

2513

THE AG COALITION



Preserving Pennsylvania's Family Farms

30 North Third Street, Suite 950
Harrisburg, PA 17101

November 14, 2006

INDEPENDENT REGULATORY
REVIEW COMMISSION

2006 NOV 16 AM 10:16

RECEIVED

Dear Chairman Hershey:

On behalf of the Agriculture Coalition I am writing in regards to final-form regulation #2-150 from the Department of Agriculture, "Commercial Manure Hauler and Broker Certification".

The final form regulations are a vast improvement over the originally proposed regulations. This achievement was only possible through your direct involvement and that of your staff in the review of these regulations. Significant improvements have been incorporated into these regulations, such as permitting direct supervision through electronic communications, and greater flexibility for obtaining level 1 hauler certification. We believe these improvements will make the implementation of these regulations more feasible and practical in regards to agricultural operations.

Issues of significant concern remain however with these regulations. First, we believe that agricultural operators utilizing Level 3 Haulers or Brokers to transport and land apply their nutrients should have clear indemnification from any fines, penalties, or other costs associated with the Hauler or Broker violating the nutrient management plans or nutrient balance sheet.

This could be accomplished by adding the following language at the end of Sec. 130e.5(a)(2)(i), top of page 15 of the regulations;
"The commercial manure broker shall bear sole responsibility for any fines, damages, or liabilities which arise from violating the nutrient management plan or the nutrient balance sheet."

Similar language would also need to be added to the end of Sec.130e.5(b)(2), top of page 18 of the regulations;
"The commercial manure broker or Level 3 Hauler in direct supervision of the commercial manure hauler who violates the provisions of this section shall bear sole responsibility for any fines, damages, or liabilities which arise from violating the nutrient management plan or the nutrient balance sheet."

While we would like to see this change incorporated into the final regulations prior to their implementation, we have been informed that this may require further statutory authority for the Department to do so. If that is indeed the situation we look forward to working with you to achieve this statutory change during the next legislative session.

Our remaining concern pertains to the Department's failure to recognize the practicality of permitting the establishment of "business" licenses, permitting employees to work under one master license obtained by the broker or level 3 hauler. This is similar to the type of license utilized by lawn fertilizer service firms. Again, we were informed that to incorporate that change would require further statutory authority. As with the indemnification language noted above, we look forward to working with you and your staff during the next legislative session to address this remaining issue.

Thank you for the opportunity to share with you our comments on these final form regulations and for your continued support of Pennsylvania's agricultural operations.

Sincerely,



James L. Adams
President & Chief Operating Officer

Cc: Secretary Stephen Crawford
Secretary Dennis Wolff
Jim Smith, IRRRC
Neil McAuliffe
Kristin Ebersole
Dave Callen
Jay Howes
Kerry Golden