



Bradford County Conservation District

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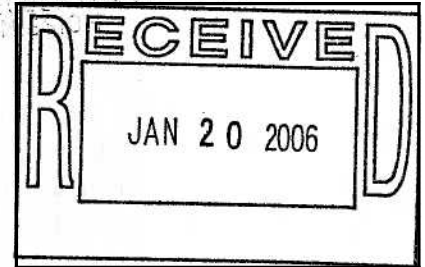
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January 11, 2006

PA Dept of Agriculture
Commercial Manure Broker and Hauler Program
2301 North Cameron Street
Harrisburg, PA 17110-9408
Attn: Johan Berger



The Bradford County Conservation District respectfully offers the following comments on the proposed regulations for Commercial Manure Hauler and Broker Certification:

1. This regulation is inconsistent with both the letter and the intent of the Nutrient Management Act. This is the primary concern of the Bradford County Conservation District. Section 130e.32.(a) states that *"All manure land applied by a level 2 certified 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."* The determination of which acres must be under a nutrient management plan or have a nutrient balance calculation is within the realm of the Nutrient Management Act. The Commercial Broker Hauler proposed regulation adds additional criteria for determining which acres require this planning. We do not need another set of regulation to do what the Nutrient Management Act does. This adds undue confusion to the requirements that farmers are trying to keep pace with. This regulation should be made consistent with the Nutrient Management Act. It should work with, not add to, the Nutrient Management Act.

(For perspective - Most farms in Bradford County that use commercial manure applicators are not required to develop nutrient management plans under the Nutrient Management Act though many have volunteered. Because of the land base, common practice is to apply manure at rates way below maximum rates for Nutrient Balance. The benefit of nutrient balance paperwork to these farms is minimal. The Nutrient Management Act has incentives to encourage farmers to do this planning and it is working. Leave this to the Nutrient Management Act and simplify the Broker/Hauler requirements).

2. A farmer who gives some manure to a neighbor for a sweet corn patch, garden or another small area would have to be certified to take it there. Or the neighbor who comes to pick it up would have to be certified as a manure hauler. This is impractical.

Also, neighboring farms who cooperate on manure application on one another's farms may have to be certified. In many cases these operations do not personally own their own equipment; therefore one operator may help another so that they both can empty their storages during crucial times of crop development. During these times of manure application only the owner has management control, and the other farmer would have to be certified under the proposed regulation in order to help his neighbor empty their storage. Also during inclement times of weather nutrient sources are often shared in order to ensure that storages can be emptied prior to reaching levels that pose a threat of environmental degradation. This may include a farmer that will apply manure to a neighboring hay field due to the fact that his or her own fields are inaccessible due to weather conditions. This may happen in one in ten years. If an operator needs to be certified in order to help his neighbor these regulations will discourage this type of cooperation and sharing of resources.

3. These regulations as written impose excessive administrative duties (paperwork) on commercial haulers, agencies, and farmers. This excessive overhead will cause a shortage of haulers and therefore a crisis for many farms with narrow windows for manure application. In many cases this will be a significant financial impact on farms depending on commercial haulers
4. The level structure for different certification categories is overly complicated. Two categories would be sufficient – one who applies manure and one who supervises or brokers. A little extra education for a supervising manure hauler will only help.

130e.5.(b).(1).(C).(iii) – states that ***“When 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.”*** By the definition stated of “directly supervised” both certified haulers must be **on site** during application. This redundancy is excessive and expensive. Also this section is implying that manure is more toxic than pesticides/herbicides, by regulating manure's application more stringently than pesticide/herbicides. Currently a person may apply chemicals under the supervision of a licensed applicator.

This is also true in the case of sewage and septage hauling where no regulation exists regarding hauling, or record keeping of the material yet here it is proposed for manure, a benign resource actively managed by farmers.

5. The fees are too high. When compared to fees to maintain a pesticide applicators license, a nutrient management planner certification or other similar certifications the proposed fees are extra-ordinary

It appears in some of the wording that someone pursuing level 3 hauler or level 2 broker certification would have to pay the fee twice. This should not be the case. See 130e.12.(d)

6. Re-certification requirements are too stringent. Why would re-certification requirements be more rigorous than a nutrient management planner/specialist who is on the decision making end? Training, testing and continuing education are excellent and should be incorporated. Re-testing should not be necessary to maintain certification. We should not need both continuing education tracking AND re-testing. One or the other would suffice, with continuing education being the preference.
7. Section 3a (1) of the act states that the department will consult with the State Conservation Commission and the Nutrient Management Advisory Board in developing a manure hauler/broker certification program. The conditions set for the proposed program are outlined in the proposed regulations and adequate consultation appears to have been insufficient. In order to consult with SCC and advisory board, as well as providing the regulated community with adequate response time the comment period should be extended for 60 days.
8. 130e.71 – Recordkeeping. The recordkeeping requirements under these proposed changes is excessive and beyond the requirements of non-CAO operations not regulated by Act 38.
9. The proposed regulations, through its fee schedule and certification maintenance requirements, make it unfeasible for the temporary or part-time person to legally engage in manure management.
10. Haulers in our county, in the spirit of keeping abreast of critical issues, attempting to hone their knowledge and abilities, and gaining acknowledgement for completing formal training by a reputable and accredited organization, have previously expended both time and money to complete the Penn State manure haulers training. It appears that this was to no avail, and they must make additional sacrifices to repeat much of the same material.

Furthermore, the time and opportunity for well-intended operators to get certified and legally continue their livelihood, is extremely hurried and inconsiderate of their day-to-day demands, and planning. The allowable period for persons to respond to the new requirements and to get fully certified needs to be greatly extended in order to be fair and just.

11. The intent of the regulations appears to be to certify people, not equipment. The requirement of having a haulers / brokers certification number posted on the equipment is impractical, costly, perhaps over-reaching when compared to other regulations and materials handling. Consider that a piece of equipment might have to have 5 or 10 decals on it, and the program would have to provide ample stickers for each hauler or broker. Or, you would have to make the decals/ stickers removable so that they could be easily transferred from one piece of equipment to another. These would have to be often replaced due to wear and tear involved in field operations.

In Bradford County, the vast majority of farm operations are non-CAO and generally have a surplus of land available for manure utilization. Seasonal and weather considerations offer a

limited window of opportunity to apply manure in a sound agronomic and environmental manner. Those conditions often also involve the use of neighboring (hay) fields to capture the nutrient benefits that animal manure provides, often only on an as needed basis (1 in 10 years). The rural farming culture involves neighbor assisting neighbor with both time and equipment. On many farms, temporary help is used to get tasks accomplished. In general, the concept of informed, educated, and responsible transport and application of manure is supported and applauded by the Bradford County Conservation District. The lack of flexibility and consideration of these normal farm practices reflected in the proposed regulations place a higher standard on manure transport and application than comparable substances of considerable toxic nature. The consequences could very well be that instead of encouraging and directing the sound stewardship of an important resource, they reduce management options and compliance (voluntary or not through over restrictive regulation.

We appreciate the opportunity for comment and hope that the ideas and suggestions herein are given genuine consideration toward a cleaner environment and a stronger partnership between operators, service providers, and regulating agencies.

Sincerely,



Michael W. Lovegreen
District Manager

Cc: Senator Madigan
Rep. Pickett
Rep Baker
State Conservation Commission
PACD