

# Regulatory Analysis Form

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

(1) Agency: Agriculture

(2) I.D. Number (Governor's Office Use)

2-147

IRRC Number: 2473

(3) Short Title

*Revision to the Nutrient Management Certification Program regulations.*

(4) PA Code Cite

*7 PA code; Chapter 130b*

(5) Agency Contacts & Telephone Numbers

Primary Contact: *Johan E. Berger, Bureau of Plant Industry, (717) 772-4189*

Secondary Contact: *Michael S. Aucoin, Bureau of Plant Industry, (717) 772-5218*

(6) Type of Rulemaking (check one)

**Proposed Rulemaking**

Final Order Adopting Regulation

Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

**No**

Yes: By the Attorney General

Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

*These revisions are provided to update and correct inconsistencies in the certification program developed pursuant to section 7(a) of the Nutrient Management Act (3 P.S. §1701(a)). This revision will increase the Department's ability to modify the certification program activities to parallel developments within the Nutrient Management Act Program established by the State Conservation Commission under section 4 of the Nutrient Management Act (3 P.S. §1704).*

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Section 7(a) of the Nutrient Management Act, (3 P.S. §1707(a)).

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

*Yes. This regulation is required by the Pennsylvania Nutrient Management Act (3 P.S. §1707(a)).*

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

*The implementation of these revisions to the current Nutrient Management Certification Program regulation is necessary to ensure that the certification program requirements for a participant remains consistent with provisions and criteria addressed under the Nutrient Management Act regulations (25 Pa. Code, Chapter 83 subchapter D) and its subsequent revisions.*

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

*There are no public health, safety, and environmental or general welfare risks associated with non-regulation related to the Nutrient Management Certification program.*

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

*Approximately 300 current certified nutrient management specialist and an additional 150 persons seeking certification in the Commercial and Public sector will benefit from this proposal by the establishment of improved and new criteria that will enhance educational and certification requirements ensuring nutrient management specialists are competent in nutrient management plan development and review. These revisions will assist certified specialists to comply with changing requirements promulgated under the Nutrient Management Regulations (25 PA Code, Chapter 83, Subchapter D) and give further credibility to their roles in the Nutrient Management Act Program. These revisions will strengthen the Department's administrative effort to provide sustainable and comprehensive certification program standards consistent with industry standards and requirements set forth under section 7(a) of the Nutrient Management Act (3 P.S. §1707(a)).*

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

*These proposed revisions would not adversely affect persons classified as a certified nutrient management specialist or those persons seeking similar status. This regulation is not intended to induce significant changes in the certification program by imposing stricter standards. This regulation is intended to enhance current certification standards by clarifying program criteria inconsistencies and enhance certification category options for persons seeking certification status.*

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

*This proposal will affect the current 300 certified Commercial, Individual and Public nutrient management specialists and approximately 100 – 150 additional persons seeking certification status under the program over the next five years.*

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

*The proposed revision will be provided to the Nutrient Management Advisory Board and the State Conservation Commission for review and comment. Public input will be solicited during the rule-making and revision process.*

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures, which may be required.

*A revised fee schedule, as proposed, is anticipated to result in an increase of approximately 50% in triennial licensure fees for certified Individual nutrient management specialist. Increases in fees will be determined by the Department as a result of anticipated increases in administrative costs to the program. There are no anticipated increases in cost to certified Commercial nutrient management specialists.*

## Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures, which may be required.

*A revised fee scheduled associated with the current Public certification category and new proposed certification category is expected to result in an increase of approximately 150% in triennial fees for licensure of certified specialist in the Public sector, primarily county conservation districts. Conservation districts are local government entities delegated the implementation and administration of the Nutrient Management Act program (3 P.S. §§1701 – 1719).*

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures, which may be required.

*There will be no additional costs to the state in the implementation of the revised regulations.*

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year (2004-05)	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>	NA	NA	NA	NA	NA	NA
<b>Local Government</b>	NA	NA	NA	NA	NA	NA
<b>State Government</b>	NA	NA	NA	NA	NA	NA
<b>Total Savings</b>	NA	NA	NA	NA	NA	NA
<b>COSTS:</b>						
<b>Regulated Community</b>	2,730	3,200	4,000	4,700	4,000	4,700
<b>Local Government</b>	640	1,300	1,600	1,800	1,600	1,800
<b>State Government</b>	0	0	0	0	0	0
<b>Total Costs</b>	3,370	4,500	5,600	6,500	5,600	6,500
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>	NA	NA	NA	NA	NA	NA
<b>Local Government</b>	NA	NA	NA	NA	NA	NA
<b>State Government</b>	NA	NA	NA	NA	NA	NA
<b>Total Revenue Losses</b>		NA	NA	NA	NA	NA

(20a) Explain how the cost estimates listed above were derived.

**Regulated Community:** *The existing 225 certified specialist (Individual and Commercial category) are required to renew their license on a triennial basis. The 'Individual' certified community is anticipated to incur an increase cost in re-certification fees of approximately 5 dollars per specialist for a triennial license and certificate. There is no anticipated increase in license and certificate fees for 'Commercial' certified specialists. There will be an estimated 55 to 60 specialists seeking certification through the program over the next five-year period effected by these regulation revisions. Costs for license and certificate will be approximately \$15 per Individual specialist and \$100 per Commercial specialist.*

**Local Government:** *The existing 65 certified 'Public' specialists are required to renew their licenses on a triennial basis. As employees of local government (county employees), the employer of these 'Public' specialists could anticipate to incur an increase in re-certification fees of approximately \$15 per specialist. There will be an estimated 50 additional Public specialists seeking certification under the program over the next five-year period effected by these regulations revisions. Costs for a triennial license and certificate will be approximately \$25 for Public specialists.*

**State Government:**

*There will be no additional costs to the state in the implementation of the revised regulations.*

(20a) Continued

*State Government: Approximately \$6,000 for operational costs and \$130,000 to support program and clerical staff to address increased program administration in the current fiscal year (FY 2004-05). Operational, clerical and program staff support costs for subsequent fiscal periods may be derived from an annual "cost to carry" increase of approximately 3.0% to maintain personnel and materials for program administration and implementation. Approximately \$400 annually for certification and re-certification licensure fees for state employees required to seek and maintain certification as part of employment.*

### Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Program Administration (PDA)	\$262,000	\$270,000	\$278,000	\$284,000

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

*Certification of persons to develop and review nutrient management plans is a mandated provision of the Nutrient Management Act (3 P.S. §1701(a)). Persons seeking certification, as a nutrient management specialist must be competent in the criteria and provisions established under the Nutrient Management Act (3 P.S. §1701- 1719) in order to be licensed to develop and review nutrient management plans.*

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

These regulations are required under section 7(a) of the Nutrient Management Act (3 P.S. §1707(a)). The proposed revisions clarify and enhance the education and certification efforts that are key components to the Nutrient Management Act Program. Land grant and other education institutions have developed and implemented education efforts in the agricultural community. However, the proposed revisions are necessary to insure that the educational efforts of the program maintain conformity with Nutrient Management Act Program changes under 25 Pa. Code, Chapter 83 Subchapter D, changes to industry educational standards and advancement in nutrient management technologies.

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

*There are no provisions of the proposal that are more stringent than federal standards since there is no counterpart at the federal level. The most comparable regulations, program rules or provisions are those established by the neighboring jurisdictions of Delaware, Maryland and Virginia and the International Certified Crop Advisors program. Criteria for these programs are similar to that of the current program regulations in order to provide reciprocal certification qualifications between Pennsylvania and its neighboring jurisdictions.*

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

*Certification programs for nutrient management specialists are very similar in the neighboring jurisdictions of Delaware, Maryland and Virginia. Each program has developed similar criteria related to nutrient management planning and educational efforts based on national nutrient management program requirements developed under the direction of the Environmental Protection Agency. These jurisdictions, with the exception of Delaware, currently hold a reciprocity agreement with the Pennsylvania program that allows specialists to satisfy competency requirements in their respective jurisdictions and complete complimentary or specific requirements in the Pennsylvania program to achieve certification status. The proposed revisions will not adversely affect those related criteria but enhance the flexibility of the criteria to maintain reciprocal arrangements with other jurisdictions.*

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

*Yes. The proposal is a revision to the current Nutrient Management Certification regulations found in 7 PA Code; Chapter 130(b). This revision will affect certain provisions of the current regulations.*

*The State Conservation Commission has promulgated regulations (25 Pa. Code, Chapter 83 Subchapter D) under the Nutrient Management Act (3 P.S. §§1701-1719) of which those criteria and provisions are implemented by those nutrient management specialists certified under the Nutrient Management Certification program.*

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

*The Department does not anticipate scheduling/conducting hearings or informational meetings related to the publication of the proposed regulation revisions.*

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports, which will be required as a result of implementation, if available.

*The current regulation has minimal reporting requirements of the regulated community. Existing reporting and record keeping requirements will not change as a result of the proposed revisions.*

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

*The revisions recognize the need to accommodate additional duties and responsibilities of Public specialists implementing the Nutrient Management Act Program in the counties of the Commonwealth. These provisions provide certification flexibility to local government program staff implementing the Nutrient Management Act program. The regulations are being revised to give authority to Public specialists to develop nutrient management plans in addition to currently authorized review activities. This will ease the administration of and add flexibility to the Nutrient Management Act program implementation at the county level.*

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

*The effective date of the regulation is expected to follow within 2 to 3 months after the publication of the final regulations. Licenses required under the current regulations and proposed revised regulations will not be affected by the effective date. Specialists will have a 3-year effective date from the date of completion of certification requirements described in the regulations.*

(31) Provide the schedule for continual review of the regulation.

*The Department will continually assess this regulation and make revisions when needed to address valid administrative concerns.*



**FACE SHEET  
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WITH THE LEGISLATIVE REFERENCE  
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LEGISLATIVE REFERENCE BUREAU  
REVIEW COMMISSION

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Copy below is hereby approved as to form and legality.  
Attorney General

By: *Amy M. Elliott*  
(Deputy Attorney General)

MAR 18 2005

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached.

Copy below is hereby certified to be true and  
correct copy of a document issued, prescribed or  
promulgated by:

Department of Agriculture

DOCUMENT/FISCAL NOTE NO. 2-147

DATE OF ADOPTION 11-10-04

BY *Dawayk*

TITLE Secretary

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality  
Executive or Independent Agencies

BY: *[Signature]*  
2.23.05

DATE OF APPROVAL

**EXEC.** (Deputy General Counsel)  
(Chief Counsel - Independent Agency)  
(Strike inapplicable title)

Check if applicable. No Attorney General Approval or  
objection within 30 days after submission.

**NOTICE OF PROPOSED RULEMAKING**

**Department of Agriculture  
Bureau of Plant Industry  
7 Pa. Code Chapter 130b  
Nutrient Management Certification**

**TITLE 7 – Agriculture**  
**DEPARTMENT OF AGRICULTURE**  
**BUREAU OF PLANT INDUSTRY**  
**[7 PA. CODE CH 130b.]**  
**NUTRIENT MANAGEMENT CERTIFICATION**

The Department of Agriculture ("Department"), under the specific authority conferred by section 1707(a) and (b) of the Act of May 20, 1993, P.L. 12, No. 6, known as the Nutrient Management Act (Act)(3 P.S. §§ 1701-1718), hereby proposes to amend the Department's regulations at Title 7 of the *Pennsylvania Code*, Chapter 130b. (7 Pa.Code §§ 130b.1.-130b.51.), which pertains to Nutrient Management Certification. Section 1707 of the Act, charges the Pennsylvania Department of Agriculture (Department) in consultation with the State Conservation Commission (Commission) with the duty of, "...establishing a nutrient management certification program for the purpose of certifying individuals who have demonstrated the competency necessary to develop nutrient management plans." (3 P.S. § 1707(a)) The Department was required to promulgate nutrient management certification regulations to, "...establish such fees and terms and conditions of certification as it deems appropriate and establish individual, commercial and public certification categories, including a certification category for farmers to develop and certify nutrient management plans for their own agricultural operations."(3 P.S. § 1707(a)) The current regulations, at Title 7 of the *Pennsylvania Code*, Chapter 130b (7 Pa. Code §§ 130b.1-130b.51), set forth those criteria and establish criteria for interim certification as required by section 7(b) of the Act (3 P.S. § 1707(b)).

The amendments to the regulations are required to bring the Nutrient Management Certification Program (NMCP), created by the current regulations, into compliance with changes in the industry and pending changes to the Nutrient

Management regulations at Title 25 of the *Pennsylvania Code*, Chapter 83 (25 Pa. Code §§ 83.201-83-491). The amendments add new definitions to provide clarity, streamline and redefine the certification process and make other changes in response to problems, concerns and input from those administering the NMCP over the past 8 years and from persons currently certified under the regulations. The amendments also, delete the section setting forth interim certification requirements, since interim certification is no longer necessary.

## **BACKGROUND**

The Nutrient Management Act (Act)(3 P.S. §§ 1701-1718), was enacted in May 1993 and charged the Pennsylvania Department of Agriculture (Department) in consultation with the State Conservation Commission (Commission) with the duty of, “...establishing a nutrient management certification program for the purpose of certifying individuals who have demonstrated the competency necessary to develop nutrient management plans.” (3 P.S. § 1707(a)) The Department was required to promulgate nutrient management certification regulations to, “...establish such fees and terms and conditions of certification as it deems appropriate and establish individual, commercial and public certification categories, including a certification category for farmers to develop and certify nutrient management plans for their own agricultural operations.” (3 P.S. § 1707(a)) The current regulations, at Title 7 of the *Pennsylvania Code*, Chapter 130b (7 Pa. Code §§ 130b.1-130b.51), set forth those criteria and establish criteria for interim certification as required by section 7(b) of the Act (3 P.S. § 1707(b)). The amendments to the current regulations, which are set forth in these proposed regulations,

are based on the experience of the Department in administering the Nutrient Management Certification Program (NMCP) since its inception on September 28, 1996. The amendments add new definitions to provide clarity, streamline and redefine the certification process and make other changes in response to problems, concerns and input from those administering the NMCP over the past 8 years and from persons currently certified under the regulations (there are currently 412 certified nutrient management specialists under the NMCP). In addition, the amendments remove and rename the section previously devoted to interim certification of nutrient management specialist, since interim certification is no longer necessary. These revisions are designed to bring the NMCP up to date with changes in the industry as well as proposed changes to the Nutrient Management Act regulations set forth at Title 25, Chapter 83 of the *Pennsylvania Code*.

The major features and amendments to the proposed regulations are summarized as follows:

### **SUMMARY OF MAJOR FEATURES**

#### **Section 130b.1 Scope**

No changes were necessary and none were made to this section of the existing regulations.

#### **Section 130b.2 Definitions**

New definitions have been included for the terms “designee”, “individual nutrient management specialist”, “commercial nutrient management specialist”, “public nutrient management specialist” and “regulations”. The definitions of “BMP”, “Nutrient”,

“Nutrient management plan”, “provisional certification” and “recertification training” have also been slightly changed. The definitions were added or revised to provide clarification based on implementation of existing regulations over the past several years.

### **Section 130b.3 Fees**

Language has been added to allow the Department to change certification and examination fees in any given year and publish those fees in the *Pennsylvania Bulletin*.

### **(Section 130b.4 old) Interim Certification**

This section has been removed and renamed since the certification program has now been established and there is no longer a need for an interim certification program.

### **Section 130b.4 Certification Authority**

Language has been added to clarify the authority under each nutrient management specialist certification category: “Individual”, “Commercial” and “Public”. New categories have been added to further define and establish specific roles under the Public Nutrient Management Specialist Category: “Public Review Specialist” and “Public Dual Specialist”.

### **Section 130b.11 Determination of Competence**

Language has been added to clarify the training and certification requirements for each category of nutrient management specialist certification. In addition, two new categories and the training and certification requirements for those categories have been added for a Public Nutrient Management Specialist Certification. In addition, language has been added to clarify the authority of the Department to determine mandatory courses. Furthermore, language was revised to change the provisional certification

expiration to now end on the last day of the month on the third year from the date of issuance of the provisional certification.

Revisions were made to clarify the final certification requirements for “Commercial Nutrient Management Specialist” and “Public Nutrient Management Specialist”.

Language was added to delineate that nutrient management plans required for final certification had to be approved nutrient management plans.

Finally, language was added to establish the procedures for a final certified nutrient management specialist to add or gain certification in an additional nutrient management specialist category.

#### **Section 130b.12 Final Certification**

The heading of this section was revised for clarity. This section had previously been entitled “Eligibility”.

Language in this section was revised to reduce the time period for filing and submitting the fee for final certification from 180 days to 120 days.

#### **Section 130b.21 Determination of Competence**

Language in this section was revised to reflect the name change from Pre-certification training to Orientation Training. Language was added to the regulations to allow the Department to determine additional courses that would be needed to meet nutrient management certification requirements.

### **Section 130b.22 Final certification**

The heading of this section was revised for clarity. This section had previously been entitled “Eligibility”.

Language in this section was revised to reduce the time period for filing and submitting the fee for final certification from 180 days to 120 days.

### **Section 130b.31 Recertification**

The language of this section was amended to remove the ability of provisionally certified nutrient management specialists to earn continuing education credits. The new language will allow only final certified nutrient management specialists to receive continuing education credits.

Language was added to increase the amount of continuing education credits needed for recertification from 10 to 20 credits for commercial and public nutrient management specialists. Language was also added to establish that 5 of those 20 continuing education credits needed to be obtained through Department or Commission conducted courses to allow the Department better oversight of the type of courses specialists receive for certification.

Language was added to suspend a nutrient management specialist’s final certification if the nutrient management specialist fails to obtain the appropriate number and type of continuing education credits necessary for recertification.

### **Section 130b.41 General**

Language was added to address the new nutrient management categories under public specialists - “Public Review Specialist” and “Public Dual Specialist” – which were created by amendments to previous sections of this regulation.

**Section 130b.42 Procedure**

No changes were made to this section.

**Section 130b.51 Denial, suspension and revocation of certificates**

Language was added to establish criteria for the denial, suspension or revocation of a nutrient management specialist's certification.

**FISCAL IMPACT****Commonwealth**

The proposed amendments to the regulations will impose no additional fiscal impacts upon the Commonwealth. The amendments to the regulations will not require the Department to commit any additional amount of time and manpower to review of applications or the certification process.

**Political Subdivisions**

The proposed amendments to the regulations will impose no costs and nor fiscal impact upon political subdivisions. The regulations do not impose any additional burden of enforcement of review on political subdivisions.

**Private Sector**

The proposed amendments to the regulations will impose no significant costs on the private sector. The only additional costs to the regulated community may be in increased fees necessary to administer the NMCP.

**General Public**

The proposed amendments to the regulations will impose no costs and have no fiscal impact on the general public.



## **PAPERWORK REQUIREMENTS**

The proposed amendments to the regulations will not result in a substantial increase of paperwork. The Department will not have to develop new application forms or review procedures.

## **PUBLIC COMMENT PERIOD**

Interested persons are invited to submit written comments regarding the proposed regulations within 30 days following publication in the *Pennsylvania Bulletin*.

## **REGULATORY REVIEW**

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19), (71 P.S. §§ 745.1 – 745.15), as amended by Act 24 of June 25, 1997 (P.L. 252, No. 24), the Department submitted a copy of the proposed regulation on March 30, 2005, to the Independent Regulatory Review Commission (Commission) and to the Chairpersons of the House Agriculture and Rural Affairs Committee and the Senate Agriculture and Rural Affairs Committee (Committees). In addition to submitting the proposed regulation, the Department has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

If the Commission has an objection to any portion of the proposed regulation, it will notify the Department within 30 days after the close of the public comment period. Such notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department, the General Assembly and the Governor of objections raised.

**CONTACT PERSON**

Further information is available by contacting the Department of Agriculture, Nutrient Management Certification Program, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408; Attn: Johan Berger (717) 772-4189.

**EFFECTIVE DATE**

This proposed regulation is effective upon publication in the *Pennsylvania Bulletin*.

By the Department of Agriculture

DENNIS C WOLFF, SECRETARY

## Subchapter A. GENERAL PROVISIONS

Sec.

- 130b.1. Scope.
- 130b.2. Definitions.
- 130b.3. Fees.
- 130b.4. [Interim certification.] Certification authority.

### **§ 130b.1. Scope.**

This chapter prescribes procedures relating to the certification and recertification of nutrient management specialists. It includes the establishment of fees and delineation of requirements for certification of commercial, public and individual specialists.

### **§ 130b.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Nutrient Management Act (3 P. S. § § 1701—1718).

*Agricultural operations*—The management and use of farming resources for the production of crops, livestock or poultry.

*BMP—Best management practice*—A practice or combination of practices determined by the Commission to be effective and practicable (given technological, economic and institutional considerations) to manage nutrients to protect surface and groundwater taking into account applicable nutrient requirements for crop utilization. The term includes:

- (i) Conservation tillage.
- (ii) Crop rotation.
- (iii) Soil testing.
- (iv) Manure testing.
- (v) Diversions.
- (vi) Manure storage facilities.
- (vii) Stormwater management practices.
- (viii) Nutrient application.
- (ix) Practices set forth in the nutrient management

regulations.

*Certificate year*—The period from January 1 to December 31.

*Certification*—The completion of all requirements of a nutrient management specialist contained in this chapter.

*Commission*—The State Conservation Commission established by the Conservation District Law (3 P. S. § § 849—864).

*Competency*—Demonstrating a high level of technical or scientific knowledge as evidenced by successfully meeting the requirements of § 130b.11 (relating to determination of competence) for commercial and public nutrient management specialists, or meeting the requirements of § 130b.21 (relating to determination of competence) for individual nutrient management specialists.

*Conservation district*—A county conservation district established under the conservation district law.

*Department*—The Department of Agriculture of the Commonwealth.

*Designee* – A person chosen or appointed by the Pennsylvania Secretary of Agriculture to carry out the Secretary's duties under this chapter.

[*Interim certification*—A temporary designation by the Department issued to persons who meet the qualifications in section 7(b) of the act (3 P. S. § 1707(b)).]

*Nutrient*—A substance or recognized plant nutrient, element or compound which is used or sold for its plant nutritive content or its claimed nutritive value. The term includes livestock and poultry manures, compost as fertilizer, commercially manufactured chemical fertilizers, [sewage sludge] bio-solids or combinations thereof.

*Nutrient management plan*—A written site-specific plan which [incorporates BMPs to manage the use of plant nutrients for crop production and water quality protection consistent with the criteria] meets the requirements set forth in sections 4 and 6 of the act (3 P. S. § § 1704 and 1706) and in the nutrient management regulations at sections 271, 272, 281-331 and 391-441 (25 Pa. Code §§ 83.271, 83.272, 83.281-83.331 and 83.391-83.441).

*Nutrient management specialist—*

(i) Individual—A person certified to develop nutrient management plans for his agricultural operation.

(ii) Commercial—A private sector person [who develops] certified to develop nutrient management plans for another person's agricultural operation [whether employed in the private or public sector].

[(ii) Individual—A person who develops nutrient management plans for that person's own agricultural operation.]

(iii) Public—A State, [or] Federal [employee,] or other public employee [who reviews nutrient management plans, or recommends approval to a conservation district or the Commission] certified to develop or review or both, Nutrient Management Plans and make recommendations for approval or denial of Nutrient Management Plans to a Conservation District or the State Conservation Commission, or both.

(a) Review Specialist— A Public Nutrient Management Specialist certified to review Nutrient Management Plans and make recommendations for approval or denial of Nutrient Management Plans.

(b) Dual Specialist— A Public Nutrient Management Specialist certified to review and develop Nutrient Management Plans for another person's agricultural operation and make recommendations for approval or denial of Nutrient Management Plans which they have not personally written or developed.

*Precertification training*—The initial nutrient management training courses which shall be completed by persons seeking to become nutrient management specialists.

*Provisional certification*— The level of certification obtained by a [An] Nutrient Management Specialist applicant [for commercial or public nutrient management specialist] who has successfully completed the precertification training and [has] passed the written examination, but has not yet [to] [prepare,] developed or reviewed or both the required number of [three] [n]Nutrient [m]Management [p]Plans.

*Recertification training*—The [successful] completion [by a currently certified nutrient management specialist] of continuing education and training requirements [contained] set forth in § 130b.31 of this chapter (relating to recertification).

Regulations – The Nutrient Management Regulations set forth in the *Pennsylvania Code*, Title 25, Chapter 83 (25 Pa.Code §§ 83.201-83.491).

### **§ 130b.3. Fees.**

[(a) *Commercial nutrient management specialist certificate.* The triennial fee for a commercial certificate is \$100.

(b) *Public nutrient management specialist certificate.* The triennial fee for a public certificate is \$10.

(c) *Individual nutrient management specialist certificate.* The triennial fee for an individual certificate is \$10.]

(a) *Certification fees.* Certification fees are nonrefundable. The Department will establish certification fees for each level of nutrient management specialist. Notice of the fees or any changes to the fees in subsequent years shall be published in the *Pennsylvania Bulletin*. The published fees shall be effective for at least one calendar year. Fees shall be based on the cost of administering and enforcing the provisions of this chapter.

(b) *Examination fees.* Examination fees are nonrefundable. The Department will establish examination fees for each level of nutrient management specialist. Notice of the fees or any changes to the fees in subsequent years shall be published in the *Pennsylvania Bulletin*. The published fees shall be effective for at least one calendar year. Fees shall be based on the cost of developing, amending and administering the tests and enforcing the provisions of this chapter. [The following examination fees, with payment made in advance, will be charged:

(1) Commercial/public nutrient management specialist examination—\$50.

(2) Individual nutrient management specialist examination—no charge.]

**§ 130b.4. [Interim certification] Certification authority.**

[A person who has interim certification as of September 28, 1996, will be provided written notice, within 30 days, by first class mail, that the Department has completed development of finalized regulations and is beginning to implement the official nutrient management certification program. This notice shall also inform recipients that upon receipt, their interim status shall cease and is no longer valid. An application and instructions to apply for certification will accompany the notification.]

(a) Individual Certification Authority - A person duly certified under these regulations as an Individual Nutrient Management Specialist is authorized to develop nutrient management plans for his own agricultural operation. An Individual Nutrient Management Specialist has no authority to develop a nutrient management plan for another person or review and recommend action on a nutrient management plan.

(b) Commercial Certification Authority - A person duly certified under these regulations as a Commercial Nutrient Management Specialist is authorized to develop nutrient management plans for another person's agricultural operation. A Commercial Nutrient Management Specialist has no authority to review or recommend action on a nutrient management plan.

(c) Public Certification Authority - A public employee certified as a Public Nutrient Management Specialist has authority to review and recommend action or develop a nutrient management plan for another person or both dependent on the certification requirements he has successfully completed.

(i) Public Nutrient Management Review Specialist – A person duly certified under these regulations as a Public Nutrient Management Review Specialist is authorized to review nutrient management plans and make recommendations for approval or denial of nutrient management plans.

(ii) Public Nutrient Management Dual Specialist – A person duly certified under these regulations as a Public Nutrient Management Dual Specialist is authorized to review and develop nutrient management plans for another person's agricultural operation and make recommendations for approval or denial of nutrient management plans which they have not personally developed.

## **Subchapter B. CERTIFICATION**

### **COMMERCIAL AND PUBLIC NUTRIENT MANAGEMENT SPECIALISTS**

Sec.

- 130b.11. Determination of competence.
- 130b.12. [Eligibility] Final certification.

### **INDIVIDUAL NUTRIENT MANAGEMENT SPECIALISTS**

- 130b.21. Determination of competence.
- 130b.22 [Eligibility] Final certification.

### **RECERTIFICATION**

- 130b.31. Recertification.

### **RECIPROCITY**

- 130b.41. General.
- 130b.42. Procedure.

### **DENIAL, SUSPENSION AND REVOCATION OF CERTIFICATES**

- 130b.51. Denial, suspension and revocation of certificates.



## **COMMERCIAL AND PUBLIC NUTRIENT MANAGEMENT SPECIALISTS**

### **§ 130b.11. Determination of competence.**

#### **(a) Commercial Nutrient Management Specialist. -**

Determination of competence for a commercial nutrient management specialist[s] shall be based on [a] the successful completion of precertification training and examinations as set forth in this section. Precertification requirements for a Commercial Nutrient Management Specialist shall include an orientation [precertification] training course, [a written examination approved by the Department and the development of three nutrient management plans] a nutrient management plan writing course, a written examination approved by the Department and the development of three approved nutrient management plans. It may also include other course work related to requirements set forth in the regulations, which are determined by the Department to be necessary and appropriate. Nutrient management plans developed under this subsection shall be determined to be adequate by the Department or its designee.

**(b) Public Nutrient Management Specialist. -** Determination of competence for a public nutrient management specialist[s] shall be based on [a precertification training course, a written examination approved by the department and the development of one plan and review of two plans] the level of certification sought to be attained. [All prepared plans and plan reviews completed under this subsection shall be determined to be adequate by the Commission or its designee.]

**(1) Public Nutrient Management Review Specialist. -** In order to be certified as a Public Nutrient Management Review Specialist the applicant must successfully complete precertification training and examinations as set forth in this section. The precertification requirements for a Public Nutrient Management Review Specialist shall include an orientation training course, a nutrient management plan review course, a nutrient management plan writing course, a written examination approved by the Department, the successful review of two nutrient management plans and development of one approved nutrient management plan. It may also include other course work related to requirements set forth in the regulations determined by the Department to be necessary and appropriate. Nutrient management plan reviews completed and nutrient management plans developed under this subsection shall be determined to be adequate by the Department or its designee.

(2) Public Nutrient Management Dual Specialist. – In order to be certified as a Public Nutrient Management Dual Specialist the applicant must successfully complete precertification training and examinations as set forth in this section. The precertification requirements for a Public Nutrient Management Dual Specialist shall include an orientation training course, a nutrient management plan review course, a nutrient management plan writing course, a written examination approved by the Department, the successful review of two nutrient management plans and the development of two approved nutrient management plans. It may also include other course work related to requirements set forth in the regulations determined by the Department to be necessary and appropriate. Nutrient management plan reviews completed and nutrient management plans developed under this subsection shall be determined to be adequate by the Department or its designee.

([b]c) **Precertification.** - The precertification training courses shall, at a minimum, consist of the following areas of nutrient management planning:

- (1) Nutrient application including:
  - (i) Determination of the cropping system and crop nutrient requirements.
  - (ii) Determination of sources of nutrients available for application on the farm.
  - (iii) Determination of additional nutrients required to obtain realistic expected crop yields.
  - (iv) Application records.
- (2) Manure management.
- (3) Excess manure alternatives.
- (4) Stormwater runoff control.
- (5) Applicable laws and regulations.
- (6) Proper nutrient management plan review procedures ([p]Public Nutrient Management [s]Specialists only).
- (7) Proper nutrient management plan writing procedures (Commercial, Public Nutrient Management Specialists only).
- (8) Other areas and course work related to requirements set forth in the regulations, as determined appropriate by the Department.

([c]d) **Examination.** - The written examination will be proctored by the Department or its designee. The Department will administer the examination at least twice per year, or more often as deemed necessary by the Department. At a minimum, the successful completion of the examination will demonstrate an examinee's technical knowledge relating to nutrient management planning and nutrient management plan development in the following areas:

- (1) Competency in soil science and soil fertility.

- (2) Competency in nutrient application and management.
- (3) Competency in crop production.
- (4) Competency in soil and manure testing and interpretation.
- (5) Understanding in determining needed BMPs related to proper utilization of nutrients and stormwater management.
- (6) Competency in fertilizer materials and their characteristics.
- (7) Understanding of environmental and economic impacts associated with nutrient management.
- (8) Understanding of the act and other applicable laws and regulations.

(9) Other areas related to requirements set forth in the regulations, as determined appropriate by the Department.

**([d]e) Other examinations.** - The Department may approve the use of written examinations other than the Pennsylvania nutrient management examination, if the written examinations meet the requirements in subsection ([c]d).

**([e]f) Provisional certification.** - Upon the successful completion of the requirements in subsections ([b]c) and ([c]d), the applicant for certification as a [c]Commercial or [p]Public [n]Nutrient [m]Management [s]Specialist will be issued the appropriate provisional certification. The holder of a provisional certification is qualified, dependant on the type of provisional certification attained, to develop or review or both, nutrient management plans for the purpose of satisfying the requirements of this section regarding final certification. [as provided in subsection (f).] Provisional certification is valid for 3 years ending on the last day of the month from the date of issuance.

**([f]g) Final certification requirements.** - Once provisional certification has been granted the provisionally certified specialist shall complete one of the following dependant on the type of provisional certification granted and final certification sought.

**(1) Commercial Nutrient Management Specialist. -**  
[a] In order to attain final certification, a provisionally certified [c]Commercial [n]Nutrient [m]Management [s]Specialist shall develop three approved nutrient management plans which meet the requirements of section 6(e) of the act (3 P. S. § 1706(e)). Nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

**(2) Public Nutrient Management Specialist. -** In order to attain final certification, a provisionally certified Public Nutrient Management Specialist shall do one of the following dependant upon the level of provisional certification attained and the level of final certification sought.

(i) Public Nutrient Management Review Specialist. - In order to attain final certification, [A]a provisionally certified P[p]ublic [n]Nutrient [m]Management Review [s]Specialist shall [develop one plan and] successfully review two nutrient management plans and develop one approved nutrient management plan which meets the requirements of [in accordance with] section 6(e) of the act (3 P.S. § 1706(e)). [Commercial specialists shall submit, to the Department, evidence that the Commission or its designee has actually reviewed and approved the three plans. Public specialists shall submit to the Department, evidence that the Commission or its designee has actually reviewed and approved one prepared plan and determined the public specialist's review of two plans to be adequate.] Nutrient management plan reviews completed and nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

(ii) Public Nutrient Management Dual Specialist. - In order to attain final certification, a provisionally certified Public Nutrient Management Dual Specialist shall successfully review two nutrient management plans and develop two approved nutrient management plan in accordance with section 6(e) of the act (3 P.S. § 1706(e)). Nutrient management plan reviews completed and nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

[(g) Upon completion of all the requirements of this section, a commercial nutrient management specialist may apply for certification to develop nutrient management plans and a public nutrient management specialist may apply for certification to review nutrient management plans. The appropriate fee shall accompany the specialist's application for certification.]

**(h) Public Nutrient Management Specialist to Commercial Nutrient Management Specialist. - [A currently] Where the Department or the Commission with the consent of the Department determines it is necessary or appropriate, a [c]Certified [p]Public [n]Nutrient [m]Management [s]Specialist [who wishes to obtain] may obtain certification as a [c]Commercial [n]Nutrient [m]Management [s]Specialist. In order to attain such certification a Certified Public Nutrient Management Review Specialist shall develop two approved nutrient management plans or a Certified Public Nutrient Management Dual Specialist shall develop [two] one approved nutrient management plan[s] in accordance with section 6(e) of the act (3 P.S. § 1706(e)). The [p]Certified Public**

[n]Nutrient [m]Management [s]Specialist seeking such certification shall submit the nutrient management plans or plan to the Department or its designee for review and approval[, evidence that the Commission or its designee has actually reviewed and approved the plans.]

**(i) Public Nutrient Management Review Specialist to Public Nutrient Management Dual Specialist. -**

A certified Public Nutrient Management Review Specialist may obtain certification as a Public Nutrient Management Dual Specialist. In order to attain such certification, the Certified Public Nutrient Management Review Specialist shall develop one approved nutrient management plan in accordance with section 6(e) of the act (3 P.S. § 1706(e)). The applicant seeking to attain such certification shall submit the nutrient management plan to the Department or its designee for review and approval.

**(i)j) Commercial Nutrient Management Specialist to Public Nutrient Management Specialist. -** A [currently] Certified [c]Commercial [n]Nutrient [m]Management [s]Specialist who wishes to obtain certification as a [p]Public [n]Nutrient [m]Management [s]Specialist [certification] shall complete a nutrient management plan review [precertification] course covering proper nutrient management plan review procedures and shall successfully review two nutrient managements plans in accordance with section 6(e) of the act (3 P.S. § 1706(e)). The [commercial nutrient management specialist] applicant seeking to attain such certification shall submit[, ] the nutrient management plan reviews to the Department[, evidence that the Commission] or its designee for review and approval. [has actually reviewed and determined the specialist's review of the two plans to be adequate.]

**§ 130b.12. Final certification [Eligibility].**

**(a) Application for final certification. -** Upon completion of all the requirements of this chapter, a Commercial Nutrient Management Specialist or a Public Nutrient Management Specialist may submit an application to the Department for final certification. The appropriate fee shall accompany the application for final certification.

**(a)b) Eligibility for final certification. -** A person is eligible to apply for final certification as a [ c]Commercial or [p]Public [n]Nutrient [m]Management [s]Specialist upon fulfilling the applicable requirements established under § 130b.11 (relating to determination of competence) of this chapter. An application for final certification may be obtained from the Department.

**([b]c) Time period for filing application.** - An application for final certification shall be filed with the Department within [180]120-calendar days of notification by the Department of meeting the appropriate requirements set forth in § 130.b.11 of this chapter.[of § 130b.11(f).] If the applicant fails to file an application with the Department within the prescribed [180]120-calendar days, that person shall again satisfy the appropriate competency requirements as provided in § 130b.11(relating to determination of competence.[(a)—(f)].

**([c]d) Time period final certification is valid.** - A final certification[e] is valid for 3 years ending on December 31 of the third year following the date of final certification. However, the Department will authorize an additional year when the certification[e] is issued during the last 2 months of the initial certificate year.

## **INDIVIDUAL NUTRIENT MANAGEMENT SPECIALISTS**

### **§ 130b.21. Determination of competence.**

(a) Determination of competence for an individual nutrient management specialist shall be based on the completion of precertification training which includes an orientation [a precertification] training course and a written examination approved by the Department.

(b) The orientation [precertification] training course shall at a minimum consist of the same requirements as in § 130b.11([b]c) (relating to determination of competence).

(c) The written examination shall be proctored by the Department or its designee. The Department will administer the examination on an as needed basis, which will be determined by the number of requests for such testing. [at least twice per year, or more often as deemed necessary by the Department.] At a minimum, the successful completion of the examination will demonstrate an examinee's technical knowledge relating to nutrient management planning and nutrient management plan development in the following areas:

- (1) Competency in nutrient application and management.
- (2) Competency in crop production.
- (3) Competency in soil and manure testing and interpretation.
- (4) Understanding in determining needed BMPs related to proper utilization of nutrients and stormwater management.
- (5) Understanding of soil science and soil fertility.

(6) Understanding of fertilizer materials and their characteristics.  
(7) Understanding of environmental and economic impacts associated with nutrient management.

(8) Understanding of the act and other applicable laws and regulations.

(9) Other areas and coursework related to the requirements set forth in the regulations as determined appropriate by the Department

(d) The Department may approve the use of written examinations other than the Pennsylvania nutrient management examination, if the written examinations meet the requirements in subsection (c).

(e) Individual nutrient management specialists are exempt from the nutrient management plan preparation requirement.

### **§ 130b.22. [Eligibility] Final certification.**

(a) A person is eligible to apply for final certification as an individual nutrient management specialist upon fulfilling the requirements under § 130b.21 (relating to determination of competence). An application for certification may be obtained from the Department. The appropriate fee shall accompany the specialist's application for certification.

(b) An application for certification shall be filed with the Department no later than ~~[180]~~120-calendar days after the applicant's completion of the competency requirements. If the applicant fails to file an application with the Department within the prescribed ~~[180]~~120-calendar days, that person shall again satisfy the competency requirements as provided in § 130b.21(a)—(d).

(c) A certificate is valid for 3 years ending on December 31 of the third year following the date of certification. However, the Department will authorize an additional year when the certification~~[e]~~ is issued during the last 2 months of the initial certificate year.

## **RECERTIFICATION**

### **§ 130b.31. Recertification.**

(a) At intervals of 3 years, [~~provisionally certified or~~] final certified [~~c~~]Commercial, [~~p~~]Public or [~~i~~]Individual [~~n~~]Nutrient [~~m~~]Management [~~s~~]Specialists shall provide written documentation of having received continuing education and training in Department-approved training courses in nutrient management planning and nutrient management plan development. Training shall address the specific areas in § 130b.11(~~[b]~~c) and (~~[c]~~d) (relating to determination of competence) for [~~c~~]Commercial and

[p]Public [s]Specialists and § 130b.21(b) and (c) (relating to determination of competence) for [i]Individual [s]Specialists.

(b) Recertification credits approved by the Department will be given on the basis of attendance at approved training sessions, as provided in subsection (a). The Department will evaluate the training and assign the appropriate credits. Commercial and [p]Public [s]Specialists are required to obtain ~~[ten]~~ twenty credits with one quarter or five of those credits being obtained through Department or Commission conducted courses. [and i]Individual [s]Specialists are required to obtain six credits during the recertification interval. The Department may, if deemed necessary, require specific training for certified nutrient management specialists, in addition to the required training in §§ 130b.11 and 130b.21. The Department will provide written notification to the certified nutrient management specialists of required specific training.

(c) Training will be approved for recertification credits at the rate of 1 credit per hour of applicable instruction, exclusive of coffee breaks, lunches, visits to exhibits, and the like. Credits will be assigned to each training session based upon the subjects covered and the amount of time expended on each subject. Credits assigned may be modified if either the content or length of the training substantially differs from the originally approved course.

(d) Sponsors of recertification training shall first submit a written request for course approval to the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408. A request shall be submitted to the Department at least 15 working days prior to the training date and shall include the following information:

- (1) The name and phone number of the contact person who is coordinating the training.
- (2) The specific location of the training.
- (3) The date of the training.
- (4) A listing of the speakers, subject matter and time allotted to each subject.
- (5) A statement whether the training is open to the public and if there is a charge to attend.

(e) A recertification training course will be approved if at a minimum it consists of the same requirements as set forth in § 130b.11([b]c) and ([c]d) and is conducted or sponsored by an educational institution, an association, a business, a governmental agency or other qualified source. Preapproval of recertification courses is vested solely with the Department.



(f) Falsification by a course sponsor of information required under this section may result in the withdrawal of credits or course approval, or both.

(g) If the Department or its designee is unable to monitor the training, the sponsor shall be responsible for verifying attendance and shall compile a list of Pennsylvania certified specialists in attendance. The list shall be returned to the Department within 10 working days following the training date and shall include the name of each person attending and their certification[e] number.

(h) If a nutrient management specialist allows [the] his final certification [of a nutrient management specialist is allowed] to expire and does not obtain recertification in accordance with this chapter [credits are due], his final certification shall be suspended and the specialist must refrain from all duties relating to his certification until [ recertification of that specialist shall first require the completion of] all delinquent recertification credits are acquired as described in subsection (b) of this section.

(i) If a nutrient management specialist whose final certification has been suspended as set forth in subsection (h) of this section fails to complete delinquent recertification credits within 1 year from the expiration date of his final certification [expiration date], then his final certification shall be revoked and that person shall again satisfy the requirements of § 130b.11 and § 130b.12 (relating to eligibility) for [c]Commercial and [p]Public [s]Specialists, and § 130b.21 and § 130b.22 (relating to eligibility) for [i]Individual [s]Specialist.

## RECIPROCITY

### § 130b.41. General.

(a) A person who has a valid certificate or license from another state may obtain certification in this Commonwealth if:

(1) The state in which that person is certified has a reciprocal agreement with the Department.

(2) The applicant satisfies the required precertification training as set forth in § 130b.11([b]c) (relating to precertification [determination of competence]). The applicant will not be required to take a written examination to determine competence if the applicant satisfies the requirements of this subsection.

(b) Upon the successful completion of the requirements in subsection (a) of this section, the applicant for certification as a [c]Commercial or [p]Public [n]Nutrient [m]Management [s]Specialist will be issued provisional certification and shall

complete the requirements in § 130b.11([f]g) (relating to final certification requirements). Provisional certification is valid for 3 years ending on the last day of the month from the date of issuance.

(c) In addition to the requirements in subsection (a) of this section, if the applicant is a [commercial nutrient management specialist that person shall submit written evidence to the Department, that the Commission or its designee has reviewed and approved three plans as provided in section 6(e) of the act (3 P. S. § 1706(e))] Commercial Nutrient Management Specialist, that person shall develop three approved nutrient management plans which meet the requirements of section 6(e) of the act (3 P. S. § 1706(e)). If the applicant is a [public nutrient management specialist, that person shall submit to the Department, evidence that the Commission or its designee has reviewed and approved one prepared plan and determined the public specialist's review of two plans to be adequate] Public Nutrient Management Review Specialist, that person shall successfully review two nutrient management plans and develop one approved nutrient management plan which meets the requirements of section 6(e) of the act (3 P.S. § 1706(e)). If the applicant is a Public Nutrient Management Dual Specialist, that person shall successfully review two nutrient management plans and develop two approved nutrient management plans which meet the requirements of section 6(e) of the act (3 P.S. § 1706(e)). Nutrient management plan reviews completed and nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

#### **§ 130b.42. Procedure.**

A person desiring a certificate under § 130b.41(a)(1) and (2) (relating to general) shall submit to the Department a properly completed application and appropriate fee, as set forth in § 130b.3 (relating to fees) along with a copy of the persons out-of-State certificate.

## **DENIAL, SUSPENSION AND REVOCATION OF CERTIFICATES**

### **§ 130b.51. Denial, suspension and revocation of certificates.**

(a) The Department may, after notice, including a statement of the reasons therefore, [and opportunity for a hearing,] deny, suspend or revoke a [c]Commercial, [p]Public or [i]Individual [n]Nutrient [m]Management [s]Specialists certification for any of the following:

- (1) Any[a] violation of the act or these[its resulting] regulations.
- (2) Failure to obtain the required recertification credits.
- (3) Inconsistency and demonstration of a lack of knowledge of Nutrient Management Plan writing and review skills.
- (4) Three or more occurrences within a three-year period of delay or non-communication with landowner or review agency during plan development or review.
- (5) Falsifying information.
- (6) Misrepresentation of the Nutrient Management Act program.
- (7) Any violation of program policy established by the Department, its designee or the State Conservation Commission.

(b) An applicant or nutrient management specialist may request a hearing, in writing, within 15 days of receipt of notice of the denial, suspension or revocation from the Department. The request shall be sent to the Bureau of Plant Industry, Agriculture Building, 2301 North Cameron Street, Harrisburg, Pennsylvania, 17110.

COMMONWEALTH OF PENNSYLVANIA



GOVERNOR'S OFFICE OF GENERAL COUNSEL  
DEPARTMENT OF AGRICULTURE  
2301 N. Cameron Street • Room 201  
Harrisburg, Pennsylvania 17110-9408

OFFICE OF CHIEF COUNSEL

Tel: 717-787-8744  
Fax: 717-787-1270

March 30, 2005

Independent Regulatory Review Commission  
333 Market Street, 14<sup>TH</sup> Floor  
Harrisburg, PA 17120

**RE: NOTICE OF PROPOSED RULEMAKING**  
**Department of Agriculture**  
**Bureau of Plant Industry**  
**7 Pa. Code Chapter 130b**  
**Nutrient Management Certification**  
**I.D. No. 2-147**


Dear Sir or Madam:

Please find enclosed a copy of the above-referenced notice of proposed rulemaking (Preamble and Annex "A"), together with a copy of the appropriate Regulatory Analysis Form. This material was delivered to the Legislative Reference Bureau on this date, and the notice of proposed rulemaking will be published in the April 9, 2005 edition of the *Pennsylvania Bulletin*. The public comment period with respect to this notice of proposed rulemaking will expire **May 9, 2005**.

The enclosed material is submitted to you in accordance with the requirements of § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)). Section 5(d) of the Regulatory Review Act (71 P.S. § 745.5(d)) affords the standing committee 20 calendar days from the closing date of the public comment period within which to consider the proposed rulemaking and convey to this Department a summary of any objections, a statement of the reasons for any objection and copies of any staff reports deemed pertinent.

The Department of Agriculture will provide you with any assistance you require to facilitate a thorough review of this proposed regulation.

Sincerely,

  
David C. Kennedy  
Assistant Counsel

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 2-147  
 SUBJECT: Bureau of Plant Industry - Nutrient Management Certification  
 AGENCY: DEPARTMENT OF AGRICULTURE

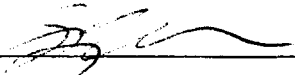

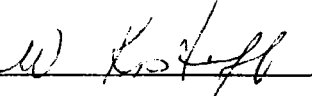

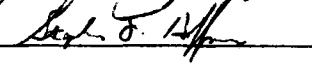
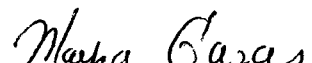
# 2473

**TYPE OF REGULATION**

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

RECEIVED  
 2005 MAR 30 PM 5:08  
 INDEPENDENT REGULATORY  
 REVIEW COMMISSION

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
3-30-05		HERSHEY HOUSE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
3-30-05		DALEY
3-30-05		WAUGH SENATE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
3-30-05		O'PAKE
3-30-05		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
3-30-05		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

March 21, 2005