

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 799 Session of 2017

INTRODUCED BY ALLOWAY, BARTOLOTTA, RESCHENTHALER, WHITE AND STEFANO, JUNE 23, 2017

AS AMENDED ON THIRD CONSIDERATION, JANUARY 30, 2018

AN ACT

1 ~~Establishing the Pennsylvania Clean Water Procurement Program; <--~~  
2 ~~providing for powers and duties of the State Conservation~~  
3 ~~Commission; and establishing the Watershed Improvement Fund.~~  
4 AMENDING TITLE 27 (ENVIRONMENTAL RESOURCES) OF THE PENNSYLVANIA <--  
5 CONSOLIDATED STATUTES, IN ENVIRONMENTAL STEWARDSHIP AND  
6 WATERSHED PROTECTION, FURTHER PROVIDING FOR LEGISLATIVE  
7 FINDINGS, FOR THE ENVIRONMENTAL STEWARDSHIP FUND AND FOR  
8 AGENCIES; ESTABLISHING THE PENNSYLVANIA CLEAN WATER  
9 PROCUREMENT PROGRAM AND THE WATERSHED INNOVATION AND  
10 IMPROVEMENT FUND.

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

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

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

16 ~~Section 2. Definitions.~~

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

20 ~~"Authority." The Pennsylvania Infrastructure Investment~~  
21 ~~Authority.~~

22 ~~"BMP." Pennsylvania Stormwater Best Management Practices~~

1 ~~Manual.~~

2 ~~"Commission." The State Conservation Commission.~~

3 ~~"Department." The Department of Environmental Protection of~~  
4 ~~the Commonwealth.~~

5 ~~"Entity." An entity that generates and sells certified~~  
6 ~~nutrient credits.~~

7 ~~"Fund." The Watershed Improvement Fund established under~~  
8 ~~section 5.~~

9 ~~"Local environmental benefits." Environmental benefits that~~  
10 ~~can be directly measured and quantified or modeled, including,~~  
11 ~~but not limited to, carbon reductions, pathogens, nutrients and~~  
12 ~~sediment to local freshwater and drinking water resources.~~

13 ~~"Nutrient pollutant." Nitrogen or phosphorous.~~

14 ~~"Permittee." A municipality or public storm water authority~~  
15 ~~that discharges or releases a TMDL nutrient to surface or ground~~  
16 ~~waters of this Commonwealth. The term does not include a person~~  
17 ~~engaged in agricultural production as defined in section 3 of~~  
18 ~~the act of June 30, 1981 (P.L.128, No.43), known as the~~  
19 ~~Agricultural Area Security Law.~~

20 ~~"Program." The Pennsylvania Clean Water Procurement Program~~  
21 ~~established under section 3.~~

22 ~~"Request for proposal" or "RFP." A request for proposal~~  
23 ~~which defines contract terms, future delivery dates and~~  
24 ~~technical specifications issued by the authority in conjunction~~  
25 ~~with the department to procure verified TMDL nutrient credits~~  
26 ~~from a certified load reduction activity that meets the~~  
27 ~~requirements of any applicable offset program in force regarding~~  
28 ~~the Chesapeake Bay.~~

29 ~~"Sediment." Soils or other erodible materials transported by~~  
30 ~~storm water as a product of erosion.~~

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

2 ~~"TMDL nutrient pollutant." A nutrient pollutant that has~~  
3 ~~been identified as a cause of nonattainment of water quality~~  
4 ~~standards and for which a TMDL has been developed to set~~  
5 ~~allowable annual loading targets.~~

6 ~~"Transfer payment." Payment required of each permittee under~~  
7 ~~section 4.~~

8 ~~"Unmet nutrient pollutant TMDL." Total outstanding Federal~~  
9 ~~requirements going forward three years.~~

10 ~~"Verified TMDL nutrient credit." A unit of TMDL nutrient~~  
11 ~~pollutant load reduction achieved through department~~  
12 ~~verification of a certified reduction activity based upon an~~  
13 ~~approved verification plan, including modeled BMP reductions~~  
14 ~~with approved uncertainty factors as defined by the United~~  
15 ~~States Environmental Protection Agency.~~

16 ~~"Water year." The 12 month period beginning October 1 of~~  
17 ~~each calendar year.~~

18 ~~Section 3. Pennsylvania Clean Water Procurement Program.~~

19 ~~(a) Establishment. The Pennsylvania Clean Water Procurement~~  
20 ~~Program is established and shall provide for the purchase of~~  
21 ~~verified TMDL nutrient credits from certified nutrient credit~~  
22 ~~generators through a competitive bidding process consistent with~~  
23 ~~62 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code) and~~  
24 ~~any other competitive process determined to be appropriate by~~  
25 ~~the department and the commission.~~

26 ~~(b) Powers and duties. The commission shall administer the~~  
27 ~~program and take any action necessary to effectuate the purposes~~  
28 ~~of this act.~~

29 ~~(c) Contracts with verified TMDL nutrient credit sellers.~~

30 ~~(1) The following shall apply:~~

1           ~~(i) The commission shall, beginning with the water~~  
2           ~~year in which this subsection takes effect and the~~  
3           ~~following two water years, publish a notice of the unmet~~  
4           ~~nutrient pollutant TMDL requirements in the Pennsylvania~~  
5           ~~Bulletin.~~

6           ~~(ii) No later than 60 days following publication of~~  
7           ~~the notice under subparagraph (i), the authority shall~~  
8           ~~issue, in consultation with the department, a request for~~  
9           ~~proposals from certified nutrient credit entities under~~  
10           ~~62 Pa.C.S. Pt. I for the supply of long term verified~~  
11           ~~TMDL nutrient credits for future delivery in order to~~  
12           ~~fulfill the unmet Federal Chesapeake Bay TMDL parameter~~  
13           ~~requirement for those water years included in the notice.~~

14           ~~(iii) An RFP under subparagraph (ii) shall be for a~~  
15           ~~minimum term of 10 years and shall allow sufficient time~~  
16           ~~for the delivery of verified reductions of TMDL~~  
17           ~~parameters consistent with the time frame necessary for~~  
18           ~~the permitting and development of public or private~~  
19           ~~credit generator facilities.~~

20           ~~(2) Factors to be considered as part of the criteria for~~  
21           ~~evaluation of responses received to an RFP and the weighted~~  
22           ~~percentage to be applied to each factor shall be included by~~  
23           ~~the commission in temporary regulations published under~~  
24           ~~section 6 and in final regulations and shall include:~~

25           ~~(i) Environmental and recreational benefits to this~~  
26           ~~Commonwealth and local communities resulting from the~~  
27           ~~TMDL nutrient pollutant reduction activities, including~~  
28           ~~verified and modeled green infrastructure benefits and~~  
29           ~~other TMDL parameter reductions to freshwater resources~~  
30           ~~of this Commonwealth and the applicable major watershed.~~

1           ~~(ii) Additional criteria determined relevant by the~~  
2           ~~commission.~~

3           ~~(3) The award granted for an RFP shall determine the~~  
4           ~~adjusted cost of verified TMDL nutrient credits less the~~  
5           ~~value of the local environmental benefit or green~~  
6           ~~infrastructure reductions.~~

7           ~~(4) The authority will allocate the cost consistent with~~  
8           ~~the revenue source adopted under this act based on each~~  
9           ~~permittee's percentage of the total nutrient reduction~~  
10           ~~mandate sufficient to cover the cost of the program.~~

11           ~~Section 4. Replacement of sector allocation with competitive~~  
12           ~~bidding program.~~

13           ~~(a) General rule. The department shall transfer the~~  
14           ~~nutrient reduction mandates of a permittee to a competitive~~  
15           ~~bidding program to enable all certified nutrient credit entities~~  
16           ~~that can generate verified TMDL nutrient credits to participate~~  
17           ~~in an RFP on a voluntary basis.~~

18           ~~(b) Transfer payment. In return for being absolved from the~~  
19           ~~TMDL nutrient reduction mandate, the aggregate number of~~  
20           ~~permittees may pay into the program \$50,000,000 annually for 10~~  
21           ~~years subject to subsection (c).~~

22           ~~(c) Payment amounts. Payment amounts under subsection (b)~~  
23           ~~shall be adjusted annually based on the cost determination made~~  
24           ~~under section 3(c)(2) and (4) as published in the Pennsylvania~~  
25           ~~Bulletin.~~

26           ~~(d) Payment in arrears. Consistent with 62 Pa.C.S. Pt. I~~  
27           ~~(relating to Commonwealth Procurement Code), Federal policy~~  
28           ~~recommendations regarding the procurement of results in lieu of~~  
29           ~~funding solutions and any applicable State statute, payments to~~  
30           ~~entities will be made after the department has verified the~~

1 ~~nutrient pollutant reductions. These verifications will be~~  
2 ~~performed monthly based upon required data submissions from~~  
3 ~~nutrient credit generators certified by the department.~~

4 ~~(e) Certainty. Upon transfer of the nutrient reduction~~  
5 ~~mandates under subsection (a), a permittee shall have no ongoing~~  
6 ~~liability for the mandated nutrient pollutant reductions.~~

7 ~~(f) Risk factor reduction. The department shall attempt to~~  
8 ~~reduce risk factors imbedded in legacy policy issues that cannot~~  
9 ~~be otherwise mitigated and do not represent environmental~~  
10 ~~backsliding by modifying policies consistent with the~~  
11 ~~requirements of private sector financing requirements.~~

12 ~~(g) Offset. Verified TMDL nutrient credits obtained under~~  
13 ~~subsection (a) shall be deemed by the department to satisfy~~  
14 ~~applicable wastewater and storm water TMDL nutrient pollutant~~  
15 ~~permitting requirements.~~

16 ~~Section 5. Watershed Improvement Fund.~~

17 ~~(a) Establishment. The Watershed Improvement Fund is~~  
18 ~~established within the authority as a special fund.~~

19 ~~(b) Deposits. The following shall be deposited into the~~  
20 ~~fund:~~

21 ~~(1) Any appropriation made to the fund.~~

22 ~~(2) Transfer payments from permittees in accordance with~~  
23 ~~section 4.~~

24 ~~(c) Use. The following shall apply:~~

25 ~~(1) Money in the fund shall be used by the commission~~  
26 ~~for the purchase of verified TMDL nutrient credits under~~  
27 ~~section 3.~~

28 ~~(2) Winning bids will offer 20% of total nutrient~~  
29 ~~reduction allotment to be available for participation for 30~~  
30 ~~days by small sources that did not participate in the bidding~~

1 ~~process so that a small producer who installs a BMP can~~  
2 ~~subscribe to sell their credits into this pool and receive~~  
3 ~~the winning bid price absent the need to participate in the~~  
4 ~~bidding process.~~

5 ~~Section 6. Regulations.~~

6 ~~The commission may promulgate regulations to carry out the~~  
7 ~~provisions of this act.~~

8 ~~Section 7. Effective date.~~

9 ~~This act shall take effect in 30 days.~~

10 SECTION 1. SECTION 6102 OF TITLE 27 OF THE PENNSYLVANIA  
11 CONSOLIDATED STATUTES IS AMENDED TO READ:

<--

12 § 6102. LEGISLATIVE FINDINGS.

13 THE GENERAL ASSEMBLY HEREBY DETERMINES, DECLARES AND FINDS AS  
14 FOLLOWS:

15 [(1) NINETY-SIX PERCENT OF THE WATER-QUALITY-IMPAIRED  
16 WATERSHEDS IN THIS COMMONWEALTH ARE POLLUTED BECAUSE OF  
17 NONPOINT SOURCES OF POLLUTION SUCH AS PAST MINING ACTIVITIES,  
18 URBAN AND AGRICULTURAL RUNOFF, ATMOSPHERIC DEPOSITION, ON-LOT  
19 SEWAGE SYSTEMS AND EARTHMOVING.

20 (2) THE COMMONWEALTH CONTINUES TO HAVE UNMET NEEDS IN  
21 THE AREA OF WATER AND SEWER INFRASTRUCTURE. NEW AND IMPROVED  
22 WATER SOURCES, TREATMENT AND DISTRIBUTION SYSTEMS ARE  
23 NECESSARY FOR PUBLIC DRINKING WATER SUPPLIES.

24 (3) THE COMMONWEALTH OWNS APPROXIMATELY 2.4 MILLION  
25 ACRES OF STATE PARK AND STATE FOREST LANDS AND MANY OF THESE  
26 LANDS SUFFER FROM PAST ENVIRONMENTAL PROBLEMS, INCLUDING  
27 UNRECLAIMED MINES, ACID MINE DRAINAGE AND ABANDONED OIL AND  
28 GAS WELLS.

29 (4) OPEN SPACE, GREENWAYS, RECREATIONAL TRAILS, RIVER  
30 CORRIDORS, FISH AND WILDLIFE HABITATS, PARKS AND RECREATION

1 AREAS AND SCENIC ENVIRONMENTS PROTECT THE ENVIRONMENT,  
2 CONSERVE NATURAL RESOURCES AND ADD VALUE TO COMMUNITIES.

3 (5) STATE PROGRAMS AND STATE FUNDING SHOULD PROVIDE  
4 MAXIMUM FLEXIBILITY FOR ELECTED COUNTY AND MUNICIPAL  
5 GOVERNMENTAL OFFICIALS TO IDENTIFY, PRIORITIZE AND ADDRESS  
6 LOCAL ENVIRONMENTAL CONCERNS, INCLUDING ODOR ABATEMENT  
7 PROBLEMS AT SEWAGE TREATMENT PLANTS.]

8 (1) AS STATED IN SECTION 27 OF ARTICLE I OF THE  
9 CONSTITUTION OF PENNSYLVANIA:

10 THE PEOPLE HAVE A RIGHT TO CLEAN AIR, PURE WATER AND  
11 TO THE PRESERVATION OF THE NATURAL, SCENIC, HISTORIC  
12 AND ESTHETIC VALUES OF THE ENVIRONMENT.

13 PENNSYLVANIA'S PUBLIC NATURAL RESOURCES ARE THE  
14 COMMON PROPERTY OF ALL THE PEOPLE, INCLUDING  
15 GENERATIONS YET TO COME. AS TRUSTEE OF THESE  
16 RESOURCES, THE COMMONWEALTH SHALL CONSERVE AND  
17 MAINTAIN THEM FOR THE BENEFIT OF ALL THE PEOPLE.

18 (2) THE COMMONWEALTH HAS AN OBLIGATION TO PROVIDE  
19 GREATER INVESTMENTS TO CONSERVE LAND AND WATER RESOURCES,  
20 RESTORE DAMAGED WATERWAYS AND LAND AND TO CREATE PROSPEROUS  
21 AND SUSTAINABLE COMMUNITIES.

22 (3) CLEAN WATER IS VITAL:

23 (I) TO THE CONTINUED ECONOMIC GROWTH OF THIS  
24 COMMONWEALTH;

25 (II) TO SUPPORT TOURISM, AGRICULTURE, INDUSTRY,  
26 POWER GENERATION AND RECREATION;

27 (III) FOR DRINKING WATER SUPPLIES; AND

28 (IV) TO PROTECT PUBLIC HEALTH AND AQUATIC LIFE.

29 (4) THIS COMMONWEALTH HAS OVER 19,000 MILES OF STREAMS  
30 AND RIVERS THAT DO NOT MEET FEDERAL AND STATE WATER QUALITY

1 STANDARDS TO PROTECT AQUATIC LIFE AND PROVIDE SWIMMABLE  
2 RIVERS AND DRINKABLE WATER SUPPLIES.

3 (5) NONPOINT SOURCES OF POLLUTION CONTINUE TO HAVE A  
4 NEGATIVE IMPACT ON THIS COMMONWEALTH'S ENVIRONMENT.

5 (6) THIS COMMONWEALTH CONTINUES TO HAVE WATER AND SEWER  
6 INFRASTRUCTURE NEEDS. NEW AND IMPROVED WATER SOURCES,  
7 TREATMENT AND DISTRIBUTION SYSTEMS ARE NECESSARY FOR PUBLIC  
8 DRINKING WATER SUPPLIES.

9 (7) AS NOTED IN THE COMMONWEALTH'S AWARD-WINNING 2014-  
10 2019 PENNSYLVANIA STATEWIDE COMPREHENSIVE OUTDOOR RECREATION  
11 PLAN, OUR 5,600 LOCAL PARKS AND RECREATION AREAS ARE THE MOST  
12 FREQUENTLY VISITED RECREATIONAL ASSETS IN THIS COMMONWEALTH,  
13 AND MOST NEED ADDITIONAL FUNDING TO ADDRESS AGING  
14 INFRASTRUCTURE, DEFERRED MAINTENANCE AND CAPACITY TO CARRY  
15 OUT PROGRAMS AND SERVICES.

16 (8) THE COMMONWEALTH OWNS APPROXIMATELY 2.5 MILLION  
17 ACRES OF STATE PARK AND STATE FOREST LANDS. OUR STATE PARK  
18 SYSTEM HAS ESTIMATED MANY OF THESE PARKS HAVE ENVIRONMENTAL  
19 PROJECTS AND INFRASTRUCTURE AND DEFERRED MAINTENANCE NEEDS,  
20 SUCH AS DAMS, ROADS, BRIDGES, WATER AND WASTEWATER TREATMENT  
21 FACILITIES, BUILDINGS AND BOAT LAUNCHES.

22 (9) CONSERVATION OF PUBLIC AND PRIVATE FOREST LANDS IS A  
23 COST-EFFECTIVE METHOD FOR PROTECTING WATER QUALITY. FOREST  
24 LANDS FUNCTION AS A RESERVE OF CLEAN WATER FOR THIS  
25 COMMONWEALTH, INCLUDING MUNICIPALITIES THAT RELY ON PUBLIC  
26 WATER SUPPLIES DRAWN FROM WATER RESOURCES ON PUBLIC AND  
27 PRIVATE FORESTED PROPERTIES. FOREST LANDS ACT AS GROUNDWATER  
28 RECHARGE AREAS, PROTECT SURFACE WATER QUALITY, REDUCE SOIL  
29 EROSION, ENHANCE FISH AND WILDLIFE HABITATS AND PROVIDE  
30 OPPORTUNITIES FOR FISHING, BOATING, HUNTING AND TRAPPING.

1           (10) ABANDONED MINES REMAIN ACROSS 189,000 ACRES IN 43  
2           COUNTIES AND ARE THE CAUSE OF MORE THAN 5,500 MILES OF  
3           BIOLOGICALLY COMPROMISED STREAMS.

4           (11) MORE THAN 2,000 WORKING FARMS REMAIN ON COUNTY  
5           WAITING LISTS TO BE PRESERVED FOR CONTINUED AGRICULTURAL USE.

6           (12) OPEN SPACE, GREENWAYS, RECREATIONAL TRAILS, RIVER  
7           CORRIDORS, FISH AND WILDLIFE HABITATS, PARKS AND RECREATION  
8           AREAS AND SCENIC AREAS PROTECT THE ENVIRONMENT, CONSERVE  
9           NATURAL RESOURCES AND ADD QUALITY OF LIFE VALUE THAT ATTRACTS  
10          JOBS, ARE ESSENTIAL TO PENNSYLVANIA'S OUTDOOR RECREATION AND  
11          TOURISM INDUSTRIES AND IMPROVE PUBLIC HEALTH.

12          (13) INVESTMENTS IN URBAN PARKS, TRAILS, GREENWAYS,  
13          RIVERFRONTS, GREEN INFRASTRUCTURE AND OTHER NATURAL ASSETS  
14          ARE INCREASINGLY UNDERSTOOD TO BE ADVANTAGEOUS TO LOCAL  
15          ECONOMIES, ATTRACTING AND RETAINING RESIDENTS AND PROVIDING  
16          OPPORTUNITIES TO CREATIVELY ADDRESS SIGNIFICANT CHALLENGES  
17          SUCH AS STORM WATER AND FLOODING.

18          (14) STATE PROGRAMS AND STATE FUNDING SHOULD PROVIDE  
19          OPPORTUNITY AND FLEXIBILITY FOR ELECTED COUNTY AND MUNICIPAL  
20          GOVERNMENT OFFICIALS AND AUTHORIZED ORGANIZATIONS TO  
21          IDENTIFY, PRIORITIZE AND ADDRESS LOCAL ENVIRONMENTAL  
22          CONCERNS.

23          SECTION 2. SECTION 6104(D) (6) OF TITLE 27 IS AMENDED AND THE  
24          SUBSECTION IS AMENDED BY ADDING A PARAGRAPH TO READ:

25          § 6104. FUND.

26                 \* \* \*

27                 (D) ALLOCATION.--THE MONEY APPROPRIATED IN SUBSECTION (C)  
28          SHALL BE ALLOCATED ANNUALLY AS FOLLOWS:

29                 \* \* \*

30                 (6) FOR FISCAL YEAR 2007-2008 [AND EACH YEAR THEREAFTER]

1 THROUGH 2016-2017, MONEYS IN THE FUND SHALL BE ALLOCATED IN  
2 ACCORDANCE WITH PARAGRAPH (2).

3 (7) FOR FISCAL YEAR 2017-2018 AND EACH FISCAL YEAR  
4 THEREAFTER, MONEYS IN THE FUND SHALL BE ALLOCATED AS FOLLOWS:

5 (I) TWENTY-EIGHT AND NINE-TENTHS PERCENT TO THE  
6 DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, WHICH  
7 SHALL USE THE ALLOCATION AS FOLLOWS:

8 (A) AT LEAST 50% FOR GRANTS FOR PROJECTS OF  
9 WHICH THE RECIPIENT IS A COUNTY OR OTHER  
10 MUNICIPALITY, COUNCIL OF GOVERNMENTS, CONSERVATION  
11 DISTRICT OR AUTHORIZED ORGANIZATION.

12 (B) AT LEAST 10% FOR LAND TRUST PROJECTS.

13 (C) AT LEAST 4.5% FOR THE HERITAGE AREAS  
14 PROGRAM.

15 (D) FOR FISCAL YEAR 2017-2018 THROUGH 2022-2023,  
16 AT LEAST 30% FOR PROJECTS AND PROGRAMS LOCATED WITHIN  
17 THE WATERSHED OF THE SUSQUEHANNA RIVER AND ITS  
18 TRIBUTARIES.

19 (II) THIRTY-EIGHT AND TWO-TENTHS PERCENT TO THE  
20 DEPARTMENT OF ENVIRONMENTAL PROTECTION WHICH FOR FISCAL  
21 YEAR 2017-2018 THROUGH 2022-2023, SHALL USE AT LEAST 40%  
22 OF THE ALLOCATION FOR PROJECTS AND PROGRAMS WITHIN THE  
23 WATERSHED OF THE SUSQUEHANNA RIVER AND ITS TRIBUTARIES.

24 (III) NINETEEN AND SEVEN-TENTHS PERCENT TO THE  
25 DEPARTMENT OF AGRICULTURE, WHICH SHALL USE THE ALLOCATION  
26 AS FOLLOWS:

27 (A) AT LEAST 12% FOR GRANTS TO AUTHORIZED  
28 ORGANIZATIONS TO PRESERVE FARMLAND.

29 (B) FOR FISCAL YEAR 2017-2018 THROUGH 2022-2023,  
30 AT LEAST 40% FOR PROJECTS AND PROGRAMS LOCATED WITHIN

1           THE WATERSHED OF THE SUSQUEHANNA RIVER AND ITS  
2           TRIBUTARIES.

3           (IV) FOUR AND SIX-TENTHS PERCENT TO THE AUTHORITY  
4           WHICH FOR FISCAL YEARS 2017-2018 THROUGH 2022-2023, SHALL  
5           USE AT LEAST 40% OF THE ALLOCATION FOR PROJECTS AND  
6           PROGRAMS LOCATED WITHIN THE WATERSHED OF THE SUSQUEHANNA  
7           RIVER AND ITS TRIBUTARIES.

8           (V) THREE AND SIX-TENTHS PERCENT TO THE DEPARTMENT  
9           OF COMMUNITY AND ECONOMIC DEVELOPMENT.

10          (VI) TWO AND SIX-TENTHS PERCENT TO THE PENNSYLVANIA  
11          FISH AND BOAT COMMISSION.

12          (VII) ONE AND THREE-TENTHS PERCENT TO THE  
13          PENNSYLVANIA GAME COMMISSION.

14          (VIII) ONE AND ONE-TENTH PERCENT TO THE PENNSYLVANIA  
15          HISTORICAL AND MUSEUM COMMISSION.

16          \* \* \*

17          SECTION 3. SECTION 6105 OF TITLE 27 IS AMENDED TO READ:

18          § 6105. AGENCIES.

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

20                  (1) THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
21          SHALL UTILIZE MONEY IT RECEIVES FROM THE FUND FOR THE  
22          FOLLOWING PURPOSES:

23                  (I) TO REHABILITATE, REPAIR AND DEVELOP STATE PARK  
24          AND STATE FOREST LANDS AND FACILITIES AND THE ACQUISITION  
25          OF [INTERIOR] LANDS [WITHIN] FOR STATE PARKS AND STATE  
26          FORESTS.

27                  (II) TO PROVIDE GRANTS TO A COUNTY OR OTHER  
28          MUNICIPALITY, COUNCIL OF GOVERNMENTS, CONSERVATION  
29          DISTRICTS AND AUTHORIZED ORGANIZATIONS FOR THE PURPOSE OF  
30          PLANNING, EDUCATION, ACQUISITION, DEVELOPMENT,

1 REHABILITATION AND REPAIR OF GREENWAYS, RECREATIONAL  
2 TRAILS, INCLUDING CONNECTIONS BETWEEN TRAILS, OPEN SPACE,  
3 NATURAL AREAS, RIVER CORRIDORS AND ACCESS TO RIVERFRONTS,  
4 WATERSHEDS, COMMUNITY [AND HERITAGE] PARKS AND RECREATION  
5 FACILITIES; COMMUNITY CONSERVATION AND BEAUTIFICATION  
6 PROJECTS; FOREST CONSERVATION[;], INCLUDING CONSERVATION  
7 OF FORESTED RIPARIAN BUFFERS; HERITAGE AREAS; AND OTHER  
8 CONSERVATION AND RECREATION PURPOSES. GRANTS UNDER THIS  
9 PARAGRAPH MAY NOT BE USED BY AN AUTHORIZED ORGANIZATION  
10 FOR LAND ACQUISITION UNLESS THE AUTHORIZED ORGANIZATION  
11 OBTAINS THE APPROVAL OF ALL COUNTIES IN WHICH THE LAND IS  
12 SITUATED. GRANT MONEYS MAY ALSO BE USED FOR THE  
13 ACQUISITION OF FARMLAND FOR THE PURPOSES SET FORTH IN  
14 THIS PARAGRAPH.

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

20 (IV) TO SUPPORT FOREST CONSERVATION EASEMENTS,  
21 INCLUDING FUNDING FOR A WORKING FOREST CONSERVATION  
22 EASEMENT INITIATIVE TO PRESERVE THE AVAILABILITY OF  
23 PRIVATELY OWNED FOREST LAND FOR SUSTAINABLE, COMMERCIAL  
24 TIMBERING AND OTHER FOREST-DEPENDENT ECONOMIC USES.

25 (V) TO PROVIDE FUNDING TO THE WILD RESOURCE  
26 CONSERVATION FUND FOR THE CONSERVATION OF NONGAME  
27 WILDLIFE AND NATIVE WILD FLORA AND THEIR HABITATS, TO  
28 CONDUCT AND SUPPORT RESEARCH TO PRESERVE THIS  
29 COMMONWEALTH'S BIODIVERSITY AND TO EDUCATE THE PUBLIC ON  
30 THE VALUE OF CONSERVING THESE SPECIES AND THEIR HABITATS.

1           (VI) TO PROVIDE FUNDING FOR THE HERITAGE AREAS  
2           PROGRAM ESTABLISHED UNDER ARTICLE XVI-J OF THE ACT OF  
3           APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL  
4           CODE.

5           (2) THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
6           MAY REQUIRE MATCHING FUNDS AS A CONDITION OF THE AWARD OF A  
7           GRANT UNDER THIS SUBSECTION.

8           (B) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.--

9           (1) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION SHALL  
10           UTILIZE MONEY IT RECEIVES FROM THE FUND FOR THE FOLLOWING  
11           PURPOSES:

12           (I) TO IMPLEMENT ACID MINE DRAINAGE ABATEMENT AND  
13           CLEANUP EFFORTS AND ABANDONED MINE LAND CLEANUP EFFORTS  
14           AND PLUG ABANDONED AND ORPHAN OIL AND GAS WELLS.

15           (II) TO PROVIDE FUNDING FOR TECHNICAL ASSISTANCE AND  
16           FINANCIAL INCENTIVES TO FACILITATE REMINING.

17           (III) TO PROVIDE GRANTS TO A COUNTY OR OTHER  
18           MUNICIPALITY, COUNCIL OF GOVERNMENTS, COUNTY CONSERVATION  
19           DISTRICTS, WATERSHED ORGANIZATIONS AND OTHER AUTHORIZED  
20           ORGANIZATIONS FOR ACID MINE DRAINAGE ABATEMENT AND  
21           CLEANUP, MINE AND MINE LAND CLEANUP EFFORTS AND WELL  
22           PLUGGING.

23           (IV) TO PROVIDE GRANTS AND TECHNICAL ASSISTANCE TO A  
24           COUNTY OR OTHER MUNICIPALITY, COUNCIL OF GOVERNMENTS,  
25           COUNTY CONSERVATION DISTRICTS, WATERSHED ORGANIZATIONS  
26           AND OTHER AUTHORIZED ORGANIZATIONS TO PLAN AND IMPLEMENT  
27           LOCAL WATERSHED-BASED CONSERVATION EFFORTS.

28           (V) TO IMPROVE WATER-QUALITY-IMPAIRED WATERSHEDS,  
29           INCLUDING THOSE POLLUTED BY PAST MINING ACTIVITIES,  
30           AGRICULTURAL AND URBAN RUNOFF, ATMOSPHERIC DEPOSITION,

1 ON-LOT SEWAGE SYSTEMS AND EARTHMOVING ACTIVITIES.

2 (VII) FOR WATERSHED PROTECTION.

3 (VIII) FOR THE REDUCTION OF NONPOINT SOURCE  
4 POLLUTION AND PROTECTION OF LOCAL DRINKING WATER SUPPLIES  
5 THROUGH GRANTS TO WATERSHED ORGANIZATIONS AND OTHER  
6 AUTHORIZED ORGANIZATIONS, THE CREATION OF FORESTED AND  
7 OTHER VEGETATIVE STREAM BUFFERS AND WATERSHED RESTORATION  
8 EFFORTS, INCLUDING, BUT NOT LIMITED TO, REDUCING RUNOFF  
9 FROM AGRICULTURE, CONSTRUCTION, WASTE DISPOSAL AND  
10 ABANDONED MINE AND MINE LAND SITES.

11 (IX) FOR GRANTS TO CHARACTERIZE, REMEDIATE OR  
12 ELIMINATE ENVIRONMENTAL HAZARDS AT ABANDONED INDUSTRIAL  
13 PROPERTIES OR BROWNFIELDS AND TO PROMOTE ECONOMIC  
14 DEVELOPMENT BY FACILITATING THE RETURN OF THESE  
15 PROPERTIES TO PRODUCTIVE USE.

16 (X) FOR NONSTRUCTURAL FLOODPLAIN MANAGEMENT AND  
17 MITIGATION MEASURES TO MINIMIZE FLOOD DAMAGE, RECLAIM AND  
18 RESTORE THE QUALITY OF FLOODPLAINS, REMOVE OBSTACLES AND  
19 IMPROVE THE NATURAL FUNCTIONS OF STREAM CHANNELS.

20 (XI) FOR GRANTS TO MUNICIPALITIES AND MUNICIPAL  
21 AUTHORITIES TO DESIGN AND BUILD PROJECTS AND IMPLEMENT  
22 BEST MANAGEMENT PRACTICES, WITH AN EMPHASIS ON GREEN  
23 INFRASTRUCTURE, IN ORDER TO IMPLEMENT MUNICIPAL SEPARATE  
24 STORM SEWER SYSTEM PLANS OR WHICH COUNT TOWARD THE  
25 REDUCTIONS IDENTIFIED IN THE PENNSYLVANIA INTEGRATED  
26 WATER QUALITY MONITORING AND ASSESSMENT REPORT, IMPLEMENT  
27 TOTAL MAXIMUM DAILY LOAD PLANS OR THE CHESAPEAKE BAY  
28 TOTAL MAXIMUM DAILY LOAD REQUIREMENTS.

29 (XII) FOR THE PENNSYLVANIA ENERGY HARVEST PROGRAM  
30 FOR THE PURPOSE OF PROVIDING GRANTS TO OWNER OF FARMS AND

1 SMALL BUSINESSES FOR RENEWABLE ENERGY SYSTEMS, INCLUDING,  
2 BUT NOT LIMITED TO, SOLAR, WIND AND METHANE DIGESTER  
3 TECHNOLOGIES.

4 (XIII) FOR FUNDING TO PARTICIPATING COUNTY  
5 CONSERVATION DISTRICTS TO ASSIST THE OWNERS OF FARMS AND  
6 OTHER PROPERTIES IN PROTECTING LOCAL WATER QUALITY AND  
7 IMPROVING THE SOIL, WATER AND AIR THROUGH THE  
8 INSTALLATION AND MAINTENANCE OF BEST MAINTENANCE  
9 PRACTICES.

10 (2) COUNTY CONSERVATION DISTRICTS MAY FURTHER DISTRIBUTE  
11 GRANTS RECEIVED UNDER THIS SECTION TO WATERSHED ORGANIZATIONS  
12 AND OTHER AUTHORIZED ORGANIZATIONS TO ASSIST IN THE  
13 IMPLEMENTATION OF THIS CHAPTER.

14 (3) THE DEPARTMENT OF ENVIRONMENTAL PROTECTION MAY  
15 REQUIRE MATCHING FUNDS AS A CONDITION OF THE AWARD OF A GRANT  
16 UNDER THIS SUBSECTION.

17 (4) FOR THE PERIOD COMMENCING WITH THE EFFECTIVE DATE OF  
18 THIS CHAPTER AND ENDING JUNE 30, 2004, THE DEPARTMENT OF  
19 ENVIRONMENTAL PROTECTION MAY UTILIZE UP TO 10% OF THE MONEY  
20 ALLOCATED ANNUALLY TO IT UNDER SECTION 6104(D) (RELATING TO  
21 FUND) TO PROVIDE GRANTS FOR SAFE DRINKING WATER PROJECTS AND  
22 WASTEWATER TREATMENT PROJECTS. GRANTS UNDER THIS PARAGRAPH  
23 SHALL BE MADE FOR THE SAME PURPOSES AND SHALL BE SUBJECT TO  
24 THE SAME LIMITATIONS AS GRANTS AUTHORIZED IN SECTION 6110.

25 (C) DEPARTMENT OF AGRICULTURE.--FUNDS ALLOCATED TO THE  
26 DEPARTMENT OF AGRICULTURE UNDER THIS CHAPTER SHALL BE [DEPOSITED  
27 IN THE] USED FOR THE FOLLOWING PURPOSES:

28 (1) FOR COUNTIES TO PRESERVE FARMLAND THROUGH THE  
29 AGRICULTURAL CONSERVATION EASEMENT PURCHASE FUND [AND ARE]  
30 SUBJECT TO THE PROVISIONS OF THE ACT OF JUNE 30, 1981

1 (P.L.128, NO.43), KNOWN AS THE AGRICULTURAL AREA SECURITY  
2 LAW.

3 (2) FOR GRANTS TO AUTHORIZED ORGANIZATIONS TO PRESERVE  
4 FARMLAND THROUGH THE ACQUISITION OF CONSERVATION EASEMENTS  
5 CONFORMING WITH SECTION 170(H) OF THE INTERNAL REVENUE CODE  
6 OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 170(H)).

7 (3) FOR DISBURSEMENT TO THE STATE CONSERVATION  
8 COMMISSION FOR THE COST OF TAX CREDITS FOR ELIGIBLE  
9 AGRICULTURAL OPERATIONS THAT IMPLEMENT THE BEST MANAGEMENT  
10 PRACTICES AND MEET THE REQUIREMENTS OF THE RESOURCE  
11 ENHANCEMENT AND PROTECTION TAX CREDIT UNDER ARTICLE XVII-E OF  
12 THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX  
13 REFORM CODE OF 1971.

14 (4) TO PROVIDE FUNDING AND TECHNICAL ASSISTANCE, IN  
15 COOPERATION WITH THE STATE CONSERVATION COMMISSION, TO ASSIST  
16 THE OWNERS OF FARMS AND OTHER PROPERTIES IN PROTECTING LOCAL  
17 WATER QUALITY AND IN IMPROVING THE QUALITY OF THE SOIL, WATER  
18 AND AIR THROUGH THE INSTALLATION AND MAINTENANCE OF BEST  
19 MANAGEMENT PRACTICES. FIFTY PERCENT OF THE FUNDING  
20 DISTRIBUTED UNDER THIS PARAGRAPH SHALL BE PROVIDED TO  
21 PARTICIPATING COUNTY CONSERVATION DISTRICTS.

22 (5) TO ENCOURAGE NEW FARMERS AND ASSURE THE VIABILITY OF  
23 PRESERVED FARMS BY CREATING FINANCIAL INCENTIVES AND  
24 ENHANCING ACCESS TO FARMLAND AND CAPITAL THROUGH A LOW-  
25 INTEREST LOAN PROGRAM ADMINISTERED BY THE DEPARTMENT OF  
26 AGRICULTURE.

27 (D) THE AUTHORITY.--THE AUTHORITY SHALL UTILIZE MONEY IT  
28 RECEIVES FROM THE FUND TO PROVIDE FINANCIAL ASSISTANCE IN THE  
29 FORM OF GRANTS AND MATCHING GRANTS FOR STORM WATER, WATER AND  
30 SEWER INFRASTRUCTURE PROJECTS, INCLUDING CONSTRUCTION OR

1 REHABILITATION OF COLLECTION AND CONVEYANCE SYSTEMS. THE  
2 AUTHORITY SHALL DEVELOP CRITERIA TO BE USED TO AWARD GRANTS  
3 UNDER THIS SUBSECTION. THE CRITERIA AND PROPOSED CHANGES THERETO  
4 SHALL BE SUBMITTED TO THE ENVIRONMENTAL RESOURCES AND ENERGY  
5 COMMITTEE OF THE SENATE AND THE ENVIRONMENTAL RESOURCES AND  
6 ENERGY COMMITTEE OF THE HOUSE OF REPRESENTATIVES FOR REVIEW AND  
7 COMMENT. THE COMMITTEES SHALL HAVE 60 DAYS TO SUBMIT COMMENTS TO  
8 THE AUTHORITY. CRITERIA SHALL BE REVIEWED BY THE AUTHORITY AND  
9 THE COMMITTEES AT LEAST ONCE EVERY THREE YEARS.

10 (D.1) DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.--

11 (1) THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
12 SHALL UTILIZE MONEY IT RECEIVES FROM THE FUND FOR THE  
13 FOLLOWING PURPOSES:

14 (I) FOR GRANTS TO FUND GRASSROOTS COMMUNITY AND  
15 REGIONAL PLANNING EFFORTS THAT SUPPORT WISE LAND USE  
16 DECISIONS BY BALANCING DEVELOPMENT NEEDS WITH  
17 CONSERVATION, RECREATION AND PRESERVATION NEEDS.

18 (II) FOR GRANTS TO SUPPORT THE GREENING OF URBAN  
19 COMMUNITIES, INCLUDING, BUT NOT LIMITED TO, BICYCLE AND  
20 PEDESTRIAN TRAILS, GREENWAYS, DOWNTOWN PARKS, COMMUNITY  
21 GARDENS, RETROFITS OF SIGNIFICANT COMMUNITY BUILDINGS FOR  
22 ENERGY EFFICIENCY AND REUSE, STREETScape IMPROVEMENTS AND  
23 RENEWABLE ENERGY PROJECTS. GRANTS MUST HAVE A  
24 DEMONSTRABLE ENVIRONMENTAL OR CONSERVATION BENEFIT. THE  
25 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT SHALL  
26 CONSULT WITH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
27 AND THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
28 ON RECOMMENDATIONS OF PROJECTS TO BE FUNDED.

29 (III) FOR THE ELM STREET PROGRAM CREATED BY THE ACT  
30 OF FEBRUARY 9, 2004 (P.L.61, NO.7), KNOWN AS THE ELM

1           STREET PROGRAM ACT.

2           (IV) FOR THE MAIN STREET PROGRAM CREATED BY THE ACT  
3           OF APRIL 23, 2002 (P.L.298, NO.39), KNOWN AS THE MAIN  
4           STREET ACT.

5           (2) THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT  
6           MAY REQUIRE MATCHING FUNDS AS A CONDITION OF THE AWARD OF A  
7           GRANT UNDER THIS SUBSECTION.

8           (D.2) PENNSYLVANIA FISH AND BOAT COMMISSION.--FUNDS  
9           ALLOCATED TO THE PENNSYLVANIA FISH AND BOAT COMMISSION UNDER  
10          THIS CHAPTER SHALL BE USED FOR THE FOLLOWING PURPOSES:

11           (1) FOR IMPROVEMENTS TO PUBLIC ACCESS AREAS OWNED BY THE  
12           COMMISSION OR GRANTS TO MUNICIPALITIES OR ORGANIZATIONS FOR  
13           THE PURPOSE OF IMPROVING PUBLIC ACCESS TO THE WATERS OF THIS  
14           COMMONWEALTH.

15           (2) FOR MAINTENANCE AND REHABILITATION OF DAMS LOCATED  
16           AT LAKES OWNED BY THE COMMISSION, INCLUDING THE INSTALLATION  
17           OF HABITAT ENHANCEMENTS AND IMPROVED PUBLIC ACCESS.

18           (3) FOR UPGRADES AND IMPROVEMENTS TO STATE FISH  
19           HATCHERIES TO MAINTAIN AND IMPROVE WATER QUALITY AND REDUCE  
20           OPERATING COSTS.

21           (4) FOR GRANTS TO ORGANIZATIONS THAT PARTICIPATE IN THE  
22           COOPERATIVE NURSERY PROGRAM.

23           (5) FOR PROJECTS TO IMPROVE FISH AND AQUATIC HABITAT,  
24           INCLUDING, BUT NOT LIMITED TO, INSTREAM FISH HABITAT,  
25           RIPARIAN BUFFERS, FISH PASSAGES AND THE REMOVAL OF SMALL  
26           DAMS.

27           (D.3) PENNSYLVANIA GAME COMMISSION.--FUNDS ALLOCATED TO THE  
28           PENNSYLVANIA GAME COMMISSION UNDER THIS CHAPTER SHALL BE USED  
29           FOR THE FOLLOWING PURPOSES:

30           (1) TO REHABILITATE WATER CONTROL STRUCTURES ON STATE

1 GAME LANDS IN ORDER TO IMPROVE WETLAND HABITAT FOR WATER FOWL  
2 AND OTHER WILDLIFE AND TO IMPROVE WATER QUALITY.

3 (2) FOR IMPROVEMENTS TO FACILITIES ON STATE GAME LANDS,  
4 INCLUDING, BUT NOT LIMITED TO, IMPROVED ROAD ACCESS, ENHANCED  
5 ACCESS FOR PERSONS WITH DISABILITIES AND OLDER PERSONS AND  
6 THE CONSTRUCTION OF TWO WILDLIFE CONSERVATION EDUCATION  
7 CENTERS.

8 (D.4) PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION.--FUNDS  
9 ALLOCATED TO THE PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION  
10 UNDER THIS CHAPTER SHALL BE USED FOR A HISTORIC PRESERVATION  
11 PROJECT GRANT PROGRAM FOR THE PLANNING AND DEVELOPMENT OF  
12 PUBLICLY ACCESSIBLE HISTORIC RESOURCES LISTED IN OR ELIGIBLE FOR  
13 LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES. THE GRANTS  
14 SHALL SUPPORT PROJECTS THAT IDENTIFY, PRESERVE, PROMOTE AND  
15 PROTECT HISTORIC AND ARCHAEOLOGICAL RESOURCES OF THIS  
16 COMMONWEALTH FOR BOTH THE BENEFIT OF THE PUBLIC AND THE  
17 REVITALIZATION OF COMMUNITIES.

18 (E) ADMINISTRATIVE EXPENSE LIMITATION.--THE DEPARTMENTS, THE  
19 COMMISSIONS AND THE AUTHORITY MAY NOT EXPEND MORE THAN [2.5%] 5%  
20 OF THE MONEYS RECEIVED FROM THE FUND ON ADMINISTRATIVE EXPENSES.  
21 THE DEPARTMENT OF ENVIRONMENTAL PROTECTION MAY NOT EXPEND MORE  
22 THAN AN AGGREGATE OF 2.5% OF THE MONEYS RECEIVED FROM THE FUND  
23 AND THE MONEYS DIRECTED TO THE HAZARDOUS SITES CLEANUP FUND  
24 PURSUANT TO SECTION 6104(D) (4) AND (5) ON ADMINISTRATIVE  
25 EXPENSES. GRANT RECIPIENTS THAT RECEIVE MONEYS FROM THE FUND FOR  
26 THE PURPOSES SET FORTH IN THIS SECTION MAY NOT EXPEND MORE THAN  
27 [5%] 7.5% OF THE MONEYS RECEIVED FROM THE FUND ON ADMINISTRATIVE  
28 EXPENSES.

29 (F) EXPENDITURE LIMITATION.--

30 (1) NO MONEYS MADE AVAILABLE THROUGH THE FUND SHALL BE

1 USED FOR ANY PURPOSE WHICH, DIRECTLY OR INDIRECTLY, PRECLUDES  
2 ACCESS TO OR USE OF ANY FORESTED LAND FOR THE PRACTICE OF  
3 SUSTAINABLE FORESTRY AND COMMERCIAL PRODUCTION OF TIMBER OR  
4 OTHER FOREST PRODUCTS.

5 (2) THIS SUBSECTION SHALL NOT APPLY TO FUNDS USED [BY  
6 THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES,  
7 COUNTIES OR MUNICIPALITIES] FOR THE PURCHASE OR IMPROVEMENT  
8 OF PARK LAND TO BE USED FOR PUBLIC RECREATION.

9 (G) REGULATIONS.--THE DEPARTMENTS, COMMISSIONS AND THE  
10 AUTHORITY MAY PROMULGATE REGULATIONS NECESSARY TO CARRY OUT THE  
11 PURPOSES OF THIS CHAPTER.

12 SECTION 4. TITLE 27 IS AMENDED BY ADDING A CHAPTER TO READ:

13 CHAPTER 67

14 PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM

15 SEC.

16 6701. SCOPE OF CHAPTER.

17 6702. DEFINITIONS.

18 6703. PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM.

19 6704. WATERSHED INNOVATION AND IMPROVEMENT FUND.

20 6705. REGULATIONS.

21 § 6701. SCOPE OF CHAPTER.

22 THIS CHAPTER RELATES TO THE PENNSYLVANIA CLEAN WATER

23 PROCUREMENT PROGRAM.

24 § 6702. DEFINITIONS.

25 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER

26 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE

27 CONTEXT CLEARLY INDICATES OTHERWISE:

28 "AUTHORITY." THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT

29 AUTHORITY.

30 "BMP." BEST MANAGEMENT PRACTICES MANUAL.

1 "CHESAPEAKE BAY TMDL." THE CHESAPEAKE BAY TOTAL DAILY  
2 MAXIMUM LOAD FOR NITROGEN, PHOSPHORUS AND SEDIMENT, ESTABLISHED  
3 BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ON DECEMBER  
4 29, 2010.

5 "COMMISSION." THE STATE CONSERVATION COMMISSION.

6 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF  
7 THE COMMONWEALTH.

8 "ENTITY." AN ENTITY THAT GENERATES AND SELLS CERTIFIED  
9 NUTRIENT CREDITS.

10 "FUND." THE WATERSHED INNOVATION AND IMPROVEMENT FUND  
11 ESTABLISHED UNDER THIS CHAPTER.

12 "MODELED BEST MANAGEMENT PRACTICE REDUCTIONS." REDUCTION IN  
13 BEST MANAGEMENT PRACTICES APPROVED BY THE CHESAPEAKE BAY PROGRAM  
14 WATERSHED MODEL AND THAT INCORPORATES AN UNCERTAINTY FACTOR OF  
15 THE ENVIRONMENTAL PROTECTION AGENCY.

16 "NONPOINT SOURCE POLLUTION REDUCTION BENEFITS." POLLUTION  
17 REDUCTIONS THAT CAN BE DIRECTLY MEASURED AND QUANTIFIED, OR  
18 MODELED INCORPORATING EPA UNCERTAINTY FACTORS, INCLUDING, BUT  
19 NOT LIMITED TO, NONPOINT SOURCE PHOSPHOROUS, NITROGEN AND  
20 SEDIMENT LOADS TO SURFACE WATER AND GROUNDWATER RESOURCES AND  
21 PATHOGENS.

22 "NUTRIENT POLLUTANT." NITROGEN OR PHOSPHOROUS.

23 "PROGRAM." THE PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM  
24 ESTABLISHED UNDER THIS CHAPTER.

25 "REQUEST FOR PROPOSAL" OR "RFP." A REQUEST FOR PROPOSAL THAT  
26 DEFINES CONTRACT TERMS, FUTURE DELIVERY DATES AND TECHNICAL  
27 SPECIFICATIONS AND IS ISSUED BY THE AUTHORITY, IN CONJUNCTION  
28 WITH THE DEPARTMENT, TO PROCURE VERIFIED TMDL NUTRIENT CREDITS  
29 FROM A LOAD REDUCTION ACTIVITY THAT MEETS THE REQUIREMENTS OF  
30 ANY APPLICABLE OFFSET PROGRAM IN FORCE REGARDING THE CHESAPEAKE

1 BAY.

2 "SEDIMENT." SOILS OR OTHER ERODIBLE MATERIALS TRANSPORTED BY  
3 STORM WATER AS A PRODUCT OF EROSION.

4 "TMDL." TOTAL MAXIMUM DAILY LOAD.

5 "VERIFIED TMDL NUTRIENT CREDIT." A UNIT OF NUTRIENT  
6 POLLUTANT LOAD REDUCTION.

7 "WATER YEAR." THE 12-MONTH PERIOD BEGINNING OCTOBER 1 OF  
8 EACH CALENDAR YEAR.

9 § 6703. PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM.

10 (A) ESTABLISHMENT.--THE PENNSYLVANIA CLEAN WATER PROCUREMENT  
11 PROGRAM IS ESTABLISHED AND SHALL PROVIDE FOR THE PURCHASE OF  
12 VERIFIED TMDL NUTRIENT CREDITS FROM NUTRIENT CREDIT GENERATORS  
13 THROUGH A COMPETITIVE BIDDING PROCESS CONSISTENT WITH 62 PA.C.S.  
14 PT. I (RELATING TO COMMONWEALTH PROCUREMENT CODE) AND ANY OTHER  
15 COMPETITIVE PROCESS DETERMINED TO BE APPROPRIATE BY THE  
16 COMMISSION, IN CONSULTATION WITH THE DEPARTMENT.

17 (B) POWERS AND DUTIES.--THE DEPARTMENT SHALL ADMINISTER THE  
18 PROGRAM AND TAKE ANY ACTION NECESSARY TO EFFECTUATE THE PURPOSES  
19 OF THIS CHAPTER.

20 (C) CONTRACTS WITH VERIFIED TMDL NUTRIENT CREDIT SELLERS.--

21 (1) THE DEPARTMENT SHALL, BEGINNING WITH THE WATER YEAR  
22 IN WHICH THIS SECTION TAKES EFFECT AND THE FOLLOWING WATER  
23 YEARS, PUBLISH A NOTICE OF THE AGGREGATE UNMET CHESAPEAKE BAY  
24 TMDL NUTRIENT POLLUTANT REDUCTION REQUIREMENTS IN THE  
25 PENNSYLVANIA BULLETIN.

26 (2) SUBJECT TO THE AVAILABILITY OF FUNDING TO PURCHASE  
27 CREDITS, NO LATER THAN 60 DAYS FOLLOWING PUBLICATION OF THE  
28 NOTICE UNDER PARAGRAPH (1), THE AUTHORITY SHALL ISSUE, IN  
29 CONSULTATION WITH THE DEPARTMENT, A REQUEST FOR PROPOSALS  
30 FROM VERIFIED NUTRIENT CREDIT ENTITIES UNDER 62 PA.C.S. PT. I

1 FOR THE SUPPLY OF LONG-TERM VERIFIED TMDL NUTRIENT CREDITS  
2 FOR FUTURE DELIVERY IN ORDER TO FULFILL THE UNMET CHESAPEAKE  
3 BAY TMDL NUTRIENT POLLUTANT REDUCTION REQUIREMENT FOR THOSE  
4 WATER YEARS INCLUDED IN THE NOTICE.

5 (3) THE RFP UNDER PARAGRAPH (2) SHALL BE FOR A MINIMUM  
6 TERM OF 10 YEARS AND SHALL ALLOW SUFFICIENT TIME FOR THE  
7 DELIVERY OF VERIFIED REDUCTIONS OF TMDL PARAMETERS CONSISTENT  
8 WITH THE TIME FRAME NECESSARY FOR THE PERMITTING AND  
9 DEVELOPMENT OF PUBLIC OR PRIVATE CREDIT GENERATOR FACILITIES.

10 (4) FACTORS TO BE CONSIDERED AS PART OF THE CRITERIA FOR  
11 EVALUATION OF RESPONSES RECEIVED TO THE RFP AND THE WEIGHTED  
12 PERCENTAGE TO BE APPLIED TO EACH FACTOR SHALL BE INCLUDED BY  
13 THE COMMISSION IN TEMPORARY REGULATIONS PUBLISHED UNDER  
14 SECTION 6705 (RELATING TO REGULATIONS) AND IN FINAL  
15 REGULATIONS AND SHALL INCLUDE:

16 (I) ENVIRONMENTAL AND RECREATIONAL BENEFITS TO THIS  
17 COMMONWEALTH AND LOCAL COMMUNITIES RESULTING FROM THE  
18 TMDL NUTRIENT POLLUTANT REDUCTION ACTIVITIES, INCLUDING  
19 VERIFIED AND MODELED GREEN INFRASTRUCTURE BENEFITS AND  
20 OTHER TMDL PARAMETER REDUCTIONS TO THE SURFACE WATER AND  
21 GROUNDWATER RESOURCES OF THIS COMMONWEALTH.

22 (II) ADDITIONAL CRITERIA DETERMINED RELEVANT BY THE  
23 COMMISSION AND THE DEPARTMENT.

24 (5) THE AWARD GRANTED FOR THE RFP SHALL DETERMINE THE  
25 ADJUSTED COST OF VERIFIED TMDL NUTRIENT CREDITS LESS THE  
26 VALUE OF THE LOCAL ENVIRONMENTAL BENEFIT OR GREEN  
27 INFRASTRUCTURE REDUCTIONS.

28 (6) CONSISTENT WITH 62 PA.C.S. PT. I (RELATING TO  
29 COMMONWEALTH PROCUREMENT CODE), FEDERAL POLICY  
30 RECOMMENDATIONS REGARDING THE PROCUREMENT OF RESULTS IN LIEU

1 OF FUNDING SOLUTIONS AND ANY APPLICABLE STATE STATUTE,  
2 PAYMENTS TO ENTITIES MAY OCCUR ONLY AFTER THE DEPARTMENT HAS  
3 VERIFIED THE NUTRIENT POLLUTANT REDUCTIONS. THE VERIFICATIONS  
4 SHALL BE PERFORMED MONTHLY BASED UPON REQUIRED DATA  
5 SUBMISSIONS FROM NUTRIENT CREDIT GENERATORS CERTIFIED BY THE  
6 DEPARTMENT.

7 § 6704. WATERSHED INNOVATION AND IMPROVEMENT FUND.

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

10 (B) SOURCE OF FUNDING.--THE FUND SHALL CONSIST OF  
11 APPROPRIATIONS MADE TO THE FUND AND INTEREST EARNED ON MONEY OF  
12 THE FUND.

13 (C) USE.--MONEY IN THE FUND SHALL BE USED BY THE AUTHORITY  
14 FOR THE PURCHASE OF VERIFIED TMDL NUTRIENT CREDITS UNDER SECTION  
15 6703 (RELATING TO PENNSYLVANIA CLEAN WATER PROCUREMENT PROGRAM),  
16 PROVIDED THAT WINNING BIDS MUST OFFER 20% OF TOTAL NUTRIENT  
17 REDUCTION ALLOTMENT TO BE AVAILABLE FOR PARTICIPATION FOR 30  
18 DAYS BY MODELED BMP'S TO SELL THEIR CREDITS INTO THIS POOL AND  
19 RECEIVE THE WINNING BID PRICE ABSENT THE NEED TO PARTICIPATE IN  
20 THE BIDDING PROCESS.

21 § 6705. REGULATIONS.

22 THE DEPARTMENT MAY PROMULGATE REGULATIONS TO CARRY OUT THE  
23 PROVISIONS OF THIS CHAPTER.

24 SECTION 5. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.