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Department of Dairy and Animal Science

Pennsylvania Environmental Agricultural Conservation
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INDEPENDENT REGULATORY
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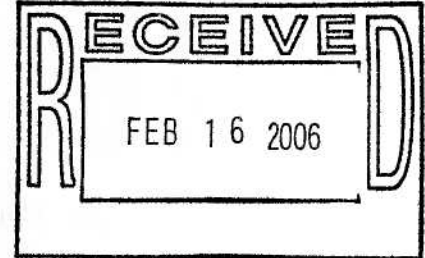


Comments on Commercial Manure Hauler and Broker Certification Act (Act 49)

Submitted by:

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1. *Nutrient Transfer*

Legislation should not discourage (but rather encourage) the transfer of nutrients in order to facilitate the environmental goals of the state. The following is a list of items in Act 49 that discourage nutrient transfer and should be addressed with policy revisions.

- a. *Manure Hauler Level 1*. This level should be removed altogether.
- b. *Paperwork*. Requiring submission of paperwork to county or state agencies will cause some farms to not accept manure nutrients as they will feel that it is not the business of government to account for their crop nutrients. Nutrient Balance Sheets and other required record keeping procedures will assure that a paper trail exists for manure transfers. Instead of requiring annual record submittals regulations should state that records must be kept on file at the business of all involved parties and available for review at the request of the Department of Agriculture.
- c. *Hauler Level 1 certification (if not removed)*. The Hauler Level 1 category should have the goal of educating truckers that manure can be hazardous to the environment, needs to be handled with care, and delivered to an environmentally sound destination. This certification level needs to be elementary with a simple enrollment process, otherwise people will not participate. Broker certification, Nutrient Balance Sheets and Nutrient Management Plans are in place to facilitate the proper delivery and application of manure at its destination.
- d. *Exporters of manure*. Exporters of manure should be exempt from certification under any circumstances that deal directly with the manure generated at their operation. This would include situations where they auction, sell, transport, or apply manure, whether a transfer of money occurs for transport or application or not. Please allow easy transfer of manure from exporting operations.
- e. *Importer of manure*. Individuals who receive manure from a CAO, CAFO or VAO and apply manure to their own agricultural lands should be exempt from certification at any level. This would include individuals who pay for manure and those who transport the manure themselves. Nutrient Balance Sheets will help to assure proper manure use at its destination.

- f. *Further exemptions.* Detail should be given to a definition of what constitutes a situation where an individual needs certification. Please consider the following:
- i. A person from an agricultural operation should not need certified when transporting or applying manure that is generated at that operation.
 - ii. An importer of manure should not need certified under any circumstances.
 - iii. The transfer of money does not make an individual a hauler or broker if the manure is generated or applied to the property of their agricultural operation.
 - iv. Farm-to-farm transfer of services should not be considered commercial operation.
 - v. Agricultural operators who export manure should not need broker certification if their manure is sold or auctioned.
- g. CAO, CAFO and VAO operators should not be required to act as brokers if they are exporting manure. Nutrient Balance Sheets will help to assure proper manure use at its destination.
- h. *Fees.* High fees discourage participation in the following ways
- i. Transporters are likely to ignore certification
 - ii. Hauler Level 2 participants should be encouraged to seek higher certification levels, thus improving their education and level of responsibility. Fees should not discourage a business from having their employees attend training to become certified at a higher level.

2. *Certification levels.*

The goals of compliance and record keeping can best be served with a program that is simple to implement, yet reflects the industry. I believe that the current structure of multiple levels can accomplish this by reaching all individuals in the industry.

I recommend the following adjustments to the current policy:

- a. Allow "in-house" testing for Manure Hauler Levels 1 & 2. This should be a simple process consistent with a review of the workbooks that are currently developed for those levels. Hauler Level 3 and Broker trainings should include a session that teaches people how to properly administer the workbooks.
- b. Truckers (Hauler Level 1) should not be required to receive Continuing Education Credits (CEC's), but should be given an option to attend CEC's or to complete the workbook/in-house test before the end of their current certification period. Workbooks in turn, should be updated as needed to reflect information that they should know.
- c. Hauler Level 2 personnel should be required to complete CEC credits. It is at this point that the program can assure that pertinent educational updates are received by manure applicators.
- d. Individuals who complete Hauler Level 1 & 2 in house testing should be able to transfer and apply manure immediately after completing the workbook and in-house test. Verification statements can provide language to assign responsibility to the supervisor until the department can issue final certification.
- e. Maintain a policy whereby all Hauler Level 3 and Broker Level 1 education, testing, CEC requirements and fees are the same. This will encourage people to move to the broker level and help to assure proper procedures and record keeping

during manure transfers. It also will allow more businesses to assume ownership of manure and move it to areas where it is likely in greater need.

- f. Broker definitions should specifically state that brokers can do everything that all of the hauler levels can. I have seen confusion over this.
- g. The value of manure in comparison to fertilizer varies greatly and is dependent on the costs of both fertilizer and fuel. Regulations should allow transfer of manure nutrients on an even playing field with fertilizer nutrients.
- h. Individuals should be allowed to move easily between certification levels. If they move to a higher level in the first 2 years of their 3-year certification period the fees of the lower level should be deducted from the higher level. This will encourage people to move to higher educational levels.

3. *CEC's.*

- a. CEC's in the act are too stringent. The application industry does not change rapidly. As coordinator of the past voluntary certification program I can attest that from year to year there are usually not significant changes to warrant new education. Updates in policy are usually the most time sensitive material. If pertinent updates are needed the department can achieve this through mail notification.
- b. Retesting should not be required at the end of a certification period. Meeting CEC's and paying appropriate fees should be enough to continue certification.
- c. I recommend the following CEC requirements:
 - i. *Hauler Level 1* No CEC's and completion of workbook/in-house testing; OR, 3 credits in 3 years.
 - ii. *Hauler Level 2* 4 credits in 3 years.
 - iii. *Hauler Level 3* 6 credits in 3 years
 - iv. *Broker Level 1* 6 credits in 3 years
 - v. *Broker Level 2* as determined by the Nutrient Management Program

4. *Fees.*

- a. All fee, certification timeframes, and CEC time requirements should be consistent throughout the program; I suggest 3-years for all of these.
- b. A business fee structure should be established.
- c. If a Hauler Level 1 or 2 moves up to a higher Hauler or Broker level they should have a low fee. This will encourage individuals to achieve higher certification levels.

5. *Supervision.*

Direct on-site supervision is not needed in the industry. Eliminate the term from regulation to allow audio (2-way radio or mobile phone) supervision.

6. *Certification numbers.*

- a. Display of certification numbers on vehicles and tanks should not be required.
- b. If display of certification numbers on trucks or tractors is required the operation should use the certification number assigned to the owner/manager of the business that owns the equipment.
- c. Rented equipment should be exempt from certification number display.

7. *Nutrient Balance Sheets.*

Standardization of these documents should allow a hauler or broker to utilize the form for all record keeping duties, regardless of whether the NBS is required for a particular transfer. This would allow for all record keeping to be done similarly even if manure is not exported, or if application is done for a farm that is not in the Nutrient Management Program. This would eliminate questions from haulers and operators as to whether record keeping is satisfactory. They should not be required to utilize the NBS, but it should be available to meet all record keeping requirements for all transfer and application scenarios. This idea should transfer to electronic versions of the NBS as well.