
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1171 Session of
2018

INTRODUCED BY BROOKS AND HUTCHINSON, MAY 18, 2018

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, MAY 18, 2018

AN ACT

1 Amending Titles 3 (Agriculture) and 27 (Environmental Resources)
2 of the Pennsylvania Consolidated Statutes, in nutrient
3 management and odor management, further providing for
4 declaration of legislative purpose, for definitions and for
5 powers and duties of commission and repealing provisions
6 relating to Nutrient Management Advisory Board; and
7 establishing the Farm Animal Advisory Board.

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

10 Section 1. Section 502(3) and (5) of Title 3 of the
11 Pennsylvania Consolidated Statutes are amended to read:

12 § 502. Declaration of legislative purpose.

13 The purposes of this chapter are as follows:

14 * * *

15 (3) To require the State Conservation Commission, in
16 conjunction with the Cooperative Extension Service of The
17 Pennsylvania State University, the Department of
18 Environmental Protection, the department and the [Nutrient
19 Management Advisory Board] Farm Animal Advisory Board to
20 develop and provide technical and financial assistance for
21 nutrient management and alternative uses of animal manure,

1 including a manure marketing and distribution program.

2 * * *

3 (5) To require the State Conservation Commission, in
4 conjunction with the [Nutrient Management Advisory Board]
5 Farm Animal Advisory Board, to develop and administer a
6 regulatory program requiring odor management plans addressing
7 new and expanded animal housing facilities and manure
8 management facilities at concentrated animal operations and
9 concentrated animal feeding operations after July 19, 1993,
10 and to encourage the voluntary implementation of odor
11 management plans for other agricultural operations.

12 Section 2. The definition of "board" in section 503 of Title
13 3 is amended to read:

14 § 503. Definitions.

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

18 * * *

19 "Board." The [Nutrient Management Advisory Board created by
20 section 510 (relating to Nutrient Management Advisory Board).]
21 Farm Animal Advisory Board under 27 Pa.C.S. Ch. 8 (relating to
22 Farm Animal Advisory Board).

23 * * *

24 Section 3. Section 504(7) of Title 3 is amended to read:

25 § 504. Powers and duties of commission.

26 The commission shall have the following powers and duties:

27 * * *

28 (7) To consult with the board as provided in [section
29 510 (relating to Nutrient Management Advisory Board).] 27
30 Pa.C.S. Ch. 8 (relating to Farm Animal Advisory Board).

1 * * *

2 Section 4. Section 510 of Title 3 is repealed:

3 [§ 510. Nutrient Management Advisory Board.

4 (a) Creation.--There is created the Nutrient Management
5 Advisory Board. The board shall consist of 16 members appointed
6 by the chairman of the commission and approved by a two-thirds
7 vote of the commission. The members so appointed shall consist
8 of five active commercial farm owners or operators representing
9 the livestock, swine, meat poultry, egg poultry and dairy
10 industry nominated by Statewide general farm organizations, one
11 veterinary nutrition specialist, one representative from the
12 feed industry, one representative from the fertilizer industry,
13 one representative of commercial agricultural lenders, one
14 representative of local government, one representative of
15 academia who shall be an agronomist or plant scientist faculty
16 member of the school of agriculture of a Pennsylvania college or
17 university, one representative of academia who shall be an
18 animal science faculty member with an expertise in odor
19 management from the school of agriculture of a college or
20 university within this Commonwealth, one hydrologist, two
21 citizen representatives who are not farmers and one
22 environmental representative, all of whom shall have sufficient
23 knowledge, experience or familiarity with agronomic practices,
24 nutrient management practices or odor management practices and
25 all of whom shall be residents of this Commonwealth.

26 (b) Compensation.--Board members shall not receive a salary
27 but shall be reimbursed for all reasonable and necessary
28 expenses incurred in the performance of their duties.

29 (c) Meetings.--A majority of the board shall constitute a
30 quorum. All actions of the board shall be by a majority vote.

1 The board shall meet upon the call of the commission, but not
2 less than semiannually, to carry out its duties under this
3 chapter. The board shall annually select a chairman and such
4 other officers as it deems appropriate.

5 (d) Duties.--The board shall review and comment on all
6 commission proposed regulations, the interim guidelines under
7 section 504(2) (relating to powers and duties of commission) and
8 the interim criteria under section 504(5) developed to implement
9 the provisions of this chapter. The commission shall have no
10 power to promulgate regulations, interim guidelines or interim
11 criteria under this chapter until receipt of written comments on
12 the proposed regulations, guidelines or criteria from the board
13 or until 60 days have expired from the date when the
14 regulations, guidelines or criteria were submitted by the
15 commission to the board for its comments. Existing regulations,
16 guidelines and criteria shall continue until modified,
17 superseded or repealed by the commission.

18 (e) Term.--The term of office for each board member shall be
19 three years except that the commission shall stagger the initial
20 terms of the charter members such that five shall serve for one
21 year, five shall serve for two years and six shall serve for
22 three years. Board members may be appointed to successive terms
23 at the discretion of the commission, provided that no member may
24 serve more than two three-year terms.]

25 Section 5. Title 27 is amended by adding a chapter to read:

26 CHAPTER 8

27 FARM ANIMAL ADVISORY BOARD

28 Sec.

29 801. Definitions.

30 802. Establishment of Farm Animal Advisory Board.

1 803. Powers of board.

2 804. Review of regulations.

3 § 801. Definitions.

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

7 "Agricultural operation." An enterprise that is engaged in
8 agriculture as defined in section 701 (relating to definitions).

9 "Animal operation." An agricultural operation in which
10 animals are raised or kept for commercial purposes.

11 "Board." The Farm Animal Advisory Board established under
12 section 802 (relating to establishment of Farm Animal Advisory
13 Board).

14 "CAO operator." The owner or operator of a concentrated
15 animal operation.

16 "Commission." The State Conservation Commission established
17 by the act of May 15, 1945 (P.L.547, No.217), known as the
18 Conservation District Law.

19 "Commission chair." The chairperson of the State
20 Conservation Commission.

21 "Concentrated animal feeding operation" or "CAFO." As
22 defined in 25 Pa. Code § 92a.2 (relating to definitions).

23 "Concentrated animal operation" or "CAO." An animal
24 operation that meets the criteria established under 3 Pa.C.S.
25 Ch. 5 (relating to nutrient management and odor management).

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

28 "General CAFO permittee." An owner or operator of a CAFO
29 which has received approval from the department to operate under
30 a National Pollutant Discharge Elimination System general

1 permit.

2 "Individual CAFO permittee." An owner or operator of a CAFO
3 that has been issued a National Pollutant Discharge Elimination
4 System individual permit by the department.

5 "Regulatory proposal." A proposed regulation or guideline,
6 proposed amendment to a regulation or guideline or proposed
7 change in interpretation of administrative, regulatory or
8 enforcement policy that intends to or will have the effect of
9 increasing requirements imposed or imposing more stringent
10 standards on animal operations.

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

13 "Voting members." Board members listed in section 802(b)(1),
14 (2) and (3).

15 § 802. Establishment of Farm Animal Advisory Board.

16 (a) Establishment.--The Farm Animal Advisory Board is
17 established within the department.

18 (b) Members.--The board shall be comprised of the following
19 members:

20 (1) Four individuals who own or operate an animal
21 operation, selected from nominations submitted by the
22 Pennsylvania Farm Bureau, Pennsylvania State Grange, PennAg
23 Industries Association and Pennsylvania Farmers Union. Each
24 organization under this paragraph shall submit a list of
25 nominations to the secretary, who shall appoint one member
26 from each organization's list.

27 (2) Five general CAFO permittees or CAO operators from
28 mature dairy cow, veal calf, cattle other than mature dairy
29 cows or veal calves, swine, horse, sheep or lamb, turkey,
30 laying hen or broiler, chicken other than laying hens, and

1 duck operations. All individuals appointed under this
2 paragraph shall be from distinct operations.

3 (3) Two individual CAFO permittees from distinct
4 operations listed under paragraph (2).

5 (4) Four individuals, who shall serve as ex officio,
6 nonvoting members:

7 (i) Two members of the faculty of The Pennsylvania
8 State University, one with expertise in agronomy and
9 plant science and one with expertise in animal science
10 and odor management, appointed annually by The
11 Pennsylvania State University.

12 (ii) One deputy secretary from the Department of
13 Agriculture and one deputy secretary from the department.
14 If a named deputy secretary is unable to serve on the
15 board, the deputy secretary shall be replaced by another
16 deputy secretary or by the secretary of the department
17 represented.

18 (c) Appointment and term.--The secretary, in consultation
19 with the Secretary of Agriculture, shall appoint the members to
20 serve under subsections (b) (1), (2) and (3). The terms of each
21 member shall be three years, but the secretary shall stagger the
22 initial terms of charter members under this subsection such that
23 three shall serve for one year, three shall serve for two years
24 and five shall serve for three years. Board members may be
25 appointed to successive terms.

26 (d) Compensation.--Board members shall not receive a salary
27 but shall be reimbursed for all reasonable and necessary
28 expenses incurred in the performance of their duties.

29 (e) Meetings.--A majority of the board shall constitute a
30 quorum. All actions of the board shall be by a majority vote of

1 the voting members. The board shall meet upon call of the
2 secretary, but not less than semiannually, to carry out the
3 board's duties under this chapter.

4 (f) Chairperson.--The board shall annually elect a board
5 chairperson from among the voting members.

6 (g) Staff.--The department shall furnish the board with
7 administrative support, including the development of board
8 bylaws consistent with this chapter and providing meeting space.

9 § 803. Powers of board.

10 The board shall have the following powers:

11 (1) To provide advice and expertise to the secretary and
12 the commission chair concerning animal operations.

13 (2) To provide advice and expertise to the commission
14 and the commission chair regarding nutrient management and
15 alternative uses of animal manure.

16 (3) To assist the secretary and the commission chair in
17 the development of regulatory standards and provide written
18 comments on new and existing interpretive, administrative and
19 enforcement policies and regulatory proposals affecting
20 animal operations in this Commonwealth, including
21 requirements, time lines and fee schedules for general and
22 individual National Pollution Discharge Elimination System
23 permits.

24 (4) To assist the secretary and the commission by
25 providing comments on regulatory proposals under section 804
26 (relating to review of regulations).

27 § 804. Review of regulations.

28 (a) Notice to board.--The department and commission shall
29 notify the board of the development of a regulatory proposal
30 that may affect animal operations as early as possible but not

1 less than 150 days prior to the date the proposal is formally
2 initiated by an agency.

3 (b) Meeting and consultation with board.--At the request of
4 the board, if the request is made within 30 days from the date
5 of receipt of the notice required by subsection (a), the
6 proposing agency shall meet and consult with the board in the
7 formulation of the regulatory proposal, and then the board may
8 provide the proposing agency with written comments.

9 (c) Inclusion of comments with proposed rulemaking.--The
10 proposing agency shall include any written comments of the board
11 received prior to the initiation of proposed rulemaking or
12 formal action taken on the regulatory proposal. For a regulatory
13 proposal for which proposed rulemaking is not required, the
14 proposing agency shall prepare and submit to the board a
15 document that responds to comments offered by the board,
16 including reasons why recommendations offered by the board in
17 its comments were not adopted.

18 (d) Exceptions.--The requirements of this section shall not
19 apply to regulations with mandatory statutory deadlines, court-
20 ordered regulations, emergency regulations, final regulations
21 adopted under section 204 of the act of July 31, 1968 (P.L.769,
22 No.240), referred to as the Commonwealth Documents Law, or
23 interim regulations otherwise authorized by statute. As soon as
24 possible, the department shall advise the board as to the
25 development of regulations under this subsection that would
26 regulate animal operations.

27 Section 6. This act shall take effect in 60 days.