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Senator Michael O'Pake, Minority Chairman
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Senator Roger Madigan, Chairman
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Room 286 Main Capitol Building
Senate Box 203023
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February 15, 2006

Dennis Wolff, Secretary
PA Department of Agriculture
2301 N. Cameron Street
Harrisburg, PA 17110-9408

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INDEPENDENT REGULATORY
RENEW COMMISSION

Dear Secretary Wolff:

We write to you to express our strong reservations regarding the regulation proposed at Title 7 (Agriculture) adding chapter 130(e), for the Commercial Manure Hauler and Broker Certification Act (Act 49 of 2004). It is our contention that the proposed regulations are not consistent with the legislative intent of the Act and contain many unworkable and impractical conditions; below we outline several of our major concerns.

First and foremost, the intent of the Act was regulation and certification of *businesses* engaged in the commercial hauling or brokering of manure. It was never the intent of the Act to require individual certification of each employee. Further verification of this fact was recorded in a letter recently written to you by former Representative Allan Egolf, the prime sponsor of House Bill 1809 which became Act 49 of 2004. You have also received correspondence from several stakeholders which document technical and legal arguments in support of the conclusion that the scope of persons required to be certified as "commercial manure haulers" and "commercial manure brokers" is not as broad as suggested by the regulations. We strongly suggest that revisions be made to the proposed regulations to properly reflect the intent of the Act.

We must also ensure that the regulations are clear regarding who is the regulated community. No one other than those engaged in the commercial business of hauling or brokering manure can be required to be certified. There are many examples of individuals who would not fit this definition, such as a farmer hauling and applying his own manure on his own land; a farmer hauling manure, without compensation, from a farm owned by another to his own land for application; and a farmer simply hauling and applying another operator's manure without compensation would not fit the definition of a commercial manure hauler or broker. It is imperative that the regulations be clear in this regard.

Additionally, we are concerned that the proposed training fees are excessive. As written, the regulation requires all employees, many of whom work on a part-time or seasonal basis, to be certificated. This requirement coupled with the prohibitive fee structure will present manure hauling and brokering businesses with an undue financial burden and may discourage business from expanding, drive some out of business altogether or even encourage individuals to operate underground, without the required training and certification.

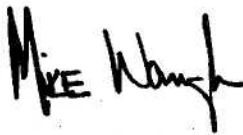
Record keeping requirements must be simple and effectual. In the proposed regulations record keeping is a requirement of even an individual certified as a Commercial Manure Hauler I or II; this responsibility should fall on the business level. Additionally, although records are kept by the business and copies by the Conservation Districts, records are also required to be sent to the Department of Agriculture; this is excessive. The redundancies and inefficiencies in the proposed regulatory requirements for record keeping should be reexamined and removed.

Requiring direct supervision of land application of manure is excessive, onerous and doesn't make sense. What is the purpose of "lower" levels of certification if a more highly trained individual is required to be present on site? While we feel it is appropriate to require a trained individual to be reasonably accessible, we recommend that the requirement for direct supervision be eliminated.


The restrictive nature of this proposal is causing great concern throughout Pennsylvania. We know that you are well aware of the need for options for nutrient management. Commercial manure haulers and brokers serve a critical role in our agricultural community, distributing nutrients from areas with excess to others that are able to receive and utilize the nutrients for the production of crops.

With much at stake, we urge you to take a strong position on these issues and re-examine the proposed regulations. It is imperative that you exercise your leadership to ensure that current and future partnerships between operators, providers and regulating agencies continue to develop. We appreciate this opportunity to comment and offer our assistance, if you feel it is appropriate.

Sincerely,



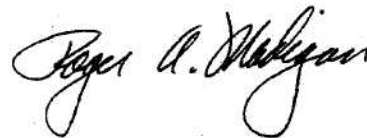
Senator Michael L. Waugh



Senator Noah W. Wenger



Senator Michael A. O'Pake



Senator Roger A. Madigan

Cc: Johan Berger, Department of Agriculture
John R. McGinley, Jr., Esq., Chairman, IRRC
Karl Brown, Executive Director, State Conservation Committee
Dr. John Fidler, Chairman, Nutrient Management Advisory Board
The Honorable Arthur Hershey, Chairman, House Committee on Agriculture & Rural Affairs
The Honorable Peter Daley, II, Minority Chairman, House Committee on Agriculture & Rural Affairs
The Honorable Donna Cooper, Secretary for Policy, Governor's Office
The Honorable Steven Crawford, Secretary for Legislative Affairs, Governor's Office