

LAWS OF DELAWARE
VOLUME 83
CHAPTER 480
151st GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 261

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO NUTRIENT MANAGEMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 22, Title 3 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2222. Composition; appointment; qualifications and term; compensation; vacancies; civil liability.

~~(a) The Delaware Nutrient Management Commission shall consist of 15 voting members and 4 ex officio members. The 15 voting members shall consist of the Director of the Division of Watershed Stewardship of the Delaware Department of Natural Resources and Environmental Control or his/her designee, 4 members appointed by the Governor, 3 members appointed by the President Pro Tempore of the Senate, 2 members appointed by the Senate Minority Leader, 3 members appointed by the Speaker of the House, and 2 members appointed by the House Minority Leader.~~

~~(b) The 14 appointed members of the Commission shall be residents of the State, shall have participated in the industry or organization they represent for at least 5 years, and shall consist of 7 full-time farmers (2 from New Castle County, 2 from Kent County, and 3 from Sussex County), 1 commercial/agricultural nutrient applicator, 1 member of the commercial nursery industry, 1 golf course/lawn care industry representative, 2 members from 1 or more community-based environmental advocacy groups, 1 nutrient consultant, and 1 public citizen. The 7 full-time farmers shall further consist of:~~

- ~~(1) One dairy farmer;~~
- ~~(2) One swine producer;~~
- ~~(3) One equine operation owner;~~
- ~~(4) Two poultry farmers; and~~
- ~~(5) Two row-crop farmers (1 grain and 1 vegetable).~~

~~(c) The Governor shall appoint 1 farmer from Sussex County, the representatives from the commercial nursery industry, the golf course/lawn care industry and the public citizen. The Senate shall appoint 3 farmers (1 from each county), the nutrient consultant and 1 member from a community-based environmental group. The House shall appoint 3 farmers (1 from each county), the commercial applicator and 1 member from a community-based environmental advocacy group.~~

~~(d) The Governor shall appoint the Chairperson of the Commission from the 7 full-time farmers whose duty it will be to call, adjourn and preside over all Commission meetings.~~

~~(e) The term of office of each appointed member of the Commission shall be 3 years from the 15th day of March in the year of the member's appointment and until the member's successor shall qualify.~~

~~(f) Each appointed member of the Commission shall receive compensation of \$100.00 per meeting. Commission members shall be compensated for no more than 16 meetings per year. Commission members shall be entitled to be paid reasonable expenses for traveling to and from any Commission or Commission sub-committee meeting or conference attended on official business for the Commission.~~

~~(g) Vacancies in any appointed position on the Commission for any reason other than the expiration of term of office shall be filled by the previous appointing authority for the unexpired term of any Commissioner. In each year where there are 5 appointed positions available, the Governor, the President Pro Tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House and the Minority Leader of the House shall each appoint 1 Commissioner to the Commission. In each year where there are 4 appointed positions available, the Governor shall appoint 2 Commissioners and the Speaker of the House and the President Pro Tempore of the Senate shall each appoint 1 Commissioner to the Commission.~~

~~(h) All appointed Commissioners shall remain eligible for reappointment upon the expiration of their term with the exception of the public citizen, who may serve only 1 term unless rendered ineligible for reappointment by the provisions of this Code or Commission regulations. The public citizen appointment shall be alternated between the 3 counties.~~

~~(i) Any appointed member of the Commission who misses 3 consecutive meetings or is otherwise recommended for removal by the Commission may be removed by the appointing authority.~~

~~(j) Appointed Commissioners shall be appointed to their 1st terms in the following manner:~~

~~(1) Five Commissioners shall be appointed for a term of 1 year;~~

~~(2) Five Commissioners shall be appointed for a term of 2 years; and~~

~~(3) Four Commissioners shall be appointed for a term of 3 years.~~

~~Thereafter, each appointed Commissioner shall be appointed for a term of 3 years.~~

~~(k) The Nutrient Management Program Administrator (NMPA) shall be a full-time, exempt state position selected by the Commission and created within the Department of Agriculture who shall act as the administrator of and be responsible for the operation of the State Nutrient Management Program.~~

~~(l) The 4 ex officio members of the Commission shall include the Secretary of the Department Agriculture, the Secretary of the Department of Natural Resources and Environmental Control, and the Secretary of the Department of Health and Social Services, or their respective designees, and the Nutrient Management Program Administrator.~~

~~(m) In any civil action against the Commission or any of its members, civil liability shall be determined pursuant to the provisions of Chapter 40 of Title 10.~~

(a) The Delaware Nutrient Management Commission consists of 19 members as follows:

(1) Five members appointed by the Governor, 1 each representing the following categories, with at least 1 from each county:

a. A dairy, swine, beef, or small ruminant farmer.

b. An equine operation owner.

- c. A poultry farmer.
- d. A grain row crop farmer.
- e. A vegetable row crop farmer.

(2) Three members appointed by the Governor, 1 each representing the following categories:

- a. A representative of a commercial/agriculture nutrient applicator.
- b. A representative of a golf course/lawn care industry.
- c. A public citizen that does represent any of the other categories.

(3) Two members appointed by the President Pro Tempore of the Senate, representing each of following categories:

- a. A representative of a community-based environmental advocacy group.
- b. A poultry farmer.

(4) Two members appointed by the Speaker of the House, representing each of following categories:

- a. A representative of a community-based environmental advocacy group.
- b. A dairy, swine, beef, or small ruminant farmer.

(5) One member who is a nutrient consultant appointed by the Senate Minority Leader.

(6) One member who is a representative of the commercial nursery industry appointed by the House Minority Leader.

(7) The Director of the Division of Watershed Stewardship of DNREC, or the Director's designee.

(8) Four ex officio non-voting members, or their designee:

- a. The Secretary of the Department of Agriculture.
- b. The Secretary of the Department of Natural Resources and Environmental Control (DNREC).
- c. The Secretary of the Department of Health and Social Services.
- d. The Nutrient Management Commission Program Administrator.

(b) The Commission members shall elect a Chairperson and Vice Chairperson. The Chairperson must be a member appointed under paragraph (a)(1) of this section. Each officer shall serve for 4 years and may not serve more than 2 consecutive terms. In the event of a vacancy in 1 of the offices, a replacement must be elected within 60 days.

(c) All appointed members shall serve a term of 4 years.

(d) Any appointed member of the Commission who misses 3 consecutive meetings or is otherwise recommended for removal by the Commission may be removed by the appointing authority.

(e) Each appointed member of the Commission shall receive compensation of \$100.00 per meeting. Commission members may be compensated for no more than 16 meetings per year. Commission members are

entitled to be paid reasonable expenses for traveling to and from any Commission or Commission sub-committee meeting or conference attended on official business for the Commission.

(f) The Nutrient Management Program Administrator (NMPA) is a full-time, exempt state position selected by the Commission and created within the Department of Agriculture. The NMPA is the administrator of, and is responsible for, the operation of the State Nutrient Management Program.

(g) In any civil action against the Commission or any of its members, civil liability is determined pursuant to the provisions of Chapter 40 of Title 10.

Approved October 21, 2022