market of any crop or commodity included within the definition of "crops, livestock and livestock products" in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law.

"Board." The Agricultural Advisory Board established in section 702 (relating to establishment of board).

"Department." The Department of Environmental Protection of the Commonwealth.

"Normal farming practices." The customary and generally accepted activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of any crop or commodity included within the definition of "crops, livestock and livestock products" in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law.

“Secretary.” The Secretary of Environmental Protection of the Commonwealth.

“Sustainable agriculture.” An integrated system of plant and animal production practices as defined by the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624, 104 Stat. 3616).

§ 702. Establishment of board.

(a) Creation.—There is hereby established in the department the Agricultural Advisory Board.

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

(1) Representatives of the Pennsylvania Farm Bureau, the Pennsylvania State Grange, PennAg Industries Association and the Pennsylvania Farmers Union. Each of these organizations shall annually name one person to represent it under this paragraph.

(2) A dairy producer, a livestock producer, a poultry producer, a grain producer, a fruit producer, a vegetable producer, a representative of the ornamental horticultural industry, a producer engaged in sustainable agriculture, a representative from the agricultural chemical manufacturers industry and a representative from the agribusiness industry. The Governor shall appoint these representatives to sit for a three-year term. Representatives appointed under this paragraph must receive a majority of their gross income from the activity which they represent.

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

(4) Representatives of the Federal Farm Service Agency and the Federal Natural Resources Conservation Service. Each of these organizations shall annually name one person to represent it under this paragraph ex officio.

(5) Representatives of the Department of Agriculture and the department. Each department shall name a deputy secretary to represent it under this paragraph ex officio. If a named deputy secretary is unable to serve on the board, the deputy secretary must be replaced by another deputy secretary or by the secretary of that same department.

(6) The chairman and the minority chairman of the Agriculture and Rural Affairs Committee of the Senate or their designees and the chairman and the minority chairman of the Agriculture and Rural Affairs Committee of the House of Representatives or their designees to represent the General Assembly.

(c) Chairman.—The board shall annually elect a board chairman from among those members designated or appointed under subsection (b)(1) and (2). No member shall serve as chairman for more than two consecutive years.

(d) Staff.—The department shall furnish the board with administrative support.

§ 703. Powers of board.

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

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

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

(3) Assist the secretary and provide comment on regulatory proposals pursuant to section 704 (relating to review of regulations).

(4) Provide comment to the secretary regarding existing departmental policy and regulations affecting agriculture in this Commonwealth.

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

§ 704. Review of regulations.

(a) Notice to board.—The department shall notify the board of the development of any regulatory proposal which would regulate agriculture as early as possible but not less than 120 days prior to the date the Environmental Quality Board meets to initially consider any proposed rulemaking resulting from the regulatory proposal.

(b) Meeting and consultation with board.—At the request of the board, if the request is made within 30 days from the date of receipt of the notice required by subsection (a), the department shall meet and consult with the board in the formulation of any such regulatory proposal, and thereafter the board may provide the department with written comments thereon.

(c) Inclusion of comments with proposed rulemaking.—The department shall include any written comments of the board, received prior to the department's submission of a proposed rulemaking package to the Environmental Quality Board, as part of its submission to the Environmental Quality Board.

(d) Exceptions.—The requirements of this section shall not apply to regulations with mandatory statutory deadlines, to regulations required to be adopted by court order, to emergency regulations, to final regulations adopted pursuant to section 204 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, or where interim regulations are otherwise authorized by statute. The department shall advise the board as soon as possible of the development of regulations identified in this subsection which would regulate agriculture.

Section 2. Part III of Title 27 is amended by adding a chapter to read:

CHAPTER 31
WATER RESOURCES PLANNING

Subchapter

- A. General Provisions
- B. Water Resources Planning
- C. Administration and Enforcement

**SUBCHAPTER A
GENERAL PROVISIONS**

Sec.

- 3101. Scope.
- 3102. Definitions.
- 3103. Intergovernmental cooperation and coordination.
- 3104. Administrative agreements with other agencies.

§ 3101. Scope.

This chapter deals with water resources planning.

§ 3102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Basin.” The watershed of one of the following major rivers or hydrologic systems: the Delaware River, the Great Lakes, the Ohio River, the Potomac River and the Susquehanna River.

“Clean Streams Law.” The act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

“Compact Basin Commission.” An interstate commission having jurisdiction with respect to the planning, development or regulation of water resources within a basin in Pennsylvania, created by interstate compact or Federal-interstate compact.

“Confidential information.”

(1) Records, reports or information or a particular portion thereof that, if made public, would:

- (i) divulge production or sales figures or methods, processes or production unique to a person;
- (ii) otherwise tend to affect adversely the competitive position of a person by revealing trade secrets, including intellectual property rights; or
- (iii) present threats to the safety and security of water supplies, including information concerning public water supply agency vulnerability assessments.

(2) The term does not include any of the following:

- (i) Information identifying the general source of water used by a facility.
- (ii) Information reporting the total amount of water withdrawn by a facility or the total amount of water used for consumptive uses or nonconsumptive uses by a facility.

“Conservation district.” A county declared to be a conservation district by a resolution of its board of county commissioners.

“Consumptive use.” The loss of water from a groundwater or surface water source through a manmade conveyance system, including such water that is purveyed through a public water supply system, due to transpiration by vegetation, incorporation into products during their manufacture, evaporation, diversion out of a basin or any other process to the extent that the water withdrawn is not returned to the waters of a basin. Deep well injection shall not be considered a return of waters to a basin.

“Critical area resource plan.” A plan developed under section 3112(d) (relating to plan contents) for any watershed or watersheds within a critical water planning area.

“Critical water planning area.” An area identified under section 3112(a)(6) or (d)(1) (relating to plan contents).

“Deep well injection.” Injection of waste or wastewater substantially below aquifers containing fresh water.

“Department.” The Department of Environmental Protection of the Commonwealth.

“Domestic use.” The use of water for personal needs and ordinary household purposes.

“Environmental Hearing Board.” The board established under the act of July 13, 1988 (P.L.530, No.94), known as the Environmental Hearing Board Act.

“Environmental Quality Board.” The board established under section 1920-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

“Groundwater.” Water beneath the surface of the ground within a zone of saturation, whether or not flowing through known and definite channels or percolating through underground geologic formations and regardless of whether the result of natural or artificial recharge. The term includes water contained in aquifers, artesian and nonartesian basins, underground watercourses and other bodies of water below the surface of the earth.

“Hydrologic unit.” A unit of surface water or groundwaters, or both, which are interconnected and hydrologically related. The term includes a surface watershed or basin, groundwater basin, aquifer or aquifer system.

“Municipalities Planning Code.” The act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

“Municipality.” Any county, city, borough, town, township or home rule municipality or any agency or authority created by any one or more of the foregoing.

“Nonconsumptive use.” A use of water withdrawn from water resources of this Commonwealth in such manner that it is returned to its basin of origin. Where only a portion of the water withdrawn is returned to the basin of origin, that portion which is returned is a nonconsumptive use, and the

portion of water withdrawn which is not returned to the basin of origin is a consumptive use.

"Nonwithdrawal use." The functions of or activities in water that is not withdrawn from a water resource, including, but not limited to, navigation, in-stream hydropower production, recreation, fish and wildlife habitat and the aquatic environment.

"Person." An individual, partnership, association, company, corporation, municipality, municipal authority, Federal or Commonwealth administrative agency or an entity which is recognized by law as the subject of rights and obligations. The term shall include the officers, employees and agents of any legal entity.

"Public water supply agency." A community water system as defined by the act of May 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking Water Act, or any person subject to the act of June 24, 1939 (P.L.842, No.365), referred to as the Water Rights Law.

"Reasonable and beneficial use." The use of water for a useful and productive purpose, which is reasonable considering the rights of other users and consistent with the public interest, in a quantity and manner as is necessary for efficient utilization. The term includes withdrawal and nonwithdrawal uses.

"Region." One of the six regions established in section 3113 (relating to regional committees).

"Regional committee." A regional water resources committee.

"Safe Drinking Water Act." The act of May 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe Drinking Water Act.

"Safe yield." For purposes of the State water plan, the amount of water that can be withdrawn from a water resource over a period of time without impairing the long-term utility of a water resource such as dewatering of an aquifer, impairing the long-term water quality of a water resource, inducing a health threat or causing irreparable or unmitigated impact upon reasonable and beneficial uses of the water resource. Safe yield of a particular water source is primarily to be determined based upon the predictable rate of natural and artificial replenishment of the water source over a reasonable period of time.

"Secretary." The Secretary of Environmental Protection of the Commonwealth.

"State water plan." The plan adopted under section 3115 (relating to development, adoption, amendment and periodic review of State water plan). Prior to adoption of the State water plan in accordance with section 3115, the term shall mean the State water plan previously adopted and published in accordance with section 1904-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

"Statewide committee." The Statewide Water Resources Committee.

"Surface water." Water on the surface of the earth, including water in a perennial or intermittent watercourse, lake, reservoir, pond, spring,

wetland, estuary, swamp or marsh, or diffused surface water, whether such body of water is natural or artificial. The term does not include recirculated process water or wastewater stored in an off-stream impoundment, pond, tank or other device unless such water or wastewater is withdrawn and used by a person other than the person who initially withdrew the water from a water resource or obtained such water from a public water supply agency.

“Water availability evaluation.” An assessment of available safe yield of water in an area, both groundwater and surface water, including natural recharge capability, and an estimate of the present reasonable and beneficial uses and of the reasonable and beneficial uses for 20 years ahead by various categories such as in-stream, agricultural, domestic, energy development and production, industrial and recreational uses.

“Water conservation practices and measures.” Those practices and measures which are technically feasible and economically practicable and which are designed to accomplish any of the following:

(1) Reduce the demand for water.

(2) Improve efficiency in water use and reduce leakage, losses and waste of water.

(3) Improve reuse and recycling of water.

(4) Improve land management practices to conserve water or to preserve or increase groundwater recharge.

“Watercourse.” A distinct natural or artificial body of water flowing perennially or intermittently in a defined channel with bed and banks. The term includes a river, creek, stream, slough or canal.

“Water resource.” Surface water or groundwater, within or on the boundaries of this Commonwealth.

“Water resources emergency.” A drought or other water resource shortage declared by proclamation of the Governor that would result in a substantial and immediate shortage of available water supply in a region and that would be of sufficient severity and magnitude to warrant coordinated action to prevent or alleviate damage to property, human suffering, hardship or threats to health, safety, welfare and fish and wildlife habitat.

“Water Rights Law.” The act of June 24, 1939 (P.L.842, No.365), referred to as the Water Rights Law.

“Watershed.” The drainage area of a watercourse of a minimum drainage area determined in accordance with guidelines developed pursuant to section 3115(a)(2) (relating to development, adoption, amendment and periodic review of State water plan).

“Withdrawal.” The removal or taking of water from any water resource, whether or not returned to the water resource.

“Withdrawal use.” Any use of water which is withdrawn, including, but not limited to, domestic, municipal, public, commercial, industrial, energy development and production and agricultural water supply. The term includes the use of water transferred through interconnections but shall not

include transfer of water within a system operated by the same public water supply agency.

§ 3103. Intergovernmental cooperation and coordination.

The Statewide committee, the regional committees and the department shall cooperate and coordinate with appropriate Compact Basin Commissions and Federal, interstate, State and political subdivisions, municipalities, public water supply agencies and other agencies for efficient planning for the maintenance and enhancement of the water resources of this Commonwealth.

§ 3104. Administrative agreements with other agencies.

In consultation with the Statewide committee, the department shall, to the extent practicable, enter into administrative agreements with appropriate Compact Basin Commissions and Federal, State, interstate, municipal and other agencies for the following purposes:

(1) To avoid unnecessary duplication of staff functions and facilitate coordinated review of projects and actions within the jurisdiction of such agencies.

(2) To provide a coordinated system for registration of significant water uses and the coordinated collection and maintenance of data regarding water resources.

(3) To provide for coordinated inspection, monitoring and enforcement of applicable statutes and regulations, provided that nothing in this section shall be deemed to confer enforcement authority on the Statewide committee.

(4) To accept delegations of authority from or obtain the services and assistance of a Compact Basin Commission or Federal or interstate agency concerning planning for the maintenance and enhancement of water resources. Nothing in this paragraph shall be construed to authorize a delegation to the Statewide committee or the department of any power to regulate, control or require permits for the withdrawal or use of water.

(5) To ensure coordinated and effective responses to water resources emergencies in conjunction with the Pennsylvania Emergency Management Agency and the Compact Basin Commissions.

SUBCHAPTER B WATER RESOURCES PLANNING

Sec.

3111. State water plan.

3112. Plan contents.

3113. Regional committees.

3114. Statewide Water Resources Committee.

3115. Development, adoption, amendment and periodic review of State water plan.

3116. Use of plan.

- 3117. Statewide data system.
- 3118. Water use registration and reporting.
- 3119. Confidential information.
- 3120. Water conservation.
- 3121. Grants.

§ 3111. State water plan.

(a) Preparation and adoption.—In accordance with this chapter and with ongoing consultation with the Statewide committee and the department, each regional committee shall guide the development of and recommend to the Statewide committee a regional plan component for review, approval and incorporation into the State water plan. The Statewide committee shall guide the development of, approve and recommend to the secretary approval and adoption of the State water plan. The department shall draft and develop the State water plan, including regional plan components. The State water plan shall be completed and adopted within five years of the effective date of this chapter.

(b) Matters considered.—The State water plan shall reflect the matters set forth in section 3112 (relating to plan contents). The level of detail within the State water plan and each regional plan may vary among watersheds and other hydrologic units. In consultation with the regional committee and the Statewide committee, the department shall establish with the approval of the Statewide committee priorities and guidelines for the level of detail appropriate for different areas, considering among other factors the current or projected future water demands in comparison to the safe yield of available water resources in the area.

(c) Limitation of authority.—Nothing contained in this chapter shall be construed to authorize, expand or diminish the existing authority of the department, including the Environmental Quality Board, to regulate, control or require permits for the withdrawal or use of water.

§ 3112. Plan contents.

(a) General rule.—The State water plan and regional plan shall include:

(1) An inventory of the surface water resources of each region of this Commonwealth, including an identification of the boundaries of significant watersheds and an estimate of the safe yield of such sources for withdrawal and nonwithdrawal uses during periods of normal conditions and drought.

(2) An inventory of the groundwater resources of each region of this Commonwealth, including an identification of aquifers and groundwater basins and an assessment of their safe yield, prime recharge areas, recharge capacity, withdrawal limits and relationship to stream base flows.

(3) An assessment and projection of existing and future nonwithdrawal use needs and the values of watercourses included within this Commonwealth or Federal wild and scenic river systems.

(4) An assessment and projection of existing and future withdrawal use demands.

(5) An identification of potential problems with water availability or conflicts among water uses and users.

(6) An identification of critical water planning areas comprising any significant hydrologic unit where existing or future demands exceed or threaten to exceed the safe yield of available water resources.

(7) An assessment of the current and future capabilities of public water supply agencies to provide an adequate quantity and quality of water to their service areas.

(8) An assessment of floodplain and storm water management problems.

(9) An assessment of navigation needs and the means for restoration, development and improvement of transportation by water.

(10) An assessment of the water resources required to serve areas with important or unique natural, scenic, environmental or recreational values of national, regional, local or Statewide significance, including national and State parks; designated wild, scenic and recreational rivers; national and State wildlife refuges; and the habitats of Federal and State endangered or threatened species.

(11) A process for identifying projects and practices that are being or have been implemented by water users that reduce the amount of water withdrawal or consumptive use, improve efficiency in water use, provide for reuse and recycling of water, increase the supply or storage of water or preserve or increase groundwater recharge and a recommended process for providing appropriate positive recognition of such projects or practices in actions, programs, policies, projects or management activities recommended under paragraph (16).

(12) An identification of practical alternatives for an adequate supply of water to satisfy existing and future reasonable and beneficial uses, including improved storage, groundwater recharge and surface water/groundwater conjunctive management programs.

(13) An assessment of both structural and nonstructural alternatives to address identified water availability problems, adverse impacts on water uses or conflicts between water users, including potential actions to develop additional or alternative supplies, conservation measures and management techniques.

(14) A review and evaluation of statutes, regulations, policies and institutional arrangements for the development, conservation, distribution and emergency management of water resources.

(15) A review and evaluation of water resources management alternatives and recommended programs, policies, institutional arrangements, projects and other provisions to meet the water resources needs of each region and of this Commonwealth.

(16) Proposed methods of implementing various recommended actions, programs, policies, projects or management activities.

(b) Considerations.—The State water plan and regional plans shall consider:

(1) The interconnections and relationships between groundwater and surface water as components of a single hydrologic resource.

(2) Regional water resources needs, objectives and priorities as identified and evaluated by the regional committee.

(3) Federal, State and interstate water resources policies, plans, objectives and priorities, including those identified in statutes, regulations, compacts, interstate agreements or comprehensive plans adopted by Federal and State agencies and Compact Basin Commissions.

(4) The needs and priorities reflected in comprehensive plans and zoning ordinances where one of the following conditions is satisfied:

(i) A county adopts a comprehensive plan in accordance with section 301 or 302 of the Municipalities Planning Code and municipalities in the county have adopted comprehensive plans and zoning ordinances in accordance with sections 301, 303(d) and 603(j) of the Municipalities Planning Code.

(ii) Municipalities have adopted a county plan or a multimunicipal plan under Article XI of the Municipalities Planning Code and the participating municipalities have conformed their local plans and ordinances to the county or multimunicipal plan by implementing cooperative agreements and adopting appropriate resolutions and ordinances.

(iii) A county adopts a comprehensive plan in accordance with section 301 or 302 of the Municipalities Planning Code and either:

(A) the county has adopted and is administering, in lieu of municipalities in the county, a county comprehensive plan and county zoning ordinance in accordance with sections 301, 303(d) and 603(j) of the Municipalities Planning Code; or

(B) the county has adopted a county comprehensive plan in accordance with section 301 or 302 of the Municipalities Planning Code which is in effect, in lieu of comprehensive plans adopted by municipalities in the county, and municipalities in the county have adopted zoning ordinances generally consistent with such county comprehensive plan in accordance with sections 303(d) and 603(j) of the Municipalities Planning Code.

(5) The water quantity and quality necessary to support reasonable and beneficial uses.

(6) A balancing and encouragement of multiple uses of water resources, recognizing that all water resources of this Commonwealth are capable of serving multiple uses and human needs, including multiple uses of water resources for reasonable and beneficial uses.

(7) The distinctions between short-term and long-term conditions, impacts, needs and solutions to ensure appropriate and cost-effective responses to water resources issues.

(8) The benefits and costs and social and environmental impacts of alternative policies, programs, projects and actions.

(9) Application of the principle of equal and uniform treatment of all water users that are similarly situated and all users of related facilities without regard to established political boundaries.

(c) Balancing of considerations.—In approving, recommending and adopting the State water plan, the Statewide committee and secretary shall provide serious and deliberative consideration to regional priorities, objectives and recommendations expressed by the regional committees, reconcile differences or conflicts among regional plans and assure that the regional plans and State water plan adequately consider and reflect Federal, State and Compact Basin Commission policies, plans, objectives and priorities of national, Statewide or interstate importance.

(d) Designation of critical water planning areas and preparation and approval of critical area resource plans.—

(1) Critical water planning areas shall be identified as provided under subsection (a)(6). A regional committee may, in advance of the formal adoption of a regional plan or the State water plan and if justified by evidence developed in the planning process, recommend the designation of a critical water planning area. Upon such recommendation, the Statewide committee and secretary may designate the area for the development of a critical area resource plan for any watershed or watersheds within a critical water planning area pursuant to this subsection.

(2) In preparing a critical area resource plan for a critical water planning area, the regional committee shall establish a critical area advisory committee. This committee shall be composed of persons representative of appropriate governmental agencies, agricultural, public water supply, industrial and other water users in the area, conservation and environmental organizations and other persons who have knowledge of, background in or an understanding of water resources planning and management. The critical area advisory committee shall evaluate policy, program and management alternatives and advise the regional committee and department throughout the critical water area planning process.

(3) For each critical water planning area identified and designated under this subsection or subsection (a)(6), the regional committee shall, in consultation with a critical area advisory committee, guide the development of and recommend to the Statewide committee and secretary and the department shall draft a critical area resource plan. The regional committee may recommend to the department the engagement

of county or regional agencies or expert consulting firms to assist in the process of preparing such a plan.

(4) A critical area resource plan shall be subject to review and adoption through the same process as a regional plan as provided in this section and section 3115 (relating to development, adoption, amendment and periodic review of State water plan). Prior to final recommendation by the regional committee to the Statewide committee, a copy of the proposed critical area resource plan shall be submitted to the official planning agency and governing body of each municipality in the designated critical water planning area, the appropriate county planning agency and regional planning agencies for review and comment as to consistency with other plans and programs affecting the critical water planning area, and each such agency and governing body shall be provided 45 days to provide comments.

(5) The critical area resource plans shall include:

(i) An identification of existing and future reasonable and beneficial uses.

(ii) A water availability evaluation, including a quantitative assessment of the available water resources and their relationship to the existing and future reasonable and beneficial uses.

(iii) An identification of the quantity of water available for new or increased uses of water in the foreseeable future and an identification of quantities required for future water uses associated with planned projects or developments.

(iv) An assessment of water quality issues that have a direct and substantial effect on water resource availability.

(v) A consideration of storm water and floodplain management within the critical water planning area and their impacts on water quality and quantity.

(vi) Identification of existing and potential adverse impacts on uses or conflicts among users or areas of the critical water planning area and identification of alternatives for avoiding or resolving such conflicts.

(vii) An identification of practicable supply-side and demand-side alternatives for assuring an adequate supply of water to satisfy existing and future reasonable and beneficial uses.

(6) Critical area resource plans shall be construed as a component of the State water plan and may be implemented voluntarily.

§ 3113. Regional committees.

(a) Creation.—There is created within the department a regional committee for each of the following regions in this Commonwealth:

(1) The watershed drainage area of the Delaware River and its tributaries.

(2) The watershed drainage area of the West Branch Susquehanna River subbasin and the upper Susquehanna, middle Susquehanna and Chemung subbasins and their tributaries.

(3) The watershed drainage area of the Juniata River and lower Susquehanna River and its tributaries below Sunbury, and Gunpowder, Northeast and Elk Creek Watersheds draining to the Chesapeake Bay.

(4) The watershed drainage area of the Ohio River and its tributaries.

(5) The watershed drainage area of Lake Erie and the Genesee River.

(6) The watershed drainage area of the Potomac River and its tributaries.

Each regional committee shall be subject to the provisions applicable generally to boards and commissions identified in section 203 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(b) Membership.—

(1) Each regional committee shall be composed of:

(i) Four members with a knowledge, background or understanding of water resources planning and management who are county conservation district or planning commission directors or, where a county conservation district does not cover a portion of a region, who are representatives of the governing body of the county or city of the first class, as appropriate, and shall represent a geographic cross section of the region. At least two county conservation district directors shall be appointed to each regional committee. Such members shall be appointed by the Governor from recommendations made separately by the governing bodies of each county or city of the first class which is in whole or in part within the region.

(ii) Seventeen members appointed by the Governor from recommendations made separately by Statewide and regional organizations representing such interests whose residence or place of business is within the region and who meet the following criteria:

(A) Two members shall be representative of agriculture, one from production agriculture and one from horticulture.

(B) One member shall be an officer or employee of a public water supply agency providing residential service within the region.

(C) One member shall be an officer or employee of a public wastewater agency providing service within the region.

(D) Three members shall represent significant industrial and commercial enterprises, energy development and production interests.

(E) Three members shall represent environmental and conservation interests.

(F) Four members with education and experience in professions relating to water resources management, including engineering,

hydrology, geology, planning, law and economics, one of whom shall be a registered professional geologist.

(G) Three members representing local governments other than counties.

The members appointed under this subparagraph shall represent a cross section of the region, considering the distribution of population within each region.

(iii) One member, appointed by the secretary, who is a department employee. This member shall advise the regional committee without voting on any matter before the regional committee.

(iv) Where a Compact Basin Commission exists with jurisdiction over all or a portion of the region, a representative of such Compact Basin Commission shall be invited to serve as an ex officio voting member of the regional committee.

(2) Members shall be appointed no later than 180 days after the effective date of this chapter.

(3) A member shall be appointed for a term of three years. Of the members first appointed by the Governor under paragraph (1)(i) and (ii), five members shall serve for terms of one year, five members shall serve for terms of two years and five members shall serve for terms of three years.

(4) Vacancies shall be filled for the remainder of an unexpired term in the same manner as original appointments. A member, upon expiration of the term, shall continue to hold office until a successor is appointed.

(5) A majority of the membership of a regional committee shall constitute a quorum for the transaction of regional committee business. Action may be taken on a matter before the regional committee by a majority vote of the full membership of the regional committee.

(6) Members of a regional committee shall serve without compensation but may be reimbursed from funds appropriated for such purposes for necessary and reasonable travel and other expenses incurred during the performance of their duties.

(7) A chairperson shall be elected annually by a majority vote of the full membership of the regional committee.

(c) Powers and duties.—A regional committee has the following powers and duties:

(1) Guide the development of and recommend to the Statewide committee the regional plan component for review and incorporation into the State water plan.

(2) Consult with, advise and make recommendations to the department and the Statewide committee prior to and throughout the process of preparing the regional plan component of the State water plan and amendments to the regional plan component of the State water plan.

(3) Advise the Statewide committee and the department regarding the engagement and selection of consultants or experts to assist in the preparation of the regional component of the State water plan.

(4) Recommend to the Statewide committee and the department the identification of critical water planning areas.

(5) Utilize an open process, including public notice and at least one combined public meeting and hearing, to solicit comments from interested persons on water resources planning issues related to the preparation of the regional component of the State water plan.

(6) Meet as necessary to accomplish the purposes of this chapter.

(7) Adopt bylaws and procedures for conducting business.

§ 3114. Statewide Water Resources Committee.

(a) Establishment.—There is established within the department the Statewide Water Resources Committee. The purpose of the committee is to coordinate the development of the State water plan, recommend policies and guidelines for and oversee the development of the State water plan and, in continuing consultation and collaboration with the regional committees and the department and with the full opportunity for public review and comment, approve and recommend to the secretary approval and adoption of the State water plan. The Statewide committee shall be subject to the provisions applicable generally to boards and commissions identified in section 203 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(b) Membership.—

(1) The Statewide committee shall be composed of members selected as set forth in this subsection.

(2) Eighteen members shall be appointed as follows:

(i) Six members shall be representatives of the regional committees, appointed as provided in this paragraph. The Majority Leader of the Senate and Majority Leader of the House of Representatives shall each appoint two members from among the members of the regional committees. The Minority Leader of the Senate and the Minority Leader of the House of Representatives shall each appoint one member from among the members of the regional committees. Each regional committee shall nominate from among their members individuals to be considered for appointment under this paragraph, and no more than one member from each regional committee shall be appointed under this paragraph.

(ii) The Governor shall appoint six members representing a cross section of water user interests, including agriculture, conservation districts, industrial and commercial enterprises, mining, energy development and production and public water supply. The Governor shall seek suggestions and recommendations for Statewide committee membership from representative organizations.

(iii) The Governor shall appoint six members representing local government, environmental and conservation interests and professions relating to water resources management. The Governor shall seek suggestions and recommendations for Statewide committee membership from representative organizations.

(3) The Secretary of Environmental Protection, Secretary of Agriculture, Secretary of Conservation and Natural Resources, Executive Director of the Pennsylvania Fish and Boat Commission, Chairman of the Pennsylvania Public Utility Commission and Executive Director of the Pennsylvania Emergency Management Agency or their designees shall be ex officio voting members of the Statewide committee. The Secretary of Community and Economic Development and the Executive Director of the Governor's Center for Local Government Services or their designees and a representative of each Compact Basin Commission shall be invited to serve as ex officio nonvoting members of the Statewide committee.

(4) Members shall be appointed no later than 180 days after the effective date of this chapter.

(5) A member shall be appointed for a term of four years. Of the initial members appointed by the Governor:

(i) Six members shall serve initial terms of two years.

(ii) Six members shall serve initial terms of four years.

(iii) After such initial terms, individuals appointed by the Governor shall serve for a term of four years.

(6) Members must, as a result of educational background, training or experience, have an understanding of water resources planning and management issues.

(7) The chairperson of the Statewide committee shall be elected by a majority vote of the full membership of the committee.

(8) Vacancies shall be filled for the remainder of an unexpired term in the same manner as original appointments. A member, upon expiration of the term, shall continue to hold office until a successor is appointed.

(9) A majority of the membership of the Statewide committee shall constitute a quorum for the transaction of business. Action may be taken on a matter before the committee by a majority vote of the full membership of the committee.

(10) Members of the Statewide committee shall serve without compensation but may be reimbursed from funds appropriated for such purposes for necessary and reasonable travel and other expenses incurred during the performance of their duties.

(c) Powers and duties.—The Statewide committee shall:

(1) Recommend to the secretary the approval and adoption of the State water plan, including regional plan components, following consultation with the regional committees, the department, Compact

Basin Commission and other appropriate agencies and after the public comment and hearing process specified in section 3115(b) (relating to development, adoption, amendment and periodic review of State water plan).

(2) Assist the department, in cooperation with regional committees, with the development of a public participation process to encourage the input from persons interested in water resources issues throughout the process of developing and formulating regional plan components and the State water plan.

(3) Recommend approval by the secretary of policies and guidelines for the preparation and development of regional plans and the State water plan in order to assure consistency in the methods used to carry out the assessments and inventories required under section 3112 (relating to plan contents).

(4) Review and comment upon regulations and policies proposed by the department under this chapter. In furtherance of this responsibility, the Statewide committee shall be given a reasonable opportunity to review and comment on regulations promulgated under this chapter affecting water resources prior to the submission to the Environmental Quality Board for both initial and final consideration. The written report of the Statewide committee shall be presented to the Environmental Quality Board with any regulatory proposal under this chapter. The chairperson of the Statewide committee shall be invited to participate in the presentation of all regulations promulgated under this chapter affecting water resources before the Environmental Quality Board.

(5) Carry out the duties and responsibilities assigned to the Statewide committee under this chapter or other applicable statutes.

§ 3115. Development, adoption, amendment and periodic review of State water plan.

(a) Preparation of State water plan.—

(1) A State water plan shall be developed and adopted in accordance with this section within five years of the effective date of this chapter. After the initial adoption of a State water plan, the plan shall be amended and updated every five years.

(2) The department, in consultation with the Statewide committee, shall develop policies and guidelines for:

(i) Preparing or amending the regional plan components and the State water plan.

(ii) Ensuring public participation in the development or amendment of the State water plan.

(iii) Identifying critical water planning areas.

(iv) Developing critical area resources plans.

Policies and guidelines shall be adopted only upon approval by both the Statewide committee and the secretary.

(3) All meetings, hearings and public review under this chapter shall be in accordance with the provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings) and any regulations promulgated thereunder.

(b) Development of the State water plan.—

(1) Each regional committee shall:

(i) Hold at least one combined public meeting and hearing within its region to solicit input on water resources management and water resources planning within the region.

(ii) Make recommendations to the department and the Statewide committee on the development or amendment of the State water plan.

(iii) Make recommendations on the identification of critical water planning areas within the region.

(2) Based upon the recommendations and guidance of the regional committees and consistent with the policies and guidelines established under subsection (a)(2), the department, in consultation with the Statewide committee, shall prepare drafts of the initial regional plan components to be used in the development or amendment of the State water plan. The department may also utilize other available resources to assist with the preparation of the drafts.

(3) The department, in conjunction with the Statewide committee and the regional committee, shall hold at least one combined public meeting and hearing in each region to solicit input on the drafts of the initial regional plan components to be used in the development or amendment of the State water plan.

(4) Following public participation and the combined public meeting and hearing required under paragraph (3), each regional committee shall select, by a majority vote, the planning alternatives and provisions to be recommended as part of the regional plan component of the State water plan. Each regional committee shall recommend, by a majority vote, the regional plan component to the Statewide committee. Each regional committee shall provide to another regional committee any proposed regional plan component recommendation that may affect any other region for review and comment prior to recommendation of the regional plan component to the Statewide committee.

(5) With consideration of the regional plan components developed under paragraphs (1) through (4), and consistent with the policies and guidelines established under subsection (a)(2), the department, in ongoing consultation with the Statewide committee, shall prepare a draft of the State water plan or amendments to the State water plan. The department, in conjunction with the Statewide committee, shall make the draft of the State water plan available for public review to solicit input on the draft of the State water plan or amendments to the State water plan.

(c) Adoption of regional plan components and State water plan.—Regional plans and the State water plan shall be recommended and adopted in accordance with the following procedures:

(1) Each regional committee shall, by a majority vote, recommend the regional plan components to the Statewide committee as provided in subsection (b).

(2) If a regional committee fails to comply with the obligations set forth in this chapter, the Statewide committee shall, after providing 90 days' written notice to the regional committee, propose, approve and recommend the regional plan components for that region.

(3) The Statewide committee or the secretary may direct modification of a new or previously approved regional plan, in whole or in part, upon finding one of the following:

(i) Recommended planning or management alternatives or provisions of two or more regional plans are inconsistent, or two or more regional planning committees are unable to agree on an alternative or provision affecting their respective regions.

(ii) A recommended planning or management alternative or provision is inconsistent with:

(A) this chapter;

(B) Federal or State statutes, regulations or officially adopted policies or plans; or

(C) compacts or other interstate agreements and plans.

(iii) A regional plan component is inconsistent with or conflicts with the provisions or objectives of the overall State water plan.

(iv) The recommended regional plan component fails to conform to section 3112 (relating to plan contents) or the requirements established by policies adopted pursuant to subsection (a)(2).

(4) Following consultation with the regional committees, the Statewide committee shall approve and recommend to the secretary approval and adoption of regional plan components and the State water plan, subject to the following procedures:

(i) Within 90 days of submission of a regional plan, the secretary shall in writing either approve the regional plan or disapprove the regional plan if the secretary finds that the regional plan fails to meet any of the criteria set forth in paragraph (3)(i) through (iv).

(ii) Within 90 days of submission of the State water plan, the secretary shall in writing either approve the State water plan or disapprove the plan if the secretary finds that the State water plan fails to conform to the requirements of section 3112 or the policies adopted pursuant to subsection (a)(2).

(iii) Upon disapproval of a regional plan or State water plan, the secretary shall advise the Statewide committee and affected regional committee in writing of the reasons for such disapproval.

(iv) Upon receipt of any notice of disapproval, the Statewide committee, any affected regional committee and the department shall undertake expeditious and diligent efforts to confer and resolve the issues identified as the reasons for disapproval. Within 90 days of

receipt of any disapproval notice, the Statewide committee shall recommend a revised plan which addresses and resolves the issues.

(5) Final adoption of each regional plan component and the State water plan shall occur only upon the approval and recommendation by the Statewide committee to the secretary for the approval and adoption of the State water plan and subsequent adoption by the secretary.

(6) Upon adoption of the State water plan, the department shall publish notice of the adoption or amendment of the State water plan in the Pennsylvania Bulletin and on the department's World Wide Web site.

(d) Periodic review.—The Statewide committee and the department shall, at least once every five years and after consultation with the regional committees, review the State water plan to determine whether it reflects the objectives, policies and purposes of this chapter. This determination, including recommendations for revisions to regional plans, shall be set forth in writing.

(e) Plan amendment.—The State water plan may be amended in accordance with the requirements of this section.

§ 3116. Use of plan.

(a) General use of plan.—The State water plan is intended to serve as a policy and guidance document, providing information, objectives, priorities and recommendations to be considered and weighed in a broad range of State, local and private decisions. The State water plan is not intended to constitute or contain legally binding regulations, prohibitions or prescriptions.

(b) Specific uses of plan.—Among other uses, it is intended that the State water plan will be used to:

(1) Identify and prioritize water resource and water supply development projects to be carried out by private organizations or government agencies.

(2) Provide information to public and private decision makers regarding water availability to help guide efficient investment and economic development.

(3) Identify opportunities for improving operation of this Commonwealth's existing water resources infrastructure.

(4) Guide the development and implementation of policies and programs by State agencies that will reduce the risk of flooding, water shortages from drought and conflicts between water users or uses.

(5) Guide policies on activities that directly and significantly affect the quantity and quality of water available with the objective of balancing and encouraging multiple uses of water resources.

(6) Educate public officials and the public at large regarding the sources and uses of water in this Commonwealth.

§ 3117. Statewide data system.

(a) **General rule.**—In cooperation with the Compact Basin Commissions and Federal, State and regional agencies with responsibilities relating to water resources management, the department shall establish and maintain a Statewide system to gather, process and distribute information on the availability, distribution, quality and use of water resources of this Commonwealth.

(b) **Other commissions and agencies.**—The department shall invite interested Compact Basin Commissions and Federal, State and regional agencies with responsibilities relating to water resources management to join the Statewide data system and shall cooperate with any such agency choosing to join the system.

(c) **Fee.**—Information gathered in the Statewide data system, subject to protection provided to confidential business information under section 3119 (relating to confidential information), shall be made available to any person on payment of a reasonable fee, as established by the department with the advice of the Statewide committee, to cover the expenses of making such information available to that person.

§ 3118. Water use registration and reporting.

(a) **Interim registration program.**—Pending the adoption of regulations for registration and reporting under subsection (b), each public water supply agency and each hydropower facility, irrespective of the amount of withdrawal, and each person whose total withdrawal or withdrawal use from one or more points of withdrawal within a watershed operated as a system either concurrently or sequentially exceeds an average rate of 10,000 gallons a day in a 30-day period shall register with the department the source, location and amount of withdrawal or use or both. Registrations shall be submitted not later than 12 months after the effective date of this chapter or 30 days following the initiation of any such withdrawal or use, whichever is later. Registrations shall be submitted on forms as prescribed by the department.

(b) **General rule; requirements for registration and reporting.**—In order to provide accurate information for water resources planning, the department in consultation with the Statewide committee shall recommend and the Environmental Quality Board shall adopt regulations establishing requirements for the registration, periodic reporting and recordkeeping of withdrawals in accordance with the following provisions:

(1) Each public water supply agency and each hydropower facility, irrespective of the amount of withdrawal, and each person whose total withdrawal or withdrawal use from one or more points of withdrawal within a watershed operated as a system either concurrently or sequentially exceeds an average rate of 10,000 gallons a day in a 30-day period shall comply with recordkeeping and periodic reporting requirements established by regulation. Such regulations shall require water users subject to the registration requirements of this section to monitor, maintain records and submit to the department periodic reports

regarding the source, location and amount of withdrawals or uses or both from surface waters and groundwaters, including the amount of consumptive and nonconsumptive uses, the locations and amounts of any waters returned and discharged and the amounts of water transferred between public water supply agencies via interconnections. Such regulations shall not require submission of periodic reports more frequently than annually. Where alternative methods exist to obtain a reasonably accurate evaluation of withdrawals or withdrawal uses, consumptive or nonconsumptive uses and return flows, such regulations shall allow for use of the alternative methods to obtain a reasonable estimate or indirect calculation of such in lieu of direct metering or measurement. With respect to withdrawal uses, other than public water supply agency withdrawals and hydropower facilities, involving a withdrawal of less than 50,000 gallons per day in a 30-day period, the regulations shall provide for the use of alternative methods to obtain a reasonable estimate or indirect calculation of such in lieu of direct metering or measurement.

(2) The regulations may provide for the adjustment of or variations in registration, recordkeeping or periodic reporting requirements for identified classification of user or volume of withdrawal if such requirements are not necessary to obtain information required to adequately assess water uses, monitor demands and otherwise prepare accurate and complete regional and State water plans and, if applicable, critical area resource plans.

(3) The regulations shall include a process under which water users may document and register practices or projects that they have implemented to reduce water withdrawals or consumptive use, promote groundwater recharge or otherwise conserve or enhance water supplies for consideration and use in providing appropriate recognition and credit during the implementation of existing or future water supply programs.

(4) To avoid duplication of efforts, regulations implementing the periodic reporting requirements of this subsection shall provide that the requirements may be satisfied by the filing of discharge monitoring reports prepared under the Clean Streams Law, water supply reports prepared under the Safe Drinking Water Act, water withdrawal and use reports prepared and submitted pursuant to regulations adopted by the Delaware River Basin Commission and Susquehanna River Basin Commission, or other reports submitted under other applicable statutes and regulations, to the extent that the reports provide the required information.

(5) Nothing in this section shall be construed to authorize the department or the Environmental Quality Board to require metering of homeowner wells.

(6) Where a registered withdrawal is terminated or is reduced to an amount which over a 12-month period is less than the 30-day average

threshold amounts requiring registration, the person responsible for such withdrawal may file a written notice with the department of such termination and reduction. After filing such notice, the person shall be relieved of further obligations relating to period reporting under this section.

(7) Persons required to register and report water withdrawals or uses under this section shall keep records required by regulation for a period of five years and make such records available for inspection by the department upon request.

(8) Registration of a withdrawal or use shall not be construed as a determination of a person's water rights or approval of a withdrawal or use by any agency of the Commonwealth or by a Compact Basin Commission.

(c) Confidentiality of information.—Information provided to the department under this section shall be subject to the provisions of section 3119 (relating to confidential information).

§ 3119. Confidential information.

(a) General rule.—Except as provided in subsection (b), information required to be submitted to the department under this chapter shall be subject to the provisions of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(b) Exception.—The department, the Statewide committee and any regional committee shall not disclose confidential information required to be submitted to the department under this chapter unless:

(1) the confidential information is contained in a report in which the identity of the submitting person has been removed and the confidential information is aggregated by hydrologic unit or region; or

(2) the confidential information is disclosed to employees, contractors, agents or authorized representatives of the department, including the State and regional planning committees for the purposes of this chapter.

(c) Confidential information submitted.—If a person submits confidential information under this chapter, the person must identify the information that is confidential information and provide a justification for its confidential nature. The department, Statewide committee or regional committees shall hold the confidential information in a file separate from the general records relating to the person.

§ 3120. Water conservation.

(a) Technical assistance center.—The department shall establish and maintain a water resources technical assistance center to promote voluntary water conservation and to provide technical assistance on water resources uses issues, including methods for efficient water use, including reduction of unaccounted-for water loss and the replenishment and conservation of water resources. The center shall:

- (1) Establish a voluntary Statewide water conservation program for all water users.
 - (2) Establish guidelines for the development of voluntary water use reduction plans in critical water planning areas.
 - (3) Establish voluntary water use reduction goals for all water users.
 - (4) Identify water conservation principles, practices and technology to assist all water users in conserving water.
 - (5) Develop a water conservation educational program for households, industry and other water users.
 - (6) Establish a Governor's Water Conservation Award to recognize outstanding conservation of water.
 - (7) Develop a program to promote voluntary reduction of unaccounted for water loss.
 - (8) Identify principles, practices and technologies to encourage groundwater recharge.
- (b) Grant approval.—When approving funding pursuant to the act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act, the Pennsylvania Infrastructure Investment Authority shall give special consideration to funding projects that:
- (1) address unaccounted-for water loss or that implement water conservation practices by a public water supply agency whose unaccounted-for water loss rate exceeds 20%, provided that, as a condition for such assistance, the applicant shall agree to attempt to recover the true cost of service from ratepayers and adopt and implement a water system management program that conforms to minimum standards established by the department, the Pennsylvania Public Utility Commission or any Compact Basin Commission for water metering, meter testing and replacement, leak detection, unaccounted-for water tracking and reporting and conservation education; or
 - (2) provide for interconnection between water systems to improve reliability.
- § 3121. Grants.
- (a) Authorization.—The department is authorized to provide grants for the following purposes:
- (1) Reimbursement of up to 75% of the cost of preparing a voluntary water use reduction plan under section 3120(a)(2) (relating to water conservation).
 - (2) Water resources education, technical assistance and water conservation, including the promotion of voluntary reduction of unaccounted-for water loss, under section 3120(a).
- (b) Funding.—Grants shall be made from funds available for this purpose.

SUBCHAPTER C
ADMINISTRATION AND ENFORCEMENT

Sec.

3131. Administration.

3132. Public nuisance.

3133. Enforcement orders.

3134. Civil remedies.

3135. Preservation of rights and remedies.

3136. Relation to other laws.

§ 3131. Administration.

(a) Use of funds.—The department shall use fees collected from the use of the Statewide data system to defray the reasonable costs of administering sections 3117 (relating to Statewide data system) and 3118 (relating to water use registration and reporting).

(b) Public records and confidentiality of information.—Except as provided in section 3119 (relating to confidential information) or in another statute, reports and other information obtained by the Statewide committee, a regional committee or the department under this chapter shall be a matter of public record and shall be available for inspection and review at the offices of the department, the Statewide committee or the appropriate regional committee.

(c) Investigations and inspections.—To determine compliance with this chapter, the department is authorized, during reasonable hours and upon reasonable notice, to make such reasonable inspections, conduct such reasonable tests or sampling or examine books, papers and records related specifically to any withdrawal under investigation pursuant to section 3118 (relating to water use registration and reporting) as it deems necessary.

(d) Water Resources Fund.—Fines and penalties collected under this chapter shall be paid into the State Treasury in a special fund known as the Water Resources Fund. This fund shall be administered by the department to carry out the purposes of this chapter.

(e) Use of other funds.—Money in the Clean Water Fund established by the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, may be used by the department for purposes of this chapter.

§ 3132. Public nuisance.

(a) General rule.—A violation of this chapter or an order or regulation under this chapter shall constitute a public nuisance.

(b) Applicability of other law.—Nothing in this chapter shall be construed as affecting the application of 18 Pa.C.S. § 5101 (relating to obstructing administration of law or other governmental function).

§ 3133. Enforcement orders.

(a) Issuance.—The department may issue orders necessary to aid in the enforcement of this chapter. An order may be issued if the department finds that a person is in violation of this chapter or of a regulation issued under this chapter. The department may, in its order, require compliance with terms and conditions necessary to effect the purposes of this chapter.

(b) **Effective date.**—An order issued under this section shall take effect upon notice unless the order specifies otherwise.

(c) **Other remedies preserved.**—The right of the department to issue an order under this section is in addition to any penalty which may be imposed or any other action taken under this chapter.

(d) **Duty to comply.**—It shall be the duty of any person to proceed diligently to comply with any order issued by the department under this section. If such person fails to proceed diligently or fails to comply with the order within such time, if any, which may be specified in the order, the person shall be guilty of contempt and shall be punished by the court in an appropriate manner. For this purpose, application may be made by the department to the Commonwealth Court, which court is hereby granted jurisdiction.

§ 3134. Civil remedies.

(a) **Abatement of nuisances.**—An activity or condition declared to be a public nuisance under section 3132 (relating to public nuisance) shall be restrained or prevented in the manner provided by law or equity for abatement of public nuisances, and the reasonable expense thereof may be recovered from the violator.

(b) **Civil remedies.**—The department may bring an action in any court of competent jurisdiction to restrain and abate the violation of this chapter or any regulation issued under this chapter. Any other provision of law to the contrary notwithstanding, the courts of common pleas and Commonwealth Court shall have jurisdiction of such actions, and venue in such actions shall be set forth in the Pennsylvania Rules of Civil Procedure concerning actions in assumpsit.

(c) **Civil penalties.**—In addition to proceeding under any other remedy available under this chapter for the violation of any provision of this chapter or any regulation or order issued under this chapter, the department may assess a civil penalty upon a person for such violation. The maximum civil penalty that may be assessed is \$1,000 per day for each violation. Each violation of any provision of this chapter and each violation for each separate day shall constitute a separate and distinct offense. The civil penalty may be assessed whether or not the violation was willful or negligent. In determining the amount of a civil penalty, the department shall consider the degree of willfulness and duration of the violation, savings resulting to the person as the result of the violation, the damage to water resources of this Commonwealth resulting from the violation and other relevant factors. When the department proposes to assess a civil penalty, it shall inform the person of the proposed amount of such penalty. The person charged with the civil penalty shall then have 30 days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, the person shall within the 30-day period file an appeal of the action with the Environmental Hearing Board.

Failure to appeal within the 30-day period shall result in a waiver of all legal rights to contest the violation and the amount of the civil penalty.

(d) Remedies to be concurrent.—The remedies prescribed in this chapter shall be deemed concurrent, and the existence or exercise of any remedy shall not prevent the department from exercising any other remedy under this chapter, at law or in equity.

§ 3135. Preservation of rights and remedies.

(a) Other remedies.—The collection of a penalty under this chapter shall not be construed as estopping the Commonwealth, a municipality or an authorized agency from proceeding in courts of law or equity to abate public nuisances under existing law.

(b) Remedies additional and cumulative.—It is declared to be the purpose of this section to provide additional and cumulative remedies to protect the public interest in the water resources of this Commonwealth.

(c) Pending suits.—This chapter does not apply to suits instituted prior to its effective date.

§ 3136. Relation to other laws.

(a) Limitations upon department.—Nothing contained in this chapter shall be construed to authorize, diminish or expand the existing authority of the department, including the Environmental Quality Board, to regulate, control or require permits for the withdrawal or use of water. Nothing contained in this chapter shall be construed to authorize, diminish or expand the existing authority of the department under the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law. Further, nothing set forth in this chapter, any regulations adopted under this chapter or in the State water plan shall authorize the department to take any action to:

(1) Modify or impair any permits, agreements or other approvals issued under other State statutes or vested rights related to water withdrawals or uses.

(2) Interfere with or impose additional conditions upon the use or operation of any existing reservoir or water storage facility.

(3) Regulate or impose any conditions upon any activity or use not currently authorized under applicable State statutes and regulations.

(b) Limitations on water allocation authority.—The General Assembly reiterates the declarations of other statutes reflecting the need to manage water resources on a watershed basis without respect to political boundaries and the understanding that water management programs should be based upon an accurate and current State water plan. Accordingly, no political subdivision shall have any power to allocate water resources or to regulate the location, amount, timing, terms or conditions of any water withdrawal by any person.

(c) Limitations on municipalities.—Nothing in subsection (b) shall affect the power of any municipality to adopt and enforce ordinances pursuant to 35 Pa.C.S. Pt. V (relating to emergency management services)

or regulate the use of land pursuant to the Pennsylvania Municipalities Planning Code or other laws. Further, each municipality shall retain and may exercise such authority as conferred by other statutes to adopt ordinances and regulations concerning:

(1) mandatory connection to and use of available public water supplies; and

(2) the prohibition or regulation of withdrawals from particular sources of water that may be contaminated in order to protect public health and safety from exposure to the contamination or avoid the induced migration of the contamination.

(d) Limitations relating to compacts.—Nothing in this chapter shall be construed to supersede or abrogate any provisions of the act of July 7, 1961 (P.L.518, No.268), known as the Delaware River Basin Compact, or the act of July 17, 1968 (P.L.368, No.181), referred to as the Susquehanna River Basin Compact Law, and this chapter shall be construed in *pari materia* with such compacts.

Section 3. Repeals are as follows:

(1) The act of May 20, 1993 (P.L.38, No.11), known as the Department of Environmental Resources Agricultural Advisory Board Act, is repealed.

(2) All acts and parts of acts are repealed insofar as they are inconsistent with the addition of 27 Pa.C.S. Ch. 31.

Section 4. The addition of 27 Pa.C.S. Ch. 7 is a continuation of the act of May 20, 1993 (P.L.38, No.11), known as the Department of Environmental Resources Agricultural Advisory Board Act. The following apply:

(1) Except as otherwise provided in 27 Pa.C.S. Ch. 7, all activities initiated under the Department of Environmental Resources Agricultural Advisory Board Act shall continue and remain in full force and effect and may be completed under 27 Pa.C.S. Ch. 7. Orders, regulations, rules and decisions which were made under the Department of Environmental Resources Agricultural Advisory Board Act and which are in effect on the effective date of section 3 of this act shall remain in full force and effect until revoked, vacated or modified under 27 Pa.C.S. Ch. 7.

(2) Except as set forth in paragraph (3), any difference in language between 27 Pa.C.S. Ch. 7 and the Department of Environmental Resources Agricultural Advisory Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Department of Environmental Resources Agricultural Advisory Board Act.

(3) Paragraph (2) does not apply to the addition of 27 Pa.C.S. § 702(b) and (c).

Section 5. This act shall take effect as follows:

(1) This section shall take effect immediately.

- (2) The following provisions shall take effect in 60 days:
- (i) The addition of 27 Pa.C.S. Ch. 7.
 - (ii) Section 3(1) of this act.
 - (iii) Section 4 of this act.
- (3) The remainder of this act shall take effect in 90 days.

APPROVED—The 16th day of December, A.D. 2002.

MARK S. SCHWEIKER