

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency: *Agriculture*

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

2-150

IRRC Number:

2513

(3) Short Title

Proposed regulations – Commercial Manure Hauler and Broker Certification

(4) PA Code Cite

7 Pa Code, Chapter 130e

(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 non-technical language.

The proposed regulations are provided to establish training, examination and certification criteria for commercial manure haulers and manure brokers. The proposed regulation defines the authority and duties of manure haulers and manure brokers and establishes record-keeping requirements consistent with the requirements of the Commercial Manure Hauler and Broker Certification Act (Act of June 28, 2004; P.L. 454, No. 49)(3 P.S. §§2010.1-2010.12) and the Nutrient Management Act (3 P.S. §§1701-1718).

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

Commercial Manure Hauler and Broker Certification Act, (Act of June 28, 2004; P.L. 454, No. 49) (3 P.S. §§2010.1-2010.12)

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(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 mandated under the Commercial Manure Hauler and Broker Certification Act (3 P.S. §§2010.1-2010.12). Section 2010.3(a)(relating to duty and responsibility of the department) sets forth the specific duties and the authority of the Department and mandates that the Department promulgate these regulations.

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

The promulgation and implementation of these regulations is necessary to comply with the statute. The regulations ensure that all commercial manure haulers and manure brokers transporting or land applying manure in this Commonwealth are properly certified and conducting those activities in a safe and environmentally proper manner. It assures that commercial manure haulers and manure brokers can understand and follow recordkeeping requirements set forth in the Nutrient Management Act and the Commercial Manure Hauler and Broker Certification Act; and that they can understand and follow application requirements established in a nutrient management plan or nutrient balance sheet.

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

The proposed regulations are developed to ensure that the public health, safety and environment of the citizens of the Commonwealth of Pennsylvania are not negatively impacted by the handling and application of manure generated on agriculture operations. The proper transport, handling and application of manure between agricultural operations or other facilities are key to the protection of public health and safety and natural resources. Most importantly, the protection of water resources in Pennsylvania, which is paramount to the protection of the environment in the Commonwealth.

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

Farmers, manure haulers and manure brokers in the Commonwealth will benefit from the proposed regulations. The proposed regulations will establish education and certification standards and requirements for approximately 400 – 450 commercial manure haulers and manure brokers currently working in the industry. The standards will enhance commercial manure hauler's and broker's knowledge of proper manure transport and handling procedures and proper application procedures of manure on cropland. Farmers will benefit through the assurance that manure haulers and manure brokers are knowledgeable in the application of manure on cropland at proper agronomic rates according to a nutrient management plan or nutrient balance sheet. The general public will benefit from the assured protection of surface and ground water due to properly applied manure by certified manure haulers and manure brokers following recommendations in approved nutrient management plans and nutrient balance sheets. The certification of manure haulers and manure brokers will make this industry more accessible to farmers who must utilize a certified commercial manure hauler or broker to meet certain requirements under the Nutrient Management Act Program. Approximately 1000 agricultural operations regulated under the Nutrient Management Act Program will benefit by having a certified commercial manure hauler or broker available to help agricultural operators properly implement their nutrient management plans. Additionally, approximately 3,000 agricultural operations receiving manure (importing farms) from a regulated agricultural operation will benefit from the

(13) Continued

proper application of manure by a certified commercial manure hauler or manure broker.

The regulation will also assist the State Conservation Commission in its implementation and enforcement of provisions of the Nutrient Management Act regulations (25 Pa Code, Chapter 83, Subchapter D) and subsequent revisions thereto.

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(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.)

The proposed regulations will affect the current commercial manure hauler and manure broker industry that has not been required to comply with certification standards (relating to manure transport and application). Provisions in the proposed regulations will require manure haulers and manure brokers to attend classes and take tests to become certified at various levels. Commercial manure haulers and manure brokers will be required to meet examination and training criteria established by the Department. They will be required to follow specific recordkeeping requirements and they will be subject to penalties imposed under the Act and these regulations. The regulated community will also be required to attend continuing education programs to obtain continuing education credits to maintain a valid certification under the Commercial Manure Hauler and Broker Certification Act and these regulations. They will be subject to payment of fees for the course work and testing. Additionally, approximately 1,000 farms complying with the Nutrient Management Act and its regulations who intend to transport manure off of their agricultural operation or apply manure on another agricultural operation or who intend to utilize an outside person to apply manure to their own farmland will be required to utilize a commercial hauler or commercial manure broker properly certified under the proposed regulations.

(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 an estimated 400-450 commercial manure haulers and manure brokers in the initial certification phase of the program and approximately another 200- 250 additional persons seeking certification status in the program over the next five years. It will affect all agricultural operators seeking to transport or land-apply manure at another agricultural operation, transport manure off their agricultural operation or have an outside entity land apply manure on their agricultural operation.

(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.

Industry representatives affected by these regulations were invited to provide input into the development of the regulations. The industry provided important guidance to the Department regarding the structure and duties of the manure hauler and manure broker segments of the industry. This input was invaluable in developing the most practical training and certification process. The Nutrient Management Advisory Board and the State Conservation Commission will be provided the proposed regulations for review and comment. Further public input will be solicited during the rulemaking 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 fee schedule will be established through the proposed regulations based on expenses to administer the program and will impose new costs to the regulated community in the form of examination and license fees. New costs to the regulated community are estimated to be \$40 - \$50 for examination fees depending on the certification category sought by the applicant, approximately \$125 to \$185 for a biennial license fee (every 2 years) and \$375 - \$450 for a triennial license fee (every 3 years) depending on the certification category sought to be attained by an applicant.

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(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.

There will be no costs and/or savings to local government. Local government is not associated with the implementation of the proposed regulations.

(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 increased costs to the state to administer and enforce these regulations through additional administrative expenses. Those expenses include estimated costs of materials and supplies for the initial phase of program implementation of approximately \$6,000 and approximately \$4,700 annually for program years, thereafter. Additional administrative expenses related to training and educational activities provided by a contracted third party are estimated at approximately \$39,000 annually. There will be no additional state government staff resources necessary to implement these regulations.

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(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
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated	NA	NA	NA	NA	NA	NA
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Savings	NA	NA	NA	NA	NA	NA
COSTS:						
Regulated	0	110,600	27,600	40,800	87,200	61,500
Local Government	0	0	0	0	0	0
State Government	0	43,000	43,000	44,300	45,800	47,500
Total Costs	0	153,600	70,600	85,100	133,000	109,000
REVENUE LOSSES:						
Regulated	NA	NA	NA	NA	NA	NA
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Revenue Losses	NA	NA	NA	NA	NA	NA

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

Regulated Community: The anticipated 400 – 450 persons that will be required to obtain a license will incur new costs including an examination fee and a biennial or triennial license fee depending on the category and level of certification sought. These same persons will be required to renew their license on a biennial or triennial basis depending on their certification category or level. Costs for examinations will range from \$40 – 50 per individual depending on the certification category. Costs for biennial license or certificates may range from \$125 to \$185 (every 2 years). Costs for triennial license or certificate may range from \$375 - \$450 (every 3 years). These fees are derived from the costs of administration and the implementation of the program based on an anticipated number of program participants over a 5-year period.

Local Government Costs: There will be no costs to local government in the implementation of the regulations.

State Government Costs: State government costs will increase to cover the administration and implementation costs of the certification program. There will be a need for additional administrative expenses to cover program education materials, supplies and contractual expenses for training and educational services provided by a third party. The cost for these administrative expenses is estimated to be \$43,000 and increase annually by approximately 3.0% after FY +2. State expenses do not include program staff resources. Current program staff in the Department will implement program activities.

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

Program	FY -3	FY -2	FY -1	Current FY
NA	NA	NA	NA	NA
<i>NA – This is a new program with no available expenditure history.</i>				

(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 haul, apply and broker manure generated on agricultural operations in Pennsylvania is a mandated provision of the Commercial Manure Hauler Broker Certification Act (3 P.S. §§2010.1 – 2010.12). Persons seeking certification as a commercial manure hauler or broker must be knowledgeable of general manure transport procedures and of recordkeeping and manure application procedures established by the Nutrient Management Act (3 P.S. §§1701-1718) and its attendant regulations in order to be certified to transport and apply manure according to an approved nutrient management plan or nutrient balance sheet. A person or entity providing these services must be properly certified or they will be prohibited from hauling or applying manure in the Commonwealth.

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

There are no nonregulatory alternatives. These regulations are mandated by the Commercial Manure Hauler and Broker Certification Act (3 P.S. §§2010.1 – 2010.12). The proposed regulations establish the education and certification criteria key to the program. The proposed regulations are necessary to insure an adequate certification program and maintain conformity with the Nutrient Management Act and the regulatory provisions established at 25 Pa Code Chapter 83, Subchapter D.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There were alternative regulatory schemes, such as one level of certification considered in the development of this proposal. However, meetings with industry members and regulated entities stressed the need for lower level certification for seasonal employees, in order to assure, manure could be transported and applied in the busiest parts of the season. The Department then worked to set forth specific educational and testing schemes, and to establish strict prohibitions for the various levels of manure haulers and brokers, while at the same time assuring the health and safety of the general public and working within the intent and specific authority provided by the Commercial Manure Hauler and Broker Certification Act (3 P.S. §§2010.1 – 2010.12).

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(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 states of Delaware and Iowa, however those States' regulations and provisions are limited in scope and applicability to their statutes and needs and requirements of the general public and the commercial hauler industry in their respective jurisdictions.

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

There are limited similarities in certification requirements for the handling and application of manure in the neighboring state of Delaware and the mid-western state of Iowa, the only states currently implementing a manure handlers certification program mandated by law. Certification criteria are based on nutrient management program requirements specific to agricultural and environmental protection initiatives for each state. Program requirements established in the Delaware program are specific to nutrient management activities in the state and are limited in scope. Because of the geographic nature of the state of Iowa, the likelihood of the manure handling industry interaction between Pennsylvania and Iowa will be most likely non-existent and the industry and state needs are different. Therefore, the criteria of this proposal will not put the Commonwealth of Pennsylvania at a competitive disadvantage with either of these states.

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

No. The State Conservation Commission has proposed revisions to the Nutrient Management regulations (25 Pa Code, Chapter 83, Subchapter D), promulgated under the Nutrient Management Act (3 P.S. §§ 1701-1719). These proposed Commercial Manure Hauler and Commercial Manure Broker Certification regulations will not affect the promulgation of the Nutrient Management regulations, but instead will complement and support the implementation of certain provisions of that regulation. The Department and the Commission have worked closely together to assure the regulations will be complementary and not contradictive in any manner. An operator of an agricultural operation developing a nutrient management plan according to the provisions of 25 Pa Code, Chapter 83, Subchapter D is required to utilize a certified commercial manure hauler or broker for the handling and application of excess manure generated on that agricultural operation. The commercial manure hauler or broker must be certified under the provisions of the certification program established by this proposed regulation.

(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 meeting related to the publication of the proposed regulations. However, the proposed regulations will be discussed by the Nutrient Management Advisory Board and the State Conservation Commission at scheduled public meetings as required by the Commercial Manure Hauler and Broker Certification Act.

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(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 proposed regulation will require specific records to be maintained by those persons required to attain certification. Record keeping requirements are new requirements of the regulated community and are proposed to meet the provisions of section 4(a) of the Commercial Manure Hauler and Broker Certification Act (3 P.S. §2010.4) and will be consistent with the recordkeeping provisions of the Nutrient Management Act and its attendant regulations.

(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 proposed regulations recognize the need to accommodate the diverse services and duties of the manure hauling and brokering industry. These proposed provisions provide various certification levels to meet the specific functions of specific segments of the industry - manure hauling, manure application and brokerage activities. Provisions of the regulations will also provide the opportunity for manure brokers to become certified as a Nutrient Management Specialist to develop nutrient balance sheets. This will give that segment of the service industry the flexibility to meet nutrient balance sheet requirements of Section 4 of the act (3 P.S. §2010.4).

(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 regulations is expected to coincide with the date of final publication of the proposed regulations. The Commercial Manure Hauler and Broker Certification Act requires that all commercial manure haulers and manure brokers must be certified under Section 4(a) within 18 months of the effective date of that statute. The regulated community must obtain certification by that date or prior to providing services. The statutory deadline therefore is February 26, 2006. The Department expects these regulations to be in effect by December of 2005. Training courses have already been developed and are being revamped to meet the requirements of these regulations. The Department expects to be able to offer certification training and testing in January and February of 2006.

(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, changes in technology and changes or revisions to the Nutrient Management regulations.

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WITH THE LEGISLATIVE REFERENCE
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REVIEW COMMISSION

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

Amy M. Elliott

By: _____
(Deputy Attorney General)

NOV 29 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. 2-150

DATE OF ADOPTION 6-23-05

BY *D. Conway*

TITLE Secretary

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

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

Andrew C. Clark

BY: ANDREW C. CLARK

10.18.05

DATE OF APPROVAL

(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 130e.
Commercial Manure Hauler and Broker Certification**

TITLE 7 – Agriculture
DEPARTMENT OF AGRICULTURE
BUREAU OF PLANT INDUSTRY
[7 PA. CODE CH 130e.]
COMMERCIAL MANURE HAULER AND BROKER
CERTIFICATION

The Department of Agriculture ("Department"), under the specific authority conferred by section 3 (3 P.S. § 2010.3)(relating to commercial manure hauler and broker certification program) and in accordance with the provisions of the Act of June 28, 2004, P.L. 454, No. 49, known as the Commercial Manure Hauler and Broker Certification Act (Act) (3 P.S. §§ 2010.1-2010.12), hereby sets forth the proposed Commercial Manure Hauler and Broker Certification regulations to be promulgated at Title 7 of the *Pennsylvania Code*, Chapter 130e. (7 Pa.Code §§ 130e.1.-130e.71.), which pertain to certification of Commercial Manure Haulers and Brokers. Section 2010.3 of the Act, charges the Pennsylvania Department of Agriculture (Department) in consultation with the State Conservation Commission (Commission) and the Nutrient Management Advisory Board, with the duty of establishing, "...within 18 months of the effective date of this act...a commercial manure hauler and broker certification program...The department shall by regulation establish such terms, conditions and fees for certification as it deems appropriate" (3 P.S. § 2010(a)(1)). With regard to the certification program, the regulations are required, at a minimum, to address laws and regulations pertaining to manure application, information necessary for understanding and following a nutrient management plan and nutrient balance sheet, training in the development and filing of a nutrient balance sheet, best management practices with respect to manure hauling and application, safety procedures, calibration of application rates for various types of

equipment, setback requirements, nutrient runoff concerns, incorporation techniques, recordkeeping requirement necessary to meet the provisions of the Act and the Nutrient Management Act (3 P.S. § 2010(a)(2)). In addition, the Department has the authority to approve training and education programs developed by The Pennsylvania State University and other educational institutions or entities that meet the requirements of the Act and these regulations.

The regulations are required to establish a certification program through which all persons hauling or applying manure generated by an agricultural operator can obtain the certification required by the Act. The regulations set forth procedures and requirements related to the certification of Commercial Manure Haulers and Brokers, establish fees and delineate course and certification requirements, provide for various levels of certification, denote application, approval and appeal procedures for persons seeking certification, set forth criteria for approval of training and education programs developed by The Pennsylvania State University and other educational institutions or entities and detail recordkeeping requirements necessary to meet the requirements of the Nutrient Management Act and this Act. It must be noted that the Nutrient Management Act has been repealed and replaced by Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522), which took effect July 6, 2005.

BACKGROUND

The regulations are made necessary by and are established under the authority of and in accordance with the provisions of the Act of June 28, 2004, P.L. 454, No. 49, known as the Commercial Manure Hauler and Broker Certification Act (Act)(3 P.S. §§ 2010.1-2010.12).

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

SUMMARY OF MAJOR FEATURES

Section 130e.1 Scope

This section sets forth the scope of the regulation and gives a brief synopsis of what is covered in the regulation.

Section 130e.2 Definitions

This section defines key terms that are utilized in the regulation.

Section 130e.3 Fees

This section establishes the certification and examination fees that will be charged by the Department for each category (Commercial Manure Hauler or Commercial Manure Broker) and level of certification.

Section 130e.4 Prohibitions

This section reiterates the general premise of the Act with regard to the prohibition related to hauling or land-applying manure without being properly certified and provides a general overview of the requirements that must be met prior to a Commercial Manure Hauler or Broker hauling or land-applying manure.

Section 130e.5 Authority, duties and prohibitions.

This section delineates the general authority, duties and prohibitions established by the Act and the regulations related to each category (Commercial Manure Hauler or Commercial Manure Broker) and level of certification.

Section 130e.6 Display of certification.

This section establishes the requirement that every Commercial Manure Hauler or Broker prominently display on every vehicle involved in transport or land-application, or both, of manure the certification number assigned by the Department. It further establishes the size of the certification number and requires that the numbers contrast with the color of the vehicle and be displayed on both sides of the vehicle. This section also, sets forth the requirement that every certified Commercial Manure Broker and certified Commercial Manure Hauler shall carry on their person or in the vehicle being utilized to transport or land-apply manure, or both, a copy of their current certificate. In addition, this section creates the rule that the certification number of the Commercial Manure Broker or Commercial Manure Hauler shall be included in any contract or agreement entered into by that Commercial Manure Broker or Commercial Manure Hauler to transport or land-apply manure, or both.

Section 130e.7 Notice of change in business certification

This section sets forth the rule that all certified Commercial Manure Brokers and Certified Commercial Manure Haulers shall notify the Department in writing within 15 days of a change in information regarding their level of certification or if that person is no longer engaged in or no longer intends to be engaged in the transport or land-application of manure, or both.

Section 130e.11 Determination of Competence.

This section sets forth the competency requirements which must be met for a person to attain a level 1 or level 2 Commercial Manure Broker certification. This section establishes the topics that must be addressed in a level 1 and a level 2

Commercial Manure Broker certification orientation-training course, denotes that such certification does require a class-room setting for both the certification orientation-training courses and the written examinations required for both levels of certification and delineates the overall criteria for the level 1 and level 2 Commercial Manure Broker certification written examinations.

Section 130e.12 Certification requirements.

This section sets forth the general requirement that all Commercial Manure Brokers obtain certification as a Commercial Manure Broker prior to assuming temporary control or ownership of manure from an agricultural operation or arranging for transportation to or utilization of manure at, or both, an importing operation or other location. This section also addresses the requirements established by the Act with regard to a Commercial Manure Broker acting as a contract agent for an agricultural operator required by section 5 of the Act (3 P.S. § 2010.5) to use a certified Commercial Manure Hauler or certified Commercial Manure Broker. In addition, this section establishes the parameters of the certification application procedure and the time period for filing an application. Furthermore, this section details the review process and sets forth the criteria to be utilized by the Department in determining the competence of the applicant for a level 1 or level 2 Commercial Manure Broker certificate. It also addresses the process to be followed in the event an applicant is rejected and denotes the process necessary for a level 1 certified Commercial Manure Broker to attain a level 2 certification.

Section 130e.21 Determination of competence.

This section sets forth the competency requirements which must be met for a person to attain a level 1 Commercial Manure Hauler certification. The section

establishes the topics that must be addressed in a level 1 Commercial Manure Hauler certification orientation-training course, denotes that such certification does not require a class-room training course or class-room setting for the written examination, but instead will be done through a training manual and a proctored test at one of various locations set forth in the regulation. The section specifically delineates the overall criteria for the level 1 Commercial Manure Hauler training manual and written examination.

Section 130e.22 Certification requirements.

This section sets forth the general requirement that all Commercial Manure Haulers obtain some level of certification prior to assuming temporary control or ownership of manure from an agricultural operation or arranging for transportation to or utilization of manure at, or both, an importing operation or other location. It establishes the authority and prohibitions of a level 1 Commercial Manure Hauler. In addition, this section establishes the parameters of the certification application procedure and the time period for filing an application. Furthermore, this section details the review process and sets forth the criteria to be utilized by the Department in determining the competence of the applicant for a level 1 Commercial Manure Hauler certificate. It also addresses the process to be followed in the event an applicant is rejected.

Section 130e.31 Determination of Competence.

This section sets forth the competency requirements which must be met for a person to attain a level 2 Commercial Manure Hauler certification. The section establishes the topics that must be addressed in a level 2 Commercial Manure Hauler certification orientation-training course, denotes that such certification does not require a class-room training course or class-room setting for the written examination, but instead

will be done through a training manual and a proctored test at one of various locations set forth in the regulation. The section specifically delineates the overall criteria for the level 2 Commercial Manure Hauler training manual and written examination.

Section 130e.32 Certification Requirements.

This section sets forth the general requirement that all Commercial Manure Haulers obtain certification as a level 2 Commercial Manure Hauler prior to land-applying manure. It establishes the authority and prohibitions of a level 2 Commercial Manure Hauler. In addition, this section establishes the parameters of the certification application procedure and the time period for filing an application. Furthermore, this section details the review process and sets forth the criteria to be utilized by the Department in determining the competence of the applicant for a level 2 Commercial Manure Hauler certificate. It also addresses the process to be followed in the event an applicant is rejected.

Section 130e.41 Determination of Competence.

This section sets forth the competency requirements which must be met for a person to attain a level 3 Commercial Manure Hauler certification. The section establishes the topics that must be addressed in a level 3 Commercial Manure Hauler certification orientation-training course, denotes that such certification does require a class-room setting for both the certification orientation-training course and the written examination. The section specifically delineates the overall criteria for the level 3 Commercial Manure Hauler written examinations.

Section 130e.42 Certification Requirements.

This section sets forth the general requirement that all Commercial Manure Haulers obtain certification as a level 3 Commercial Manure Hauler prior to land-applying manure without direct supervision or supervising another certified Commercial Manure Hauler. This section also addresses the requirements established by the Act with regard to a level 3 certified Commercial Manure Hauler acting as a contract agent for an agricultural operator or a Commercial Manure Broker. In addition, this section establishes the parameters of the certification application procedure and the time period for filing an application. Furthermore, this section details the review process and sets forth the criteria to be utilized by the Department in determining the competence of the applicant for a level 3 Commercial Manure Hauler certificate. It also addresses the process to be followed in the event an applicant is rejected.

Section 130e.51 Certification Time Frames and Recertification Requirements.

This section establishes the time frame of validity for the different levels of Commercial Manure Broker and Commercial Manure Hauler certifications and sets forth the requirements for recertification at each level.

Section 130e.52 Commercial Manure Broker and Hauler Continuing Education Requirements.

This section establishes the general requirement that all certified Commercial Manure Brokers and Commercial Manure Haulers obtain continuing education credits. It further establishes specific continuing education interval time frames and course requirements for each level of certification. This section also sets forth the requirements for continuing education courses and credits, including the rate of accrual, credit hours,

and additional factors including the consequences of not meeting the continuing education requirements. In addition, this section addresses the process to be followed in the event a Commercial Manure Broker or Commercial Manure Hauler fails to obtain continuing education credits. Furthermore, this section details the criteria to be utilized by the Department in determining whether to revoke or suspend a certification and sets forth the process for a Commercial Manure Broker and Commercial Manure Hauler to obtain certification once again.

Section 130e.53 Continuing Education Credit Course Providers.

This section details the review process and sets forth the criteria to be utilized by the Department in determining the eligibility of an applicant to provide continuing education courses. It establishes the parameters of the application content and the procedure for filing an application. In addition, this section addresses the process to be followed in the event the Department revokes or denies approval of a continuing education course, course provider or credit hours. It also addresses the monitoring process for a continuing education course.

Section 130e.61 Denial, suspension and revocation of certificates.

This section establishes the general power and authority the Department has to deny, suspend or revoke the certification of a Commercial Manure Broker or Commercial Manure Hauler. It further establishes specific situations in which the Department can exercise this power and authority. In addition, this section delineates the procedure for a person to appeal an order, revocation or suspension issued by the Department under this section.

Section 130e.71 Recordkeeping.

This section sets forth the general rule that Commercial Manure Haulers and Commercial Manure Brokers shall maintain records, which shall be open to inspection by the Department or its agents during regular business hours and shall be maintained for a period of 3 years after the date of transport or land application of the manure, whichever is later. It further delineates the specific records that must be maintained by Commercial Manure Haulers and Commercial Manure Brokers.

FISCAL IMPACT

Commonwealth

The proposed regulations will impose additional fiscal impacts upon the Commonwealth for administration and enforcement. The regulations will require the Department to commit an additional amount of time and manpower to the development or overview and approval, or both, of Commercial Manure Broker and Commercial Manure Hauler certification orientation-training courses, training manuals, in-classroom and out of classroom examinations, development and review of continuing education courses, oversight of certification and recertification course providers, oversight of continuing education credit course providers and oversight and enforcement of the recordkeeping, certification, recertification and other general provisions of the regulations.

Political Subdivisions

The proposed regulations will impose no additional costs and have no 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 additional costs on the regulated community (Commercial Manure Brokers and Haulers), which is part of the private sector. The additional costs to the regulated community will be certification and testing fees necessary to obtain the certification requirements required by the Act and the proposed regulations. In addition, the regulated community will be subject to the additional costs of attending continuing education courses and attaining the proper amount of continuing education credits required to comply with the Commercial Manure Hauler and Broker Certification regulations. The regulated community will also face costs associated with the additional recordkeeping requirements established by the Act and these regulations.

General Public

The proposed regulations will impose no costs and have no fiscal impact on the general public, except that agricultural operators or exporters of manure may be subject to increased costs charged by Commercial Manure Haulers and Brokers, as a result of the certification requirements imposed by the Act and the regulations.

PAPERWORK REQUIREMENTS

The proposed regulations will result in a substantial increase of paperwork. The Department will have to develop new application forms, training courses and training course manuals, tests booklets for every level of certification, Nutrient Balance sheet scenarios, sign-in forms for certification orientation training courses and testing and continuing education credit courses, as well as, recordkeeping forms and notification letters and enforcement documents.

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 December 7, 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, Commercial Manure Broker and Hauler 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

PROPOSED REGULATIONS
COMMERCIAL MANURE HAULER AND BROKER CERTIFICATION ACT

Annex A

TITLE 7. AGRICULTURE

PART V. BUREAU OF PLANT INDUSTRY

CHAPTER 130e. - COMMERCIAL MANURE HAULER AND BROKER CERTIFICATION

Subchapter A. GENERAL PROVISIONS

Sec.

130e.1.Scope.

130e.2. Definitions.

130e.3.Fees.

130e.4. Prohibition.

130e.5. Authority, duties and prohibitions.

130e.6. Display of certification.

130e.7. Notice of change in business or certification.

§130e.1 Scope.

This chapter prescribes procedures relating to the certification of Commercial Manure Haulers and Brokers. It includes the establishment of fees, delineates the requirements for certification of Commercial Manure Haulers and Brokers, and sets forth criteria for approval of accredited certification programs.

§130e.2 Definitions.

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

Act—The Commercial Manure Hauler and Broker Certification Act (Act of June 28, 2004, P.L. 454, No. 49)(3 P. S. §§ 2010.1-2010.12).

“Agricultural operation” or “operation.” The management and use of farming resources for the production of crops, livestock or poultry.

“Agricultural operator.” A person that has management control of an agricultural operation.

“BMP – Best management practice.” A practice or combination of practices determined by the State Conservation 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.

“Board.” The Nutrient Management Advisory Board created under section 10 of the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. § 510).

“Certificate Year.” The period from January 1- December 31

“Certification.” The completion of all requirements of a Commercial Manure Hauler or Broker contained in this chapter and final approval of the Department.

“Commercial manure broker.” A person that is not working for or under the control of an agricultural operator and that assumes temporary control or ownership of manure from an agricultural operation and arranges for transport to and utilization at an importing operation or other location.

“Commercial manure hauler.” A person that transports or land-applies manure as a contract agent for an agricultural operator or commercial manure broker under the direction of the operator or broker.

“Commission.” The State Conservation Commission established under the act of May 15, 1945 (P.L.547, No.217), known as the Conservation District Law.

“Competency” Demonstrating a thorough level of knowledge and understanding of the requirements of the Act and this chapter as evidenced by successfully meeting the applicable requirements of subchapter B (relating to Certification).

“Concentrated Animal Feeding Operation” or “CAFO.” An agricultural operation that meets the criteria established by the Department of Environmental Protection under authority of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

“Concentrated Animal Operation” or “CAO.” An agricultural operation that meets the criteria established under the authority of the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522), and the implementing regulations.

“Conservation district.” A county conservation district established under the act of May 15, 1945 (P.L. 547, No. 217) known as the Conservation District Law.

“Department.” The Department of Agriculture of the Commonwealth.

“Importer” or “importing operation.” A person that receives and utilizes or processes manure not produced by poultry or livestock under the management control of that person.

“Nutrient.” A substance or recognized plant nutrient, element or compound that is used or sold for its plant nutritive content or its claimed nutritive value. The term includes livestock and poultry manures, compost used as fertilizer, commercially manufactured chemical fertilizers, sewage sludge or combinations thereof.

“Nutrient balance sheet.” A written, site-specific document, meeting the requirements established by the State Conservation Commission under this act and the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522), used to determine appropriate manure, fertilizer and other nutrient source application rates on importing operations.

“Act 38 of 2005 regulations.” The regulations associated with Act 38 of 2005 (P.L. 112, No. 38), found at 25 *Pennsylvania Code*, Chapter 83, Subchapter D (25 Pa. Code §§ 83.201-83.491).

“Nutrient management plan.” A written site-specific plan that incorporates best management practices to manage the use of manure and other plant nutrients for crop production and water quality protection consistent with the criteria established under the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522), and the implementing regulations.

“Nutrient Management Specialist.” A person meeting the certification program requirements of section 8 of Act 38 of 2005 (relating to nutrient management certification program)(3 Pa.C.S.A. § 508) and duly certified under 7 *Pennsylvania Code*, Chapter 130b (relating to Nutrient Management Certification)(7 Pa. Code § 130b.1 *et seq.*) to write or review, or both, a nutrient management balance sheet or nutrient management plan.

“Person.” An individual, sole proprietorship, partnership, association, firm, corporation, labor organization, trustee, receiver or other legal entity.

“Recertification.” The completion of all continuing education and training requirements and acquisition of the necessary continuing education credits in the manner and within the time frame set forth in this chapter.

“Secretary.” The Secretary of Agriculture of the Commonwealth.

“Volunteer operation.” An agricultural operation that voluntarily meets the requirements of the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522).

§130e.3 Fees.

(a) Certification fees. Certification fees are nonrefundable. The following fees for each category and level of certification shall apply:

(1) Level 1 Commercial Manure Broker. The triennial fee for a level 1 commercial manure broker certificate is \$375.

(2) Level 2 Commercial Manure Broker. The triennial fee for a level 2 commercial manure broker certificate is \$450.

(3) Level 1 Commercial Manure Hauler. The biennial fee for a level 1 commercial manure hauler certificate is \$125.

(4) Level 2 Commercial Manure Hauler. The biennial fee for a level 2 commercial manure hauler certificate is \$185.

(5) Level 3 Commercial Manure Hauler. The triennial fee for a level 3 commercial manure hauler certificate is \$375.

(b) Examination fees. Examination fees are nonrefundable. The following fees shall apply:

(1) Level 1 Commercial Manure Broker – \$50

(2) Level 2 Commercial Manure Broker – \$50

(3) Level 1 Commercial Manure Hauler – \$40

(4) Level 2 Commercial Manure Hauler – \$40

(5) Level 3 Commercial Manure Hauler – \$50

(c) Disposition of fees and penalties. All fees and penalties collected under the act and this chapter shall be utilized to pay for administration of the act and this chapter. All fees and penalties collected under the act and this chapter shall be deposited into an account created within the Nutrient Management Fund established by section 512 of Act 38 of 2005 (3 Pa.C.S.A. § 512).

§ 130e.4. Prohibition.

(a) No Commercial Manure Hauler or Commercial Manure Broker may transport or land-apply manure in this Commonwealth on behalf of an agricultural operation, regardless of where the manure is generated, unless the hauler or broker has satisfied all of the following requirements:

(1) Successfully completed the certification requirements established by this Chapter.

(2) Received the appropriate certification from the Department.

(3) Has continued to maintain his certification as required by the Act and delineated in this Chapter.

(4) Continues to have a valid certification, which has not been suspended or revoked by the Department.

(5) Continues to operate within the confines and authority of the level of certification he has received.

(b) Any person that hauls or applies manure, generated by animals not under that person's management control, to land not under that person's management control, shall be certified at the proper certification level as a commercial manure hauler or broker.

130e.5 Authority, duties and prohibitions.

(a) Commercial Manure Broker

(1) Authority - A person duly certified as a Commercial Manure Broker under these regulations is authorized to assume temporary control or assume ownership of manure from an agricultural operation and to perform the following duties and activities:

(i) Level 1 Commercial Manure Broker - A person certified under these regulations as a level 1 Commercial Manure Broker is authorized to arrange transport of manure to and utilization of such manure at an importing operation or other location. Utilization of manure at an importing operation or other location includes land application of manure on an importing operation or other location. A level 1 certified Commercial Manure Broker shall be authorized to direct a level 1 Commercial Manure Hauler under contract with the Broker with regard to transportation of manure. A level 1 Commercial Manure Broker shall be authorized to directly supervise a level 2 Commercial Manure Hauler, under contract with the Broker, in the land-application of manure.

(ii) Level 2 Commercial Manure Broker - A person certified under these regulations as a level 2 Commercial Manure Broker is authorized to arrange transport of manure to and utilization of such manure at an importing operation or other location. Utilization of manure at an importing operation or other location includes land application of manure on an importing operation or other location. A level 2 certified Commercial Manure Broker shall be authorized to direct a level 1 Commercial Manure Hauler under contract with the Broker with regard to transportation of manure. A level 2 Commercial Manure Broker shall be authorized to directly supervise a level 2 Commercial Manure Hauler, under contract with the Broker, in the land-application of manure. A level 2 Commercial Manure Broker is further authorized to develop a nutrient balance sheet for the importing operation in accordance with the standards set forth in

these regulations, and in accordance with the standards established by the State Conservation Commission under Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522), and its attendant regulations at *25 Pennsylvania Code*, Chapter 83, Subchapter D.

(iii) For purposes of this section, supervise shall mean direct supervision. Where a level 2 certified Commercial Manure Hauler is land-applying manure on behalf of a Commercial Manure Broker, the Commercial Manure Broker shall have at least a level 1 certified Commercial Manure Broker on the site where the manure is being land-applied. The Commercial Manure Broker shall be responsible for assuring the proper application of the manure to that site and shall be jointly responsible for any misapplication or violations.

(2) Duties.

(i) A Commercial Manure Broker shall, when land-applying manure on behalf of an agricultural operator required under the provisions of section 5 of the Act (3 P.S. § 2010.5) to utilize a certified manure hauler or certified manure broker, do so only in accordance with the provisions of an approved nutrient management plan or nutrient balance sheet.

(ii) A Commercial Manure Broker shall provide, no later than the time of transfer of the manure, copies of the nutrient balance sheet to both the importing operation and to the county conservation districts in the counties in which the importing and exporting operations are located.

(3) Prohibition. Certification under this Chapter does not bestow authority upon a Commercial Manure Broker to develop a nutrient management plan for another person, review that plan or make recommendations with regard to manure application that are outside the manure application standards set forth in the approved nutrient management plan or nutrient balance sheet for the particular importing operation or other location.

(b) Commercial Manure Hauler

(1) Authority - A person duly certified as a Commercial Manure Hauler under these regulations is authorized to transport or land-apply, or both, manure as a contract agent for an agricultural operator or Commercial Manure Broker under the direction of the operator or broker and to perform the following duties and activities:

(i) Level 1 Commercial Manure Hauler - A person certified under these regulations as a level 1 Commercial Manure Hauler is authorized to transport manure as a contract agent for and under direction of an agricultural operator or a Commercial Manure Broker.

(ii) Level 2 Commercial Manure Hauler - A person certified under these regulations as a level 2 Commercial Manure Hauler is authorized to transport manure as a contract agent for and under direction of an agricultural operator or a Commercial Manure Broker. A level 2 Commercial Manure Hauler is authorized to land-apply manure at an importing operation or other location only under the following conditions:

(A) Under the direct supervision of a certified Commercial Manure Broker, as set forth at section 130e.5(a)(1) of this chapter.

(B) As an employee of and under the direct supervision of a level 3 certified Commercial Manure Hauler, as set forth at section 130e.5(b)(1)(iii) of this chapter.

(C) A level 2 Commercial Manure Hauler may not land-apply manure as a contract agent for an agricultural operator, unless the level 2 Commercial Manure Hauler has entered into an agreement with and is directly supervised by a certified Commercial Manure Broker.

(iii) Level 3 Commercial Manure Hauler – A person certified under these regulations as a level 3 Commercial Manure Hauler is authorized to transport and land-apply manure as a contracted agent for and under the direction of an agricultural operator or Commercial Manure Broker. A level 3 certified Commercial Manure Hauler shall have the authority to directly supervise land application of manure by a level 2 Commercial Manure Hauler. For purposes of this section, directly supervise shall mean supervision on the site where the manure is being land-applied. Where a level 2 certified Commercial Manure Hauler is land-applying manure the level 2 Certified Commercial Manure Hauler shall be directly supervised by either a level 3 certified Commercial Manure Hauler or a level 1 or level 2 certified Commercial Manure Broker. The supervising entity shall be responsible for assuring the

proper application of the manure to that site and shall be jointly responsible for any misapplication or violations.

(2) Duties. A Commercial Manure Hauler shall, when land-applying manure on behalf of an agricultural operator required under the provisions of section 5 of the Act (3 P.S. § 2010.5) to utilize a certified manure hauler or certified manure broker, do so only in accordance with the provisions of an approved nutrient management plan or nutrient balance sheet.

(3) Prohibitions. Certification under this Chapter does not bestow authority upon a Commercial Manure Hauler to develop a nutrient management plan for another person, review that plan or make recommendations with regard to manure application that are outside the manure application standards set forth in the approved nutrient management plan or nutrient balance sheet for the particular importing operation or other location.

§130e.6. Display of certification.

(a) Vehicles. All certified Commercial Manure Brokers and certified Commercial Manure Haulers shall prominently display on every vehicle involved in transport or land-application, or both, of manure the certification number assigned by the Department. The certification number shall be in figures at least 3 inches high, in contrasting color to the vehicle and shall be located on both sides of the vehicle at a readily visible location.

(b) Person. All certified Commercial Manure Brokers and certified Commercial Manure Haulers shall carry on their person or in the vehicle being utilized to transport or land-apply manure, or both, a copy of their current certificate.

(c) Contracts. The certification number of the Commercial Manure Broker or Commercial Manure Hauler shall be included in any contract or agreement entered into by that Commercial Manure Broker or Commercial Manure Hauler to transport or land-apply manure, or both.

§130e.7. Notice of change in business or certification. All certified Commercial Manure Brokers and Certified Commercial Manure Haulers shall notify the Department in writing within 15 days of a change in information regarding their level of certification or if that person is no longer engaged in or no longer intends to be engaged in the transport or land-application of manure, or both.

Subchapter B. CERTIFICATION

COMMERCIAL MANURE BROKERS

Sec.

130e.11 Determination of competence.

130e.12 Certification Requirements.

COMMERCIAL MANURE HAULER LEVEL 1

130e.21 Determination of competence.

130e.22. Certification Requirements.

COMMERCIAL HAULER LEVEL 2

130e.31 Determination of competence.

130e.32 Certification Requirements.

COMMERCIAL HAULER LEVEL 3

130e.41 Determination of competence.

130e.42 Certification Requirements.

CERTIFICATION TIME FRAMES AND RECERTIFICATION REQUIREMENTS

130e.51 Certification Time Frames and Recertification Requirements.

130e.52 Commercial Manure Broker and Hauler Continuing Education Requirements.

130e.53 Continuing Education Credit Course Providers.

DENIAL, SUSPENSION AND REVOCATION OF COMMERCIAL MANURE BROKER OR HAULER CERTIFICATES

130e.61 Denial, suspension and revocation of certificates.

COMMERCIAL MANURE BROKERS

§130e.11 Determination of competence.

(a) Commercial Manure Broker Certification. - Determination of competence for level 1 and level 2 Commercial Manure Brokers shall be based on the successful completion of the certification orientation training course and a proctored written examination as set forth in this section. Certification requirements for a Commercial Manure Broker shall include a Department developed or approved certification orientation training course and proctored written examination, both of which shall be administered in a class-room setting. Commercial Manure Broker certification 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. The certification orientation-training course shall cover such additional requirements or they may not be included in the written examination. The certification orientation-training course shall be completed prior to the applicant taking the written examination or the nutrient balance sheet writing course.

(b) Additional requirements for a Level 2 Commercial Manure Broker Certification. In addition to completing the requirements for and attaining a level 1 Commercial Manure Broker Certification, an applicant for level 2 Commercial Manure Broker certification shall be required to attend required Nutrient Management Plan Writing Certification courses and then pass a proctored Nutrient Balance Sheet examination administered or approved by the Department. The Nutrient Management Plan Writing courses have been developed under the Department's Nutrient Management Certification Program regulations at 7 *Pennsylvania Code*, Chapter 130b. The Nutrient Balance Sheet examination shall be developed or approved by the Department and shall be administered as a proctored classroom examination. The applicant for a level 2 Commercial Manure Broker certification shall first complete the required Nutrient Management Plan Writing courses, before he will be eligible to take the Nutrient Balance Sheet examination. The Nutrient Balance Sheet examination shall require the applicant for the level 2 Commercial Manure Broker Certification to develop a nutrient balance sheet based on an importing farm scenario developed or approved by the Department. The Department shall have 30 days from the date of the examination to review and approve or reject the nutrient balance sheet developed by the level 2 Commercial Manure Broker applicant. If the Department rejects the nutrient balance sheet the procedures set forth in section 130e.12(e)(3)(ii) of this chapter shall be followed.

(c) Certification orientation training. - The certification orientation-training course shall, at a minimum, address the applicant's understanding, competence and proficiency with regard to the following topics:

(1) Laws and regulations pertaining to manure application, including pertinent provisions of the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522) and its attendant regulations at *25 Pennsylvania Code*, Chapter 83, Subchapter D, The Clean Streams Law (35 P.S. §§ 691.1-691.1001) and applicable regulations at *25 Pennsylvania Code*, Chapter 102 (related to erosion and sedimentation control), the manure management manual and Protection Of Agricultural Operations From Nuisance Suits And Ordinances (3 P.S. §§ 951-957).

(2) Basic nutrient management and manure management protocols and requirements and soil fertility and management.

(3) Courses presenting information necessary for understanding and properly reading and applying the provisions of a nutrient management plan and nutrient balance sheet. The courses shall cover manure handling and testing, land-application information, manure application setback requirements and maps contained in nutrient balance sheets and nutrient management plans. Such courses shall include examples and hands on experience in reading, interpreting and properly applying the provisions of a nutrient management plan and nutrient balance sheet.

(4) Best management practices with respect to manure hauling and land-application of manure, such as the minimum legal setback requirements from water sources, including wells, groundwater, surface waters, wetlands, public water supplies, perennial and intermittent streams and property lines, controlling nutrient runoff, installing riparian buffers, updating and following erosion and sedimentation control plans, seasonal manure application concerns and incorporation and no-till farming techniques.

(5) Recordkeeping requirements necessary to meet all statutory and regulatory requirements of the Act and the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522).

(6) Courses teaching development and filing of a nutrient balance sheet and appropriate manure production application and testing information, manure application setback requirements and maps contained in a nutrient management plan. Such courses

shall cover the filing requirements set forth in the Act and require the applicant to display competence in reading and properly interpreting the provisions of a nutrient management plan and nutrient balance sheet and actual development of a nutrient balance sheet.

(7) Community relation and public image awareness, to encourage dialogue and promote cooperation.

(8) Basic awareness of safety issues related to manure management, manure handling and bio-security, as well as, transport safety procedures and highway and equipment safety.

(9) Understanding Emergency Action Plans.

(10) Proper calibration techniques and requirements for all types of equipment normally utilized to land-apply manure, to assure proper application rates.

(11) Understanding of land application issues, such as, incorporation, compaction and winter application.

(12) Understanding the proper placement of stacking areas and temporary storage of manure.

(13) Other areas and course work related to proper transport and land-application of manure and recordkeeping as determined appropriate by the department.

(d) Written examination. - The Department or its designee shall proctor the written examination. 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 applicant's understanding of transport and land application of manure on agricultural operations and their technical knowledge and proficiency relating to interpretation and implementation of nutrient management plans and nutrient balance sheets, as well as, their knowledge of recordkeeping requirements. The written examination shall, at a minimum, address all topics and areas required to be addressed by the certification orientation training course, as set forth in subsection 130e.11(c) of this section.

(e) Other examinations. - The Department may approve the use of written examinations other than the Pennsylvania Commercial Manure Broker and Hauler examination, if the written examinations meet the requirements in subsection 130e.11(d) of this section.

§130e.12 Certification requirements.

(a) General - A person shall obtain certification as a Commercial Manure Broker prior to assuming temporary control or ownership of manure from an agricultural operation or arranging for transportation to or utilization of manure at, or both, an importing operation or other location. When acting as a contract agent for an agricultural operator required by section 5 of the Act (3 P.S. § 2010.5) to use a certified Commercial Manure Hauler or certified Commercial Manure Broker, the Commercial Manure Broker shall land-apply the manure in accordance with and based upon an approved nutrient management plan developed by a certified nutrient management specialist or a nutrient balance sheet developed by a certified nutrient management specialist or a level 2 certified Commercial Manure Broker.

(b) Application for certification – Upon completion of all the requirements set forth in section 130e.11 of this chapter, a Commercial Manure Broker may submit an application for certification as a level 1 Commercial Manure Broker to the Department. The Department or its designee shall provide an application to all applicants, upon completion of the proctored written examination. All applications will include a verification form, which shall be signed by the applicant, attesting that the applicant has attended and successfully completed the certification orientation-training course.

(c) Application for level 2 Commercial Manure Broker Certification. Where the applicant seeks a level 2 Commercial Manure Broker certification, the applicant shall mark the appropriate box on the application. Upon a determination by the Department that the applicant has met the criteria to receive a level 1 Commercial Manure Broker certification, the Department will mail the level 1 Commercial Manure Broker certificate to the applicant and notify the applicant in writing of the times and locations of the required Nutrient Management Plan Writing courses and the times and locations of the proctored Nutrient Balance Sheet examinations. The written notification will include a verification form which must be provided to the Department prior to the level 2 Commercial Manure Broker applicant being approved to sit for the Nutrient Balance Sheet examination. The verification form must be signed by the

level 2 Commercial Manure Broker applicant attesting that the applicant has completed the required Nutrient Management Plan Writing courses.

(d) Time period for submission of application. All applicants shall have ten calendar days, from the date of the proctored written examination, to submit the application to the Department. The appropriate fee shall accompany the application for certification as a level 1 Commercial Manure Broker. Where a level 2 Commercial Manure Broker certification is sought the applicant shall follow the requirements set forth in subsection (c) of this section and shall submit a level 2 application and the fee for a level 2 Commercial Manure Broker certification upon the completion of the additional requirements for a level 2 certification. If the applicant fails to file the required application with the Department within the prescribed 10-calendar days, that person shall again satisfy the appropriate competency requirements established at section 130e.11 of this chapter.

(e) Determination of competence and issuance of certification. - Within 30-days of receiving an administratively complete, verified and signed application, the Department will review the documents and score the written test, and where applicable the nutrient balance sheet scenario. The Department will notify each applicant in writing of the results of the Department's review.

(1) An applicant who has successfully completed the certification orientation training course and passed the written examination shall be issued a level 1 Commercial Manure Broker Certification.

(2) In order to obtain a level 2 Commercial Manure Broker certification, the applicant shall have successfully completed the certification orientation training course, passed the written examination, received level 1 Commercial Manure Broker certification, attended the required Nutrient Management Plan Writing courses, and taken and passed the Nutrient Balance Sheet examination.

(3) If an applicant is rejected, the Department shall notify the applicant, in writing and specifically set forth the reasons for such rejection.

(i) Where a level 1 Commercial Manure Broker applicant is rejected, that applicant shall be allowed to take the next available level 1 Commercial

Manure Broker written examination and submit an application, in the manner required by subsection (d) of this section, to the Department without having to repeat the certification orientation training course required by section 130e.11 of this Chapter. If the applicant fails to pass the written examination for a second time, that applicant shall be required to again meet all of the requirements established by section 130e.11 of this chapter and take the next available written examination, prior to resubmission of an application for certification as a level 1 Commercial Manure Broker.

(ii) Where an applicant seeks a level 2 Commercial Manure Broker certification and fails the Nutrient Balance Sheet examination, the applicant shall be allowed to take the next available Nutrient Balance Sheet examination. If the applicant fails to pass the Nutrient Balance Sheet examination for a second time, the Department will again notify the applicant, in writing of the rejection and the reason for the rejection. In order to again be considered for a level 2 Commercial Manure Broker certification, the applicant shall be required to satisfy all of the requirements set forth at 130e.11(b) of this chapter. The Department shall have 30 days to review and accept or reject the nutrient balance sheet submitted. If the nutrient balance sheet is once again determined to be inadequate, the Department shall notify the applicant of the rejection in writing and the reason for the rejection. The applicant shall be required to complete all of the requirements of section 130.e.11 in order to be eligible to apply for a level 2 Commercial Manure Broker certification.

(f) Level 1 Commercial Manure Broker to Level 2 Commercial Manure Broker -

(1) A level 1 certified Commercial Manure Broker may attain a level 2 Commercial Manure Broker certification by meeting the requirements established by section 130e.11(b) of this chapter. To be eligible to apply, the applicant shall be currently certified as a level 1 Commercial Manure Broker and in good standing.

(2) The Department shall notify an applicant in writing of approval or rejection of an application. If the nutrient balance sheet is determined to be adequate the written notice will include the level 2 Commercial Manure Broker certificate. If the

Department rejects the application, the Department will notify the applicant in writing and set forth the reasons for the rejection. Where the applicant wishes to reapply for a level 2 Commercial Manure Broker certification, the procedures and steps established by subsection (e)(3)(ii) of this section shall apply and be followed.

COMMERCIAL MANURE HAULERS – LEVEL 1

§130e.21 Determination of Competence.

(a) Level 1 Commercial Manure Hauler -Determination of competence for a level 1 Commercial Manure Hauler shall be based on the successful completion of certification training as set forth in this section. Certification requirements for a level 1 Commercial Manure Hauler shall include a non-classroom certification orientation-training course developed or approved by the Department. The non-classroom certification orientation-training course shall include a training manual and a written examination. The written examination will be available at and shall be taken at one of the following locations; a County Conservation District office, a location of the educational institution or entity that developed an approved course or the Department or a regional office location of the Department. The written examination shall be completed by the applicant without the aid or assistance of another person, written materials, notes, electronic devices (other than a calculator) or the training manual. Certification 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. Such course work shall be included in the training manual, if it is to appear on the written examination.

(b) Certification orientation training course. - A level 1 Commercial Manure Hauler non-classroom certification orientation-training course and the written examination shall, at a minimum, address and determine the applicant's level of understanding, competence and proficiency with regard to the following topics:

(1) Laws and regulations pertaining to manure application, including pertinent provisions of the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522) and its attendant regulations at 25 *Pennsylvania Code*, Chapter 83, Subchapter D, The Clean Streams Law (35 P.S. §§ 691.1-691.1001) and applicable regulations at 25 *Pennsylvania Code*, Chapter 102 (related to erosion and sedimentation

control), the manure management manual and Protection Of Agricultural Operations From Nuisance Suits And Ordinances (3 P.S. §§ 951-957).

(2) Courses presenting information necessary for understanding and properly reading and applying the provisions of a nutrient management plan and nutrient balance sheet. The courses shall cover manure handling and testing results, land-application information, setback requirements and maps contained in nutrient balance sheets and nutrient management plans. Such courses shall include examples and hands on experience in reading, interpreting and properly applying the provisions of a nutrient management plan and nutrient balance sheet.

(3) Best management practices with respect to manure hauling such as the minimum legal setback requirements from water sources, including wells, groundwater, surface waters, wetlands, public water supplies, perennial and intermittent streams and property lines and controlling nutrient runoff.

(4) Recordkeeping requirements necessary to meet all statutory and regulatory requirements of the Act and the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522).

(5) Address the following matters pertaining to manure transport and land application:

(i) Community relation and public image awareness, to encourage dialogue and promote cooperation.

(ii) Basic awareness and understanding of safety issues related to manure management, manure handling and bio-security, as well as, transport safety procedures and highway and equipment safety.

(iii) Understanding Emergency Action Plans.

(iv) Understanding the proper placement of stacking areas and temporary storage of manure.

(v) Other areas and course work related to proper transport and land-application of manure and recordkeeping as determined appropriate by the department.

§130e.22 Certification Requirements.

(a) General - To obtain a level 1 Commercial Manure Hauler certification, a person must request and review the level 1 orientation training course training manual and take and pass the written examination. A person shall obtain certification as a level 1 Commercial Manure Hauler prior to transporting manure. A person certified as a level 1 Commercial Manure Hauler shall be qualified to transport manure only. Such transportation of manure shall be done as a contract agent for an agricultural operator or a certified Commercial Manure Broker. A level 1 certified Commercial Manure Hauler, who is the employee of a level 3 certified Commercial Manure Hauler, may transport manure as an employee of the certified Hauler, so long as the certified level 3 Commercial Manure Hauler is acting as a contract agent for an agricultural operator or certified Commercial Manure Broker. A level 1 certified Commercial Manure Hauler may not land-apply manure.

(b) Application for certification. - Upon completion of all the requirements set forth in sections 130e.21 and 130e.22(a) of this chapter, an applicant for a level 1 Commercial Manure Hauler certification shall submit a signed and verified application for certification as a level 1 Commercial Manure Hauler to the Department. The application shall be signed and verified by the applicant, in the presence of the proctor, immediately after taking the written examination. The proctor shall also sign the application and verification. The signed and verified application along with the completed level 1 written examination shall be given to the designated proctor at the location where the written examination is taken. The signed verification shall attest to the fact the applicant completed the written examination on his own and did so without the aid or assistance of another person, written materials, notes, electronic devices (other than a calculator) or the training manual. The proctor shall submit the application packet, which shall include the signed verification and application and the original written examination to the Department within 5 calendar days of the completion of the examination by the applicant. The appropriate fee shall accompany the application for certification as a level 1 Commercial Manure Hauler.

(c) Determination of competence and issuance of certification - Within 15 days of receiving an administratively complete application, the Department will review the documents and score the written examination to determine whether the applicant has met the requirements to obtain a level 1 Commercial Manure Hauler certification. The Department will then notify each applicant in writing of the results of the Department's review. An applicant who has

successfully completed the requirements of this subchapter and passed the written examination shall be issued a level 1 Commercial Manure Hauler certification. If the applicant is rejected, the Department shall notify the applicant in writing and specifically set forth the reasons for such rejection. Where an applicant is rejected, that applicant shall be required to meet the requirements established by sections 130e.21 and 130e.22(a) of this chapter, prior to resubmission of an application for certification as a level 1 Commercial Manure Hauler.

COMMERCIAL MANURE HAULERS – LEVEL 2

§130e.31 Determination of Competence.

(a) Level 2 Commercial Manure Hauler -Determination of competence for a level 2 Commercial Manure Hauler shall be based on the successful completion of a certification orientation training course and a written examination as set forth in this section. Certification requirements for a level 2 Commercial Manure Hauler shall include a non-classroom certification orientation-training course developed or approved by the Department. The non-classroom certification orientation-training course shall include a training manual and a written examination. The written examination shall be available at and shall be taken at one of the following locations; a County Conservation District office, a location of the educational institution or entity that developed an approved course or at the Department or a regional office location of the Department. The written examination shall be completed by the applicant without the aid or assistance of another person, written materials, notes, electronic devices (other than a calculator) or the training manual. Certification 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. Such course work shall be included in the training manual, if it is to appear on the written examination.

(b) Certification orientation training course. - A level 2 Commercial Manure Hauler non-classroom certification orientation-training course and the written examination shall, at a minimum, address and determine the applicant's level of understanding, competence and proficiency with regard to the following topics:

- (1) Laws and regulations pertaining to manure application, including pertinent provisions of the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522) and its attendant regulations at *25 Pennsylvania Code*, Chapter

83, Subchapter D, The Clean Streams Law (35 P.S. §§ 691.1-691.1001) and applicable regulations at *25 Pennsylvania Code*, Chapter 102 (related to erosion and sedimentation control), the manure management manual and Protection Of Agricultural Operations From Nuisance Suits And Ordinances (3 P.S. §§ 951-957).

(2) Basic nutrient management and manure management protocols and requirements and soil fertility and management.

(3) Courses presenting information necessary for understanding and properly reading and applying the provisions of a nutrient management plan and nutrient balance sheet. The courses shall cover manure handling and testing, land-application information, manure application setback requirements and maps contained in nutrient balance sheets and nutrient management plans. Such courses shall include examples and hands on experience in reading, interpreting and properly applying the provisions of a nutrient management plan and nutrient balance sheet.

(4) Best management practices with respect to manure hauling and land-application of manure, such as the minimum legal setback requirements from water sources, including wells, groundwater, surface waters, wetlands, public water supplies, perennial and intermittent streams and property lines, controlling nutrient runoff, installing riparian buffers, updating and following erosion and sedimentation control plans, seasonal manure application concerns and incorporation and no-till farming techniques.

(5) Recordkeeping requirements necessary to meet all statutory and regulatory requirements of the Act and the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522).

(6) Address the following matters pertaining to manure transport and land application:

(i) Courses teaching development and filing of a nutrient balance sheet and appropriate manure production application and testing information, manure application setback requirements and maps contained in a nutrient management plan. Such courses shall cover the filing requirements set forth in the Act and require the applicant to display competence in reading and properly interpreting the provisions of a nutrient balance sheet and nutrient management plan.

(ii) Community relation and public image awareness, to encourage dialogue and promote cooperation .

(iii) Basic awareness of safety issues related to manure management, manure handling and bio-security, as well as, transport safety procedures and highway and equipment safety.

(iv) Understanding Emergency Action Plans.

(v) Proper calibration techniques and requirements for all types of equipment normally utilized to land-apply manure to assure proper application rates.

(vi) Understanding of land application issues, such as, incorporation, compaction and winter application.

(vii) Understanding the proper placement of stacking areas and temporary storage of manure.

(viii) Other areas and course work related to proper transport and land-application of manure and recordkeeping as determined appropriate by the department.

§130e.32 Certification Requirements.

(a) General. - To obtain a level 2 Commercial Manure Hauler certification, a person must request and review the level 2 certification orientation-training course training manual and take and pass the level 2 certification written examination. A person shall obtain certification as a Commercial Manure Hauler level 2 prior to land-applying manure. All manure land-applied by a level 2 certified Commercial Manure Hauler shall only be applied under the direct supervision of a level 1 or level 2 certified Commercial Manure Broker or a level 3 Certified Commercial Manure Hauler acting as a contract agent for an agricultural operator or Commercial Manure Broker. All manure land-applied by a level 2 certified Commercial Manure Hauler shall be applied in accordance with an approved nutrient management plan developed by a certified nutrient management specialist or a nutrient balance sheet developed by a certified nutrient management specialist or a level 2 certified Commercial Manure Broker.

(b) Application for certification.- Upon completion of all the requirements set forth in sections 130e.31 and 130e.32(a) of this chapter, an applicant for a level 2 Commercial Manure Hauler certification shall submit a signed and verified application for certification as a level 2 Commercial Manure Hauler to the Department. The application shall be signed and verified by

the applicant, in the presence of the proctor, immediately after taking the written examination. The proctor shall also sign the application and verification. The signed and verified application along with the completed level 2 written examination shall be given to the designated proctor at the location where the written examination was taken. The signed verification shall attest to the fact the applicant completed and answered the questions on the written examination on his own and did so without the aid or assistance of another person, written materials, notes, electronic devices (other than a calculator) or the training manual. The proctor shall submit the application packet, which shall include the signed verification and application and the original written examination to the Department within 5 calendar days of the completion of the examination by the applicant. The appropriate fee shall accompany the application for certification as a level 2 Commercial Manure Hauler.

(c) Determination of competence - Within 15-days of receiving an administratively complete application, the Department will review the documents and score the written examination to determine whether the applicant has met the requirements to obtain a level 2 Commercial Manure Hauler certification. The Department will then notify each applicant in writing of the results of the Department's review. An applicant who has successfully completed the requirements of this subchapter and passed the written examination shall be issued a level 2 Commercial Manure Hauler certification. If the applicant is rejected, the Department shall notify the applicant in writing and specifically set forth the reasons for such rejection. Where an applicant is rejected, that applicant shall be required to meet the requirements established by sections 130e.31 and 130e.32(a) of this chapter, prior to resubmission of an application for certification as a level 2 Commercial Manure Hauler.

COMMERCIAL MANURE HAULERS – LEVEL 3

§130e.41 Determination of Competence.

(a) Commercial Manure Hauler level 3 certification. - Determination of competence for a level 3 Commercial Manure Hauler shall be based on the successful completion of a Department developed or approved certification orientation training course and a written examination meeting the requirements set forth in this section. Both the certification orientation training course and the written examination shall be administered in a class-room setting. Certification 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. The certification orientation-training course shall cover such additional requirements or they may not be included in the written examination. The certification orientation-training course shall be completed prior to the applicant taking the written examination.

(b) Certification orientation training. - The certification orientation-training course shall, at a minimum, address the applicant's understanding, competence and proficiency with regard to the following topics:

(1) Laws and regulations pertaining to manure application, including pertinent provisions of the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522) and its attendant regulations at 25 *Pennsylvania Code*, Chapter 83, Subchapter D, The Clean Streams Law (35 P.S. §§ 691.1-691.1001) and applicable regulations at 25 *Pennsylvania Code*, Chapter 102 (related to erosion and sedimentation control), the manure management manual and Protection Of Agricultural Operations From Nuisance Suits And Ordinances (3 P.S. §§ 951-957).

(2) Basic nutrient management and manure management protocols and requirements and soil fertility and management.

(3) Courses presenting information necessary for understanding and properly reading and applying the provisions of a nutrient management plan and nutrient balance sheet. The courses shall cover manure handling and testing, land-application information, manure application setback requirements and maps contained in nutrient balance sheets and nutrient management plans. Such courses shall include examples and hands on experience in reading, interpreting and properly applying the provisions of a nutrient management plan and nutrient balance sheet.

(4) Best management practices with respect to manure hauling and land-application of manure, such as the minimum legal setback requirements from water sources, including wells, groundwater, surface waters, wetlands, public water supplies, perennial and intermittent streams and property lines, controlling nutrient runoff, installing riparian buffers, updating and following erosion and sedimentation control plans, seasonal manure application concerns and incorporation and no-till farming techniques.

(5) Recordkeeping requirements necessary to meet all statutory and regulatory requirements of the Act and the act of July 6, 2005 (P.L. 112, No. 38), known as Act 38 of 2005 (3 Pa.C.S.A. §§ 311-522).

(6) Address the following matters pertaining to manure transport and land application:

(i) Courses teaching development and filing of a nutrient balance sheet and appropriate manure production application and testing information, manure application setback requirements and maps contained in a nutrient management plan. Such courses shall cover the filing requirements set forth in the Act and require the applicant to display competence in reading and properly interpreting the provisions of a nutrient balance sheet and nutrient management plan.

(ii) Community relation and public image awareness, to encourage dialogue and promote cooperation.

(iii) Basic awareness of safety issues related to manure management, manure handling and bio-security, as well as, transport safety procedures and highway and equipment safety.

(iv) Understanding Emergency Action Plans.

(v) Proper calibration techniques and requirements for all types of equipment normally utilized to land-apply manure to assure proper application rates.

(vi) Understanding of land application issues, such as, incorporation, compaction and winter application.

(vii) Understanding the proper placement of stacking areas and temporary storage of manure.

(viii) Other areas and course work related to proper transport and land-application of manure and recordkeeping as determined appropriate by the department.

(c) Written examination. The Department or its designee shall proctor the written examination. 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 understanding of transport and land-application of manure on agricultural operations and their technical knowledge and proficiency relating to interpretation and implementation of nutrient management plans and nutrient balance sheets, as well as, their knowledge of recordkeeping requirements. The written examination shall, at a minimum, address all topics and areas required to be addressed by the certification orientation-training course, as set forth in subsection 130e.41(b) of this section.

(d) Other examinations. The Department may approve the use of written examinations other than the Pennsylvania Commercial Manure Broker and Commercial Manure Hauler examination, if the written examinations meet the requirements in subsection 130e.41(c) of this section.

§130e.42 Certification Requirements.

(a) General – A person shall obtain certification as a Commercial Manure Hauler level 3 prior to land-applying manure without direct supervision and prior to supervising the land-application of manure by another certified Commercial Manure Hauler. A level 3 certified Commercial Manure Hauler may transport or land-apply manure, or both, as a contract agent for an agricultural operator or Commercial Manure Broker and under the direction of that operator or broker. When acting as a contract agent for an agricultural operator required by section 5 of the Act (3 P.S. § 2010.5) to use a certified Commercial Manure Hauler or certified Commercial Manure Broker, the Commercial Manure Hauler shall land-apply the manure in accordance with and based upon an approved nutrient management plan developed by a certified nutrient management specialist or nutrient balance sheet developed by a certified nutrient management specialist or a level 2 certified Commercial Manure Broker. When acting as a contract agent for a certified Commercial Manure Broker, that has assumed temporary control or ownership of manure from an agricultural operator required by section 5 of the Act (3 P.S. § 2010.5) to use a certified Commercial Manure Hauler or certified Commercial Manure Broker, the Commercial Manure Hauler shall land-apply the manure in accordance with and based upon an approved nutrient management plan developed by a certified nutrient management specialist or nutrient balance sheet developed by a certified nutrient management specialist or a level 2 certified Commercial Manure Broker.

(b) Application for certification – Upon completion of all the requirements set forth in section 130e.41 of this chapter, an applicant for a level 3 Commercial Manure Hauler certification, may submit an application to the Department. The Department or its designee shall provide an application to all applicants, upon completion of the written examination. The application shall include a verification form, which shall be signed by the applicant, attesting that the applicant has attended and successfully completed the appropriate certification orientation-training course. The applicant shall check the box on the application indicating the level of certification sought. All applicants shall have ten calendar days to submit the application to the Department. The appropriate fee shall accompany the application for certification as a level 3 Commercial Manure Hauler.

(c) Time period for filing application - An application for certification shall be filed with the Department within 10-calendar days of completion of the written examination. If the applicant fails to file the application with the Department within the prescribed 10-calendar days, that person shall again satisfy the appropriate competency requirements established at section 130e.41 of this chapter.

(d) Determination of competence and issuance of certification - Within 30-days of receiving an administratively complete, verified and signed application, the Department will review the documents and score the written test. The Department will then notify each applicant in writing of the results of the Department's review.

(1) An applicant who has successfully completed the level 3 Commercial Manure Hauler certification orientation training course and passed the written examination shall be issued a level 3 Commercial Manure Hauler Certification.

(2) If an applicant is rejected, the Department shall notify the applicant in writing and specifically set forth the reasons for such rejection. Where a level 3 Commercial Manure Hauler applicant is rejected, that applicant shall be allowed to take the next available written examination and submit an application, in the manner required by subsection (c) of this section, to the Department without having to repeat the certification orientation training course as required by section 130e.41 of this Chapter. If the applicant fails to pass the written examination for a second time, that applicant shall be required to again meet all of the requirements established by section

130e.41 of this chapter and take the next available written examination, prior to resubmission of an application for certification as a level 3 Commercial Manure Hauler.

(e) Level 3 Commercial Manure Hauler to Level 2 Commercial Manure Broker -

(1) A level 3 certified Commercial Manure Hauler may attain a level 2 Commercial Manure Broker certification by-attending a Department approved nutrient balance sheet writing course and then developing and submitting a nutrient balance sheet, based on a scenario generated or approved by the Department, to the Department for review and a determination of adequacy. To be eligible to apply, the applicant shall be currently certified as a level 3 Commercial Manure Hauler and in good standing.

(2) The Department shall notify an applicant in writing of approval or rejection of an application. If the nutrient balance sheet is determined to be adequate the written notice will include the level 2 Commercial Manure Broker certificate. If the Department rejects the application, the Department will notify the applicant in writing and set forth the reasons for the rejection. Where the applicant wishes to reapply for a level 2 Commercial Manure Broker certification, the procedures and steps, related to reconsideration for a level 2 Commercial Manure Broker certification, established at section 130e.12(d)(3)(ii) shall apply and be followed.

CERTIFICATION TIME FRAMES

AND

RECERTIFICATION REQUIREMENTS

§ 130e.51 Certification Time Frames and Recertification Requirements.

The following time frames shall apply to the different levels of Commercial Manure Broker and Commercial Manure Hauler certification. Recertification intervals and continuing education courses shall be based on the level of certification.

(a) Level 1 and Level 2 Commercial Manure Brokers. Certification is valid for three years from the calendar year in which the certification was issued unless the certificate was issued in the last 2 months of the initial certificate year in which case the certificate is valid for an additional year. To attain the recertification required, a Commercial Manure Broker shall again satisfy the applicable certification requirements set forth as sections 130e.11 and 130e.12 of

this chapter. The Commercial Manure Broker shall satisfy the recertification requirements prior to the expiration of his three year certification. A Commercial Manure Broker that is in good standing, meaning he has no current, pending or unsatisfied past violations of the Act, Act 38 of 2005 or the Clean Streams Law and has satisfied the continuing education credit requirements established by this chapter, shall be allowed to take the Commercial Manure Broker written examination without having to attend the certification training course for that level of certification. A Commercial Manure Broker not in good standing or that has not satisfied the continuing education credit requirements of this chapter, shall be required to attend the applicable certification training courses prior to sitting for the written examination. In addition to meeting the requirements delineated above, in order to retain a Level 2 Commercial Manure Broker Certification, the Level 2 Commercial Manure Broker shall develop and have approved by the Department a nutrient balance sheet based on a scenario developed or approved by the Department. A Level 2 Commercial Manure Broker in good standing and up to date on all of the required continuing education credits shall be permitted to sit for the nutrient balance sheet examination without having to attend any nutrient balance sheet writing courses. A Level 2 Commercial Manure Broker not in good standing or that has not satisfied the continuing education credit requirements of this chapter, shall be required to attend the applicable certification training courses and nutrient balance sheet writing courses prior to sitting for the Level 1 written examination and then Level 2 nutrient balance sheet examination.

(b) Level 1 Commercial Manure Hauler- Certification is valid for 2 years from the calendar year in which the certification was issued unless the certificate was issued in the last 2 months of the initial certificate year in which case the certificate is valid for an additional year. To attain the recertification required, a Level 1 Commercial Manure Hauler shall again satisfy the applicable certification requirements set forth as sections 130e.21 and 130e.22 of this chapter. The Level 1 Commercial Manure Hauler shall satisfy these requirements prior to the expiration of his two year certification. A Level 1 Commercial Manure Hauler shall be in good standing, meaning he has no current, pending or unsatisfied past violations of the Act, Act 38 of 2005 or the Clean Streams Law and has satisfied the continuing education credit requirements established by this chapter, in order to be allowed to take the current Level 1 Commercial Manure Hauler written examination.

(c) Level 2 Commercial Manure Hauler- Certification is valid for 2 years from the date of

issuance from the calendar year in which the certification was issued unless the certificate was issued in the last 2 months of the initial certificate year in which case the certificate is valid for an additional year. To attain the recertification required, a Level 2 Commercial Manure Hauler shall again satisfy the certification requirements set forth as sections 130e.31 and 130e.32 of this chapter. The Level 2 Commercial Manure Hauler shall satisfy these requirements prior to the expiration of his two year certification. A Level 2 Commercial Manure Hauler shall be in good standing, meaning he has no current, pending or unsatisfied past violations of the Act, Act 38 of 2005 or the Clean Streams Law and has satisfied the continuing education credit requirements established by this chapter, in order to be allowed to take the current Level 2 Commercial Manure Hauler written examination.

(d) Level 3 Commercial Manure Hauler- Certification is valid for 3 years from the calendar year in which the certification was issued unless the certificate was issued in the last 2 months of the initial certificate year in which case the certificate is valid for an additional year. To attain the recertification required, a Level 3 Commercial Manure Hauler shall again satisfy the applicable certification requirements set forth as sections 130e.41 and 130e.42 of this chapter. The Level 3 Commercial Manure Hauler shall satisfy the recertification requirements prior to the expiration of his three year certification. A Level 3 Commercial Manure Hauler that is in good standing, meaning he has no current, pending or unsatisfied past violations of the Act, Act 38 of 2005 or the Clean Streams Law and has satisfied the continuing education credit requirements established by this chapter, shall be allowed to take the proctored Level 3 Commercial Manure Hauler written examination without having to attend the certification training course for that level of certification. A Level 3 Commercial Manure Hauler not in good standing or that has not satisfied the continuing education credit requirements of this chapter, shall be required to attend the applicable certification training courses prior to sitting for the Level 3 Commercial Manure Hauler written examination.

§130e.52 Commercial Manure Broker and Hauler Continuing Education Requirements.

(a) Continuing education credit requirements. All certified Commercial Manure Brokers and Commercial Manure Haulers shall be required to obtain continuing education credits. The number of continuing education credits required shall be based on the level of certification. The Department will develop or shall approve continuing education credit courses for each level of certification.

(1) Level 1 and 2 Commercial Manure Brokers and level 3 Commercial Manure Haulers. Every 3 calendar years, Level 1 and Level 2 Commercial Manure Brokers and Level 3 Commercial Manure Haulers, shall provide written documentation of completion of the required number of continuing education credits. Continuing education credits shall be received by attending and completing Department developed or approved training courses in the competency requirements set forth in the initial certification orientation training courses for the particular level at which the person is certified.

(i) Level 1 and Level 2 certified Commercial Manure Brokers shall receive continuing education training credits in the competency areas set forth at section 130e.11 of this chapter. Additionally, level 2 certified Commercial Manure Brokers shall be subject to at least one inspection and determination of competency per calendar year by the Department of any nutrient balance sheet prepared by the level 2 certified Commercial Manure Broker.

(ii) Level 3 Commercial Manure Haulers shall receive continuing education training credits in the competency areas established at section 130e.41 of this chapter.

(2) Level 2 Commercial Manure Haulers. Every 2 calendar-years, Level 2 Commercial Manure Haulers shall provide written documentation of completion of the required number of continuing education credits. Continuing education credits shall be received by attending and completing Department developed or approved training courses in the competency requirements for a level 2 Commercial Manure Hauler, which are set forth at section 130e.31 of this chapter.

(3) Level 1 Commercial Manure Haulers. Every 2 calendar-years, Level 1 Commercial Manure Haulers shall provide written documentation of completion of the required number of continuing education credits. Continuing education credits shall be received by attending and completing Department developed or approved training courses in the competency requirements for a level 1 Commercial Manure Hauler, which are set forth at section 130e.21 of this chapter.

(b) Continuing education courses and credits.

(1) Continuing education. Continuing education credits shall be obtained through attendance at Department developed or approved courses. The Department will develop or

evaluate and approve continuing education courses for each level of Commercial Manure Broker and Commercial Manure Hauler. The Department will publish approved courses and the place, date and time for each course on the Department website and in the Department's quarterly newsletter. The Department will also notify certified Commercial Manure Brokers and Commercial Manure Haulers by e-mail or by fax or both, if the Commercial Manure Broker or Commercial Manure Hauler has provided their contact information to the Department. The Department will endeavor to hold continuing education courses in various regions across the Commonwealth in order to assure reasonable access to certified Commercial Manure Brokers and Haulers across the Commonwealth.

(2) Continuing education credits.

(i) Rate of accrual. Continuing education credits shall accrue at the rate of 1 credit per hour of applicable instruction. Participants shall be required to sign in and sign out of each continuing education course. Participants will be asked to complete an evaluation of each session, as well as, an evaluation of the course in general. Participants shall be required to attend the entire continuing education course. A participant leaving a continuing education course early, shall receive no continuing education credits. The sign in and sign out sheets shall be provided by the Department and shall be collected by the continuing education course provider at the end of each day of the continuing education course and mailed to the Department. The Department shall record the name of each certified Commercial Manure Broker and certified Commercial Manure Hauler attending the continuing education course and assign the appropriate number of continuing education credits to the Broker's or Hauler's file. The evaluation sheet for each continuing education course shall be developed by the Department or developed by the approved course provider. Break periods such as coffee breaks, lunches, visits to exhibits, and the like shall not be considered as part of the instruction period and shall be excluded from the applicable instruction hours. Question and answer sessions shall be considered part of the applicable instruction hours. However, early dismissal shall not be allowed and credits will not accrue in any hour in which there was an early dismissal. Credits assigned shall be modified if either the content or length of the training substantially differs from the continuing education course originally approved by the Department.

(ii) Number of continuing education credit hours required. Certified Commercial Manure Brokers and certified Commercial Manure Haulers shall be required to obtain the following amount of continuing education credits in Department approved continuing education courses:

(A) Level 1 certified Commercial Manure Brokers and Level 3 certified Commercial Manure Haulers shall be required to attain 9 continuing education credits per certification period.

(B) Level 2 certified Commercial Manure Brokers shall be required to attain a total of 12 continuing education credits per certification period, with 3 of those 12 continuing education credits pertaining to development of nutrient balance sheets.

(C) Level 1 and level 2 certified Commercial Manure Haulers shall be required to attain 6 continuing education credits per certification period.

(c) Additional recertification requirements. In order to remain in good standing certified Commercial Manure Brokers and Haulers shall comply with the following additional requirements:

(1) By January 15th of each year of certification all certified Commercial Manure Brokers and Commercial Manure Haulers shall send to the Department, an annual summary of the amount of manure brokered, stored, transported, stacked and land applied. Such summary shall be broken down by category and month.

(2) The Department may, if deemed necessary by a change in statute or regulation or where new science or technology make it necessary, require other specific continuing education training and recertification requirements for certified Commercial Manure Brokers or certified Commercial Manure Haulers. If such continuing education training or recertification requirements are deemed necessary, the Department shall provide written notification and educational materials to all currently certified Commercial Manure Brokers and Commercial Manure Haulers.

(d) Failure to obtain continuing education credits. If a Commercial Manure Broker or Commercial Manure Hauler allows his certification to expire and does not obtain the required number and types of continuing education credits, in accordance with the provisions of

this chapter, the Commercial Manure Broker's or Commercial Manure Hauler's certification shall have lapsed and their privilege to broker or haul manure shall be suspended or revoked until such time as the Commercial Manure Broker or Commercial Manure Hauler obtains the required continuing education credits and meets the recertification requirements of this chapter. In cases where the Commercial Manure Broker or Hauler has failed to obtain any of the required continuing education credits, that person shall again satisfy the full certification requirements, established by this chapter, for the level of certification sought to be retained. The Department shall send a written notice of such lapse and of suspension or revocation of certification to the Commercial Manure Broker or Hauler. The Act requires certification and therefore, a Commercial Manure Broker or Commercial Manure Hauler that has allowed his certification to lapse shall refrain from brokering, hauling or land-applying manure until all delinquent continuing education credits are acquired or that person has again completed the appropriate certification requirements and received the Department's approval, removal of the suspension and have been reissued a commercial manure broker or hauler certification. Failure to abide by the terms of this subsection is a violation of the Act and this Chapter and shall subject the violator and his employer to any or all of the penalties provisions set forth in sections 6,7,8 and 9 of the Act (3 P.S. §§ 2010.6, 2010.7, 2010.8 and 2010.9).

(e) Revocation or suspension. The Department's decision to revoke or suspend a Commercial Manure Broker's or Commercial Manure Hauler's certification shall be based on the gravity of the offense. The Department shall consider the willfulness of the violation, previous violations and whether the person in question has continued to operate despite not acquiring the required continuing education credits or recertification prior to lapse of his current level of certification or both.

(1) Suspended certification. A Commercial Manure Broker or Commercial Manure Hauler whose certification has been suspended shall not operate until all continuing education credits or recertification requirements or both have been met and approved by the Department or that person has again completed the appropriate certification requirements and received the approvals, as set forth in subsection (d) of this section.

(2) Revoked certification. A Commercial Manure Broker or Commercial Manure Hauler whose certification has been revoked, shall not operate until such time as the Department has issued a new certification. In order to obtain certification once again, the person whose certification has been revoked shall again satisfy the full certification

requirements, established by this chapter, for the level of certification sought to be obtained.

§ 130e.53 Continuing Education Credit Course Providers.

(a) Approval, denial, suspension and revocation to provide a continuing education credit course.

(1) Eligibility. To be eligible to apply for approval to conduct a continuing education credit course, the applicant shall be the Pennsylvania State University or other education institution or entity.

(2) Application content. Persons developing and seeking approval of a continuing education credit course they have developed shall submit an application, containing details of the course components and topics, as well as, names of speakers, subject matter and topics and time allotted to each subject or topic. The application shall include the name of the person developing and administering the course and a contact person, the specific location or locations and the proposed dates and times the course will be offered at each location. The application shall state whether the courses will be open to the public and if a fee will be charged. In addition, the application shall set forth which of the various levels of certification the course provider intends to address and the overall length of the program and credit hours sought to be approved.

(3) Submission of application. The application shall be submitted to the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408.

(4) Department approval, disapproval or modification. An applicant shall receive approval from the Department prior to offering or administering a continuing education credit course. The Department shall review and approve, disapprove or modify a request for approval within 30 days of receipt of an administratively complete application. An approval, denial or modification shall be in writing. A denial or modification request shall state the specific reasons for the denial or the specific modifications required and the reason for such modifications. An application for continuing education credit course approval shall be submitted to the Department and shall be required to have gained the approval of the Department prior to the applicant advertising the course or setting a date, place and time for the course. Upon approval, the applicant may advertise the course and

begin to take applications for the course. The Department will publish the approved course on the Department's website. Such publication shall include the course level, hours of credits to be received and the date, time and place the course will be offered.

(5) Criteria for approval. At a minimum, a continuing education credit course shall address the areas of competence set forth in sections 130e.11, 130e.21, 130e.31 or 130e.41 of this chapter, required for the level of certification the course intends to address.

(6) Revocation of course or denial or revocation of credit hours. The Department may revoke approval of a continuing education credit course or deny or revoke credit hours, or both. Where the Department revokes approval of a course, the Department may also notify the course provider that they are ineligible to provide continuing education credit courses for a period of 12 months, or longer, from the date of the revocation. The following shall be grounds for revocation of a course or denial or revocation of continuing education credits offered through that course:

(i) The applicant or approved continuing education credit course provider falsified or failed to disclose required information on the application or falsified or failed to disclose information with regard to course hours given or attended, type or content of material presented, attendance records of certified Commercial Manure Brokers or Haulers seeking continuing education credits or a violation of any other criteria required under this section.

(ii) The approved continuing education credit course provider has failed to update materials and course content in a manner necessary to keep the course current with updates in statute, regulations, technology or practices. In this situation, the Department will notify the course provider, in writing, of deficiencies prior to issuing a revocation. The course provider shall have no more than 30-days to correct the deficiencies. Failure to correct the deficiencies shall result in a revocation of the Department's approval.

(iii) The course provider has violated or assisted any person in violating any provision of the Act or these regulations.

(b) Course monitoring. If the Department or its designee is unable to personally monitor a continuing education credit course, the approved course provider shall be responsible for verifying attendance, including credit hours actually attended, and shall compile a list of the

names of the individual certified Commercial Manure Brokers and Commercial Manure Haulers in attendance and their certification number. The list shall be compiled on a form provided by the Department. The forms shall be returned to the Department within 10 working days following the date the continuing education credit course was conducted.

DENIAL, SUSPENSION AND REVOCATION OF COMMERCIAL MANURE BROKER OR HAULER CERTIFICATES

§130e.61 Denial, suspension and revocation of certificates.

(a) General power and authority. The Department may, after notice, including a statement of the reasons therefore, deny, suspend or revoke the certification of a Commercial Manure Broker or Commercial Manure Hauler for any of the following:

(1) Any violation of the act or these regulations.

(2) Failure to obtain the required continuing education credits as set forth in sections 130e.52(d) and (e) of this chapter.

(3) Inconsistency and demonstration of a lack of knowledge or proficiency in the proper handling, transportation or land-application of manure, including violations of provisions of this Act, Act 38 of 2005 or the Clean Streams Law.

(4) Three or more occurrences within a three-year period of non-compliance with record-keeping requirements, including delay or non-communication with an agricultural operator, a Conservation District or the Department in providing requested or required information or record-keeping documentation.

(5) Falsifying information.

(6) Allowing certification to lapse.

(b) Notice of Violation and Orders. The Department may issue notices of violation and orders necessary for the enforcement of the provisions of the Act and these regulations. An order shall take effect upon notice unless the order specifies otherwise.

(c) Procedure. A person may appeal an action under this section to the Secretary as follows:

(1) The appeal must be filed within 30 days of the date of receipt of the order, revocation or suspension.

(2) The Secretary shall issue a decision on the appeal within 30 days of the filing of an appeal under subsection (1). If the Secretary does not meet the time period under this subsection, the order, revocation or suspension shall be deemed withdrawn.

(3) This subsection is subject to 2 Pa.C.S. Ch.5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review Commonwealth agency action).

(4) The appeal shall be in writing and set forth the specific reasons for the appeal. The appeal shall be sent to the Bureau of Plant Industry, Agriculture Building, 2301 North Cameron Street, Harrisburg, Pennsylvania, 17110.

Subchapter C. RECORD KEEPING

Sec.

130e.71 Recordkeeping.

130e.71 Recordkeeping.

(a) Commercial Manure Hauler. A Commercial Manure Hauler shall maintain the following records, which shall be open to inspection by the Department or its agents during regular business hours and shall be maintained for a period of 3 years after the date of transport or land application of the manure, whichever is later in time.

(1) Agreement. A copy of the agreement or contract between the Commercial Manure Hauler and each agricultural operator or Commercial Manure Broker for which the Commercial Manure Hauler is transporting or land-applying manure or both.

(2) Records. The following records shall be maintained.

(i) Records setting forth the name and address of each agricultural operator or Commercial Manure Broker for which the Commercial Manure Hauler has or is currently transporting or land-applying, or both, manure.

(ii) Records for each load of manure transported or land-applied, which shall detail:

(A) The name and location of the agricultural operator or commercial manure broker from which the manure was obtained or on whose behalf the manure was transported or land-applied, and the date and time of the transport or application of the manure or both.

(B) The name and location of the agricultural operator, commercial manure broker, importing operation or facility, or all of these entities where more than one is involved, to which the manure was transported or on whose property the manure was land-applied, or both.

(C) The name, address and certification number and level of certification of each person involved in the transport or application or both of the manure. Such record shall include a verification statement and shall be signed by each person involved in the transport or application or both of the manure.

(iii) Where the Commercial Manure Hauler is land-applying the manure the following additional recordkeeping requirements shall apply.

(A) The location of the field to which each load of manure was applied, as identified in an approved nutrient management plan or a nutrient balance sheet.

(B) The name, certification number and signature of each commercial manure hauler or broker that land applied the manure to each location.

(C) The date of the application.

(D) The total amount of manure applied to each field.

(E) The number of acres to which manure was applied.

(F) The rate of manure application for each field.

(G) The crop group or type of ground cover for each field to which manure was applied.

(H) The source – nutrient balance sheet or appropriate summary or nutrient application sections and maps of the approved nutrient management plan – followed to determine appropriate application rates for each field to which the manure was applied.

(I) Where manure from a CAO, CAFO or volunteer operation is land-applied on an importing operation, a copy of the nutrient balance sheet utilized for each land-application.

(3) Annual records. A Commercial Manure Hauler shall compile the recordkeeping

information into an annual report detailing:

(i) The name and location of each agricultural operator or commercial manure broker for which they transported or land-applied manure, or both.

(ii) The total amount of manure transported or land-applied for each agricultural operator or commercial manure broker, or both.

(iii) The total amount of manure transported.

(iv) The total amount of manure land-applied and the total acreage to which it was applied.

(b) Commercial Manure Broker. A Commercial Manure Broker shall maintain the following records, which shall be open to inspection by the Department or its agents during regular business hours and shall be maintained for a period of 3 years after the date of transport or land application of the manure, whichever is later in time.

(1) Exporter agreement. A copy of the agreement or contract between the Commercial Manure Broker and each agricultural operator for which the Commercial Manure Broker is transporting or land-applying manure or both.

(2) Importer agreement. A copy of any agreement between the Commercial Manure Broker and an agricultural operator to whose agricultural operation the manure will be applied.

(3) Nutrient balance sheet. A copy of the nutrient balance sheet required, by section 5 of the Act (3 P.S. § 2010.5(1)) to be provided to the importing operation and the date the nutrient balance sheet was provided to the importing operation.

(4) Records. The following records shall be maintained.

(i) Records setting forth the name and address of each agricultural operator or other person for which the Commercial Manure Broker has or is currently transporting or land-applying, or both, manure.

(ii) Records for each load of manure transported or land-applied, which shall detail:

(A) The name and location of the agricultural operator or person from which the manure was obtained or on whose behalf the manure was transported or land-applied, or both, and the date and time of the transport or land application, or both, of the manure.

(B) The name and location of the agricultural operator or importing operation or person to which the manure was transported or on whose property the manure was land-applied, or both.

(C) The name, address and certification number and level of certification of each person involved in the transport or application or both of the manure. Such record shall include a verification statement and shall be signed by each person involved in the transport or application or both of the manure.

(iii) Where the certified Commercial Manure Broker is land-applying the manure or has contracted with another properly certified Commercial Manure Broker or Commercial Manure Hauler to land-apply the manure, the following additional recordkeeping requirements shall apply.

(A) The field to which each load of manure was applied as identified in an approved nutrient management plan or a nutrient balance sheet.

(B) The name, certification number and signature of each commercial manure hauler or broker that land applied the manure to each location.

(C) The date of the application.

(D) The total amount of manure applied to each field.

(E) The number of acres to which manure was applied.

(F) The rate of manure application for each field.

(G) The crop group or type of ground cover for each field to which manure was applied.

(H) The source – nutrient balance sheet or appropriate summary or nutrient application sections and maps of the approved nutrient management plan – followed to determine appropriate application rates for each field to which the manure was applied.

(I) Where manure from a CAO, CAFO or volunteer operation is land applied on an importing operation, a copy of the nutrient balance sheet utilized for each land-application.

(5) Annual records. A Commercial Manure Broker shall compile the daily recordkeeping information into an annual report detailing:

(i) The name and location of each agricultural operator or other person for which they transported or land-applied manure, or both.

(ii) The total amount of manure transported or land-applied for each

agricultural operator or other person, or both.

(iii) The total amount of manure transported.

(iv) The total amount of manure land-applied and the total acreage to which it was applied.

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

December 7, 2005

Independent Regulatory Review Commission
333 Market Street, 14TH Floor
Harrisburg, PA 17120

RE: NOTICE OF PROPOSED REGULATION
Department of Agriculture
Bureau of Plant Industry
7 Pa. Code Chapter 130e.
Commercial Manure Hauler and Broker Certification
I.D. No. 2-150

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 December 17, 2005 edition of the *Pennsylvania Bulletin*. The public comment period with respect to this notice of proposed rulemaking will expire **January 17, 2006**.

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,

A handwritten signature in cursive script that reads "David C. Kennedy".

David C. Kennedy
Assistant Counsel

Enclosures

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

RECEIVED

I.D. NUMBER: 2-150
 SUBJECT: Commercial Manure Hauler and Broker Certification
 AGENCY: DEPARTMENT OF AGRICULTURE

2005 DEC -7 PM 3:15
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

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

FILING OF REGULATION

DATE	SIGNATURE		DESIGNATION
12-7-05	<i>Cindy Zier</i>	HERSHEY	HOUSE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
12-7-05	<i>Jane Vitek</i>	DALEY	
12-7-05	<i>Cecilia Boyer</i>	WAUGH	SENATE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
12-7-05	<i>Jim Herbert</i>	O'PAKE	
12-7-05	<i>St. Helmer</i>	IRRC	INDEPENDENT REGULATORY REVIEW COMMISSION
			ATTORNEY GENERAL (for Final Omitted only)
12-7-05	<i>C. Lee Brown</i>	IRB	LEGISLATIVE REFERENCE BUREAU (for Proposed only)