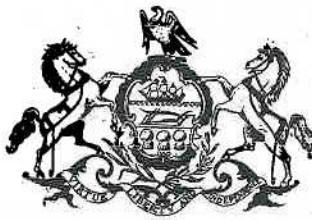


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House of Representatives  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

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APPOINTMENTS

CHESAPEAKE BAY COMMISSION

Original: 2513

January 9, 2006

The Honorable Dennis C. Wolff, Secretary  
Department of Agriculture  
Room 211 Agriculture Building  
Harrisburg, PA 17110-9408

Dear Secretary Wolff:

In June of 2004, the General Assembly passed and the Governor signed into law a well-intended legislative initiative known as the *Commercial Manure Hauler and Broker Certification Act* (Act 49 of 2004). This law was the result of over a year's work with a multitude of stakeholders including your Department, the Department of Environmental Protection, the State Conservation Commission, individuals familiar with this topic from the College of Agricultural Sciences at The Pennsylvania State University and, most significantly, representatives of the relevant segment of the agricultural industry. It is important to note that the industry supported this effort since they felt it would validate the responsible voluntary steps they had already taken to manage manure in a manner consistent with existing regulations and sound environmental practices.

Subsequently, on December 17, 2005 the department published proposed regulation I.D. No. 2-150 intended to implement the provisions of Act 49, with a 30 day public comment period. My initial reaction, before even reviewing the substance of the proposal, was that a 30 day comment period, encompassing both the holiday season and the Farm Show, is unrealistic when expecting the agricultural community to give this 42 page regulation a thorough and fair review.

However, as my staff and I began to review the details of the proposed regulation, this initial concern became minor compared to concerns with the actual regulatory requirement content of the proposal. What is put forth in proposed regulation I.D. No. 2-150 far exceeds what I, as chairman of the Agriculture Committee, the prime sponsor and other committee members, my fellow members of the legislature and other stakeholders involved in the development and passage of Act 49 envisioned as the intent of this legislation. As verified by discussions with the industry, the complexity of the proposal, the actual requirements imposed and the expense that compliance will entail, combine to make this regulatory proposal both beyond the bounds of the Act and completely unworkable and impractical.

Commercial manure haulers and brokers perform the valuable function of distributing excess manure across greater acreage for land application in an environmentally sound manner. Rather than re-enforcing sound practices for the management of this excess manure, the regulations, as proposed, will in fact, discourage the practice since compliance will be impossible.

Therefore, my request to you is to immediately take the steps essential to resolving this dilemma:

**First**, and most important, *immediately formally withdraw proposed regulation I.D. No. 2-150 from consideration.*

Wolff  
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***Second, initiate a process to re-draft the proposal, in consultation with the State Conservation Commission and the Nutrient Management Advisory Board, as explicitly required by Section 3 of the Act.*** This requirement was specifically included since they have, with the nutrient management program, an enviable record for developing regulations which meet all environmental goals, yet are understandable, practical and workable at the farm level. It is my understanding that they had no substantive involvement in the process to date. In fact, as was said at the Nutrient Management Advisory Board meeting on January 5, 2005 when they were shown the final proposed version and asked to comment on it by January 17, 2005, "the Act requires that you be consulted, so this is your chance."

***Third,*** I understand that the Department will publish in the PA Bulletin on January 14, 2005 a Statement of Policy intended to address matters of interim enforcement and certification and I commend you for addressing this potential problem. With regard to Interim Certification, I strongly recommend, as the most sensible and efficient approach, that you ***grant any individual or business entity that has attained certification by Penn State's voluntary program, interim certification status.*** Certainly, any individual who, without the legal requirement to do so, took it upon themselves to obtain the proper training to perform their business practices in an as environmentally sound manner as possible, is deserving of this temporary consideration.

In conclusion, I'd like to emphatically reaffirm my support for a Commercial Manure Hauler and Broker Certification Program in Pennsylvania that accurately reflects the intent of the law. In this regard, I am willing, if necessary, to engage in discussions of modifications to language that may be unclear or of extending the deadlines included in the existing act in order to allow the Department the time necessary to revise the proposed regulations in a manner that accurately reflects the original intent.

Thank you for prompt action on this request and my staff and I are, of course, available to discuss this matter with you further at your convenience.

Sincerely,



Arthur D. Hershey, Majority Chairman  
Agriculture and Rural Affairs Committee

ADH/se

CC: Representative Peter Daley  
Senator Waugh  
Senator O'Pake  
✓ Kim Kaufman, IRRRC  
Karl Brown  
John Fidler