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HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA  
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2006 FEB 23 COMMITTEE

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AGRICULTURE AND RURAL AFFAIRS  
INDEPENDENT REGULATION  
REVIEW COMMISSION

February 16, 2006

The Hon. Dennis Wolff  
Secretary  
Pennsylvania Department of Agriculture  
2301 N. Cameron Street  
Harrisburg, PA 17110

RE: Proposed Commercial Manure Hauler and Broker Certification  
Regulations for Act 49 of 2004

Dear Mr. Secretary:

As a successful and active animal agriculture farmer yourself, I know that you realize and have expressed the need for significant revisions to the captioned regulations as proposed. I appreciate your candor at the preliminary meeting on this with legislative staff members, and I am confident that positive changes will be forthcoming after the conclusion of the comment period.

For the record, I would like to review the major elements of the proposed regulation that have caught our notice as requiring significant amendment or revision.

Underlying all our comments, and most of the comments we've received from the industry, I think, is a concern that the regulation accomplish the agreed upon purposes for which Act 49 was adopted, and that they do so without unreasonable or debilitating impact on the industry. Despite what some may conclude, this is not simply a parochial concern of the manure hauler industry, or even the agriculture industry, but something of importance for all Pennsylvanians inasmuch as this industry provides a vital economic and environmental service to the largest industry in the state. Burdening it financially with unnecessary regulation and work practices is only likely to result in fewer haulers and inadequate services to the farm community.

With that context in mind, I would like to observe that it was never the legislature's intent that each and every individual natural person in this business be personally certified. A fully inclusive reading of the statute makes it clear that the intended definition of "person" only included those acting as contractors -- which in almost every case references a business or a broker, not all "natural persons" working in the industry. Our

Rep. Daley/Sec. Wolff  
Manure Hauler Proposed Reg's  
Page 2 of 2  
2/16/06

considered consensus was that it would be sufficient if we followed the previous work on food handler certification (a service with far more potential for public impact) and required the training and certification of "key personnel" at each business entity, who would then, at the peril of their license and the business', be responsible for ensuring that the day to day work followed good practice. To that end, I specifically urge the Department, as I have previously, that the final regulation only require that model of certification.

To the extent that the Department would like to know that subordinate personnel have been properly instructed within the limited scope of their responsibilities, electronic media such as faxing and email can permit the employer to attest to such training for an individual. If this is believed necessary, the cost cannot be significant enough to require any fee. However, there is no question in my mind that nothing in the statute mandates field visits by PDA personnel to train or test lower level personnel.

All of the licensed professions that I know of do not require direct, on-site supervision of subordinate personnel by the license holder: plumbers, electricians, physicians, etc. all permit supervision "within reasonable contact". Since all the subordinate personnel can carry walkie-talkies or cell phones, the need for immediate consultation should be easily facilitated.

As you concurred in our talks to date, the proposed record keeping requirements are unnecessary and excessive. It is clear that there should be a sufficient record for a chain of responsibility that can be kept at any broker's. Such records are much more likely to be accurate and well-organized than those on a back haul trucker's with limited connection to the industry.

Finally, we believe that the scope of this Act was to regulate Commercial manure haulers. While some might argue that it should be extended to oversee transfers between neighbors, or other non-commercial arrangements, it was not written that broadly by the Legislature, and a clarification exempting such persons should be made.

Thank you for the opportunity to provide these comments, and for your continuing progressive and enlightened leadership of this Department.

Sincerely,

**COPY**

Rep. Peter J. Daley II  
Minority Chairman  
Agriculture and Rural Affairs Committee

Cc: John R. McGinley, Jr. Esq., Chmn, IRRC  
The Honorable Michael Waugh, Senate of Pennsylvania  
The Honorable Michael O'Pake, Senate of Pennsylvania  
The Honorable Noah Wenger, Senate of Pennsylvania  
The Honorable Roger Madigan, Senate of Pennsylvania  
The Honorable Arthur Hershey, Pennsylvania House of Representatives  
The Honorable Steven Crawford, Secretary for Legislative Affairs  
The Honorable Donna Cooper, Secretary for Policy  
Mr. Johan Berger, PDA  
Mr. Karl Brown, State Conservation Commission