

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency

Agriculture

(2) Agency Number: 2

Identification Number: 179

IRRC Number: 3050

2014 MAR 21 AM 11:43

IRRC

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(3) PA Code Cite: Act of March 1, 1974, P.L. 90, No. 24, as amended, known and cited as the "Pennsylvania Pesticide Control Act of 1973" ("Act")(3 P.S. §§ 111.54(4) and 111.57a.),

(4) Short Title:

Pesticides – Third Party Transactions

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact:

John Breitsman  
2301 N. Cameron St., Room G-13  
Harrisburg, PA 17110  
Tel: 717-772-5200  
Fax: (717) 783-3275  
Email: jbreitsman@pa.gov

Secondary Contact:

David Scott, Chief,  
2301 N. Cameron St., Room G-13  
Harrisburg, PA 17110  
Tel: 717-772-5214  
Fax: (717) 783-3275  
Email: dascott@pa.gov

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation  
 Final Regulation  
 Final Omitted Regulation

- Emergency Certification Regulation;  
 Certification by the Governor  
 Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The current regulations do not expressly permit the Department to collect and pass on an examination processing charge or cost levied by a third party. The industry has asked for greater convenience in pesticide examination certification availability. The Department is asking to amend the Pesticides regulations at section 128.3, by adding a paragraph which would allow the Department to collect and pass on any additional service charges or costs levied by a contracted agency or vendor that provides additional testing opportunities. The Department will continue to offer examinations on at least a monthly basis at Department of Agriculture sites where no additional charges shall be assessed.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Sections 34 and 37.1 of the Act of March 1, 1974, P.L. 90, No. 24, as amended, known and cited as the "Pennsylvania Pesticide Control Act of 1973" ("Act")(3 P.S. §§ 111.54(4) and 111.57a.).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

The Pennsylvania Pesticide Control Act of 1973, March 1, 1974, P.L.90, No. 24, *as amended*, 3 P.S. §111.27(b);

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Current regulations do not expressly allow the department to collect a convenience, service or processing fee, charged by a third party, willing to administer certification examinations in addition to those given by the department. Examination fees set by regulation range from \$0 to \$50.00 and in some cases include the first year certification fee. Therefore, the department cannot pay a third party from the fees currently charged unless there was a general testing fee increase.

This change would allow the department to enter into agreements with other agencies or private vendors to offer pesticide certification examinations, allowing the department to accept user or processing costs charged by other agencies or vendors as part of the exam administration process. The department will then forward these collected service charges to the testing entity as required by the authorization agreement with the department. The change will avoid a general fee increase to the regulated community to offer the service thereby not affecting individuals that continue to use the department's examination sites.

Industry approached the Department to request more convenience in obtaining the pesticide certification for new employees. Currently the Department offers testing at various locations across the commonwealth administering over 7,000 exams annually. Some locations have limited capacity due to room size and inspector availability which can cause a delay or extra travel for businesses to have new employees take the required certification examinations. Other state agencies and private vendors have testing facilities available but would charge a "convenience service processing" fee to administer the examination in addition to the testing fee set by regulation (Title 7 CH 128.3 Fees). Pesticide businesses have stated a willingness to pay an additional charge for access to more testing sites and greater convenience. The department does not wish to profit or incur expense from the service processing charges levied by others, but is willing to aid in the collection and distribution of charges levied by other agencies for services provided. Businesses have stated this added availability will allow them to have employees working sooner when hired between testing sessions or when retesting following failures. They have stated the added cost for paying the "convenience service processing" fee to the provider would greatly offset by the ability to have the employee available for more profitable activities. There are over 6,000 small pesticide application businesses licensed by the department that could take advantage of this optional testing.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Several other states currently offer third party testing. This proposal will have no effect on Pennsylvania's ability to compete with other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No. It is specific to Title 7 CH. 128.3.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The request was submitted to the Department by industry. It was vetted at the Summer Turf & Ornamentals School (Lebanon Valley College, 7-16-13), to the representative of the Lawn Care Association of PA (LCAP) and before the Pesticide Advisory Board (PAB) meeting (7-24-13). On 8-7-13 an email request for comments with a copy of the proposed change was sent to Melissa Sankey (PennAg Industries, Agronomic Council), Matt Jesson/Shawn Kravitsky (Past President/President, LCAP) and David Hyres/McCee Baker (President PA Pest Management Association/Versant Strategies).

There were no negative comments received. All were supportive of the change with the understanding that the department will continue to offer the exams as we have in the past with no service charge attached.

The consensus of the PAB was to move forward with the proposal as quickly as possible, as participation would be voluntary and provide a benefit to those who choose to take advantage of the opportunity.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The regulation will directly affect only the Department of Agriculture and agencies with testing capabilities that wish to host examinations (Civil Service, Penn DOT) and private vendors wishing to provide the service.

Indirectly as the use of a contracted vendor would be voluntary, applicants are range from family farms, small and large commercial application businesses, municipal, state & federal governments and agencies totaling over 6,500 businesses. The department processes 7,000 examinations for pesticide certification per year. We estimate 700 could utilize this option.

(16) List the persons, groups or entities, including small businesses that will be required to comply with the regulation. Approximate the number that will be required to comply.

This regulation change is to provide an authority for invoicing or collection of service charges by contracted vendors should an individual choose to participate. No one would be required to pay the convenience service processing fee if they utilize a department test site.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

By giving the Department the ability to collect and pass through convenience service processing fees charged by others for testing, the financial impact will be limited to pesticide businesses and applicators that choose to utilize the third party testing and to a private vendor that might contract to provide the service. The applicants could benefit from a shorter travel distance and flexibility to take the examination sooner, thereby enabling the employee to meet the state certification requirements making them available for more profitable activities. The vendor would benefit by increasing their customer base. This option would also allow for businesses that are out of compliance due to the loss of an employee resume operations sooner. Industry suggests they could shorten an employee's down time by an average of 2 weeks.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The regulation only gives the department the authorization to collect and pass on fees for other agencies or to a private vendor for a service they perform which is at the request of the applicant. Any costs incurred would be voluntary on the part of the applicant. We do not see any adverse effects in giving the Department this ability.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Estimated cost for utilizing a Civil Service test center \$15/person, private vendor sites \$50/examination over Agriculture sites which are free.

Savings in employee travel and down time \$720/employee ( \$9.00/hour X 80 hours delay in testing) X 200 employees = \$144,000 in savings

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Cost for utilizing a Civil Service test center \$15/person, private vendor site \$50/person over an Agriculture site which is free.

Savings in employee travel and down time \$720/employee ( \$9.00/hour X 80 hours delay in testing) X 10 employees = \$7,200 in savings

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

Cost for utilizing a Civil Service test center \$15/person, private vendor site \$50/ examination over an Agriculture site which is free.

Savings in employee travel and down time \$720/employee ( \$9.00/hour X 80 hours delay in testing) X 10 employees = \$7,200 in savings.

Cost to Department to establish fund distribution collection and processing \$1,000 - Employee costs to establish electronic funds transfer protocol. Savings to Civil Service as they will increase use of existing test sites 120 X \$15/person = \$1,200.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Regulated community- no additional requirements

Local government- no additional requirements

State Government (other than PDA or test provider)- no additional requirements

State Government (PDA and test site provider) – interoffice transfer of funds collected for testing agency. The Department would add information to the online registration form allowing applicants to select an optional site and informing them of any costs that would be charged by the vendor. The program will track “service” amount and post to a separate accounting code from examination fee (if any) collected. Transfer of funds from that account will be made to other agency on a mutually accepted schedule. If a private vendor is selected applicant will be directed from our registration site to theirs to schedule the examination and pay any associated charges by that vendor.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

|                             | <b>Current FY<br/>Year</b> | <b>FY +1<br/>Year</b> | <b>FY +2<br/>Year</b> | <b>FY +3<br/>Year</b> | <b>FY +4<br/>Year</b> | <b>FY +5<br/>Year</b> |
|-----------------------------|----------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| <b>SAVINGS:</b>             | \$                         | \$                    | \$                    | \$                    | \$                    | \$                    |
| <b>Regulated Community</b>  | 0                          | 144,000               | 144,000               | 144,000               | 144,000               | 144,000               |
| <b>Local Government</b>     | 0                          | 7,200                 | 7,200                 | 7,200                 | 7,200                 | 7,200                 |
| <b>State Government</b>     | 0                          | 7,200                 | 7,200                 | 7,200                 | 7,200                 | 7,200                 |
| <b>Total Savings</b>        | 0                          | 158,400               | 158,400               | 158,400               | 158,400               | 158,400               |
| <b>COSTS:</b>               |                            |                       |                       |                       |                       |                       |
| <b>Regulated Community</b>  | 0                          | 0                     | 0                     | 0                     | 0                     | 0                     |
| <b>Local Government</b>     | 0                          | 0                     | 0                     | 0                     | 0                     | 0                     |
| <b>State Government</b>     | 5,000                      | 0                     | 0                     | 0                     | 0                     | 0                     |
| <b>Total Costs</b>          | 5,000                      | 0                     | 0                     | 0                     | 0                     | 0                     |
| <b>REVENUE LOSSES:</b>      |                            |                       |                       |                       |                       |                       |
| <b>Regulated Community</b>  | 0                          | 0                     | 0                     | 0                     | 0                     | 0                     |
| <b>Local Government</b>     | 0                          | 0                     | 0                     | 0                     | 0                     | 0                     |
| <b>State Government</b>     | 0                          | 0                     | 0                     | 0                     | 0                     | 0                     |
| <b>Total Revenue Losses</b> | 0                          | 0                     | 0                     | 0                     | 0                     | 0                     |

(23a) Provide the past three year expenditure history for programs affected by the regulation.

| <b>Program</b> | <b>FY -3<br/>2010</b> | <b>FY -2<br/>2011</b> | <b>FY -1<br/>2012</b> | <b>Current FY<br/>As of 9/1/13</b> |
|----------------|-----------------------|-----------------------|-----------------------|------------------------------------|
| Pesticide      | 3,970,700             | 3,348,200             | 4,143,400             | 695,500                            |
|                |                       |                       |                       |                                    |
|                |                       |                       |                       |                                    |
|                |                       |                       |                       |                                    |
|                |                       |                       |                       |                                    |

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

No adverse impact on businesses.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

This regulation was developed in response to requests from businesses for the Department to contract allowing other entities make examination accommodations more accessible. It will enable individuals to obtain pesticide certifications they may need on short notice to respond to a farming situation or employment opportunity.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Due to the regulated cost for testing ranging from \$0 to \$50 it was determined the Department cannot absorb the costs incurred by others to offer the examinations as a convenience. Our current regulation would permit private vendors or other agencies to charge separately for any testing service they provide. However, their collection of service charges is problematic for them and would require a regulation change and development of a collection mechanism. PDA already has the ability to accept credit card payments and the online programming in place to facilitate the registration with minimal new programming efforts. The proposed regulation will have the least burden on state government and will also provide applicants information and payment as one centralized location all ready in use for scheduling testing at Department offered sites.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

There will be no adverse effect on businesses as the regulation does not require them to participate.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Not applicable.

(29) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: 30 days from publication of proposed regulation
- B. The date or dates on which public meetings or hearings will be held: Not Applicable
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: June 2014
- D. The expected effective date of the final-form regulation: Upon publication as Final
- E. The date by which compliance with the final-form regulation will be required: Upon publication as Final
- F. The date by which required permits, licenses or other approvals must be obtained: Not Applicable

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

Following implementation, a review of the number of applicants using the alternate test sites will be evaluated at 3 month intervals for two years. A representative number of users will be surveyed to determine any need to improve the registration system and testing sites. Any private vendor utilized would be contracted using accepted Commonwealth bidding practices. That contract would be reviewed on a biannual schedule. Based on survey results and any correspondence received, the program will be adjusted to provide better service to the regulated community.



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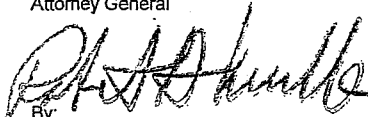
2014 MAR 21 AM 11:43

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE  
BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.  
Attorney General

  
By: \_\_\_\_\_  
(Deputy Attorney General)

**JAN 08 2014**

DATE OF APPROVAL

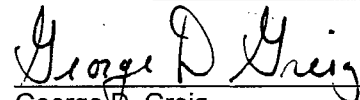
Check if applicable  
Copy not approved. Objections attached.

Copy below is hereby certified to be true and  
correct copy of a document issued, prescribed or  
promulgated by:

Department of Agriculture

DOCUMENT/FISCAL NOTE NO. 2-179

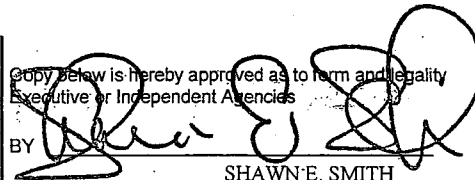
DATE OF ADOPTION 9-25-13

BY   
George D. Greig

TITLE Secretary of Agriculture

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality.  
Executive or Independent Agencies

BY   
SHAWN E. SMITH

**NOV 15 2013**

DATE OF APPROVAL

(Deputy General Counsel)  
(~~Chief Counsel - Independent Agency~~)  
(Strike inapplicable title)

Check if applicable. No Attorney General Approval  
or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING  
DEPARTMENT OF AGRICULTURE  
BUREAU OF PLANT INDUSTRY  
7 Pa. CODE CHAPTER 128, SECTION 128.3(f)  
Pesticides – Third Party Transactions

# PROPOSED RULEMAKING

## BUREAU OF PLANT INDUSTRY

### [7 PA.CODE CHAPTER 128, SECTION 128.3]

#### Pesticides – Third Party Transactions

##### Preamble

Pursuant to the authority delegated to the Pennsylvania Department of Agriculture (“Department”) under sections 34 and 37.1 of the Act of March 1, 1974, P.L. 90, No. 24, as amended, known and cited as the “Pennsylvania Pesticide Control Act of 1973” (“Act”)(3 P.S. §§ 111.54(4) and 111.57a.), the Department hereby proposes to amend the current Pesticides regulations at section 128.3 (7 Pa.Code § 128.3)(related to Fees) to allow for the administration of and payment for examination of certified applicators and pesticide dealer managers conducted by other agencies and/or private contractors under agreements with the Department.

##### *Authority*

The proposed regulation is offered under authority of sections 111.54(4) and 111.57a. of the Act (3 P.S. §§ 111.54(4) and 111.57a.), which allow the Department to: (1) cooperate and enter into agreements with other agencies, private or public, and to contract for training with other agencies for the purpose of training certified applicators and (2) allows the Secretary to change fees through regulation.

##### *Need for the Proposed Regulation*

The Department, at this time, only has the resources available to offer examination opportunities for certifying pesticide applicators and dealer managers on a monthly basis at the seven regional offices and some additional examination locations during normal business hours. The regulated community has been requesting that the Department provide examination opportunities on a more frequent basis and at expanded locations across the Commonwealth. In an effort to address the needs of the regulated community and expand the examination opportunities, the Department has reached out to other agencies of the Commonwealth, including the State Civil Service Commission and the Pennsylvania Department of Transportation, and contacted private industry in order to assess whether they may have the resources, physical facilities, technology and capability to offer certification examinations in manner that is consistent with the provisions of the Act and regulations. Both of the agencies mentioned and private industry have the resources and capabilities to address the needs and concerns expressed herein and to thereby enable the Department to better attend to the needs of the regulated community.

Contracted private and public agencies would incur costs in providing the services and facilities necessary for administration of certification examinations. The contracted agencies may charge for the cost of services they provide. Such charge would be in addition to the examination fee set forth in the current regulations. The additional costs of service would be charged only to those members of the regulated community that decide to utilize this optional service being offered for the industry's convenience.

The current regulations do not expressly permit the Department to collect or process a service charge levied by a third party. The Department therefore, seeks to amend the Pesticides regulations at section 128.3, by adding a paragraph (6) to subsection (f), which would allow the Department to pass on any additional costs charged by a contracted agency or vendor. The Department would be required to continue to offer examination on at least a monthly basis at Department of Agriculture sites where no additional charges shall be assessed.

In summary, the Department is satisfied there is a need for the proposed regulation, and that the regulation is otherwise consistent with Executive Order 1996-1, "Regulatory Review and Promulgation."

#### *Summary of Major Features of the Proposed Regulation*

The major features of the proposed regulation are summarized as follows:

##### *Section 128.3(f) Fees.*

The proposed regulation would establish a new subsection – (f)(6) – which would allow the Department to bill or pass through costs or service charges levied by a contracted vendor offering pesticide examinations. Such costs would only be assessed where a person chooses to take a pesticide examination offered by an agency or vendor that is under contract with the Department of Agriculture. The Department would be required to continue to offer examinations on at least a monthly basis at Department of Agriculture sites where no additional charges would be assessed.

##### *Persons Likely to be Affected*

The proposed regulation promotes the efficient Statewide administration of the Act and meets a need expressed by the regulated community. Only the regulated community will be affected and even then only those members of the regulated community that choose to avail themselves of the convenience offered by the additional locations and hours of operation associated with the contractor locations will be affected by any additional charges levied by the contracted vendor. Pesticide applicators and Pesticide Dealer Managers may continue to utilize the Department testing sites where no additional charges shall be assessed.

The regulation is not expected to have a significant adverse impact on any group or entity. The regulation will provide the flexibility requested by the regulated

community and allow for a more timely approach to pesticide certification. At the same time those persons not wishing to or able to pay for services provided by a contracted vendor may continue to avail themselves of the certification courses offered at Department sites.

### *Fiscal Impact*

#### *Commonwealth*

The proposed regulation, once published as final-form regulations, would impose minimal additional fiscal impacts upon the Department's Bureau of Plant Industry (Bureau). The Bureau already invoices persons for pesticide examinations. The outside vendor charge would only require an additional line item be added to the invoice. The fund transfers would not cost any additional money, changes to the computer program to administer the outside vendor programs and charges would be minimal and would be done internally. The Department would not incur any additional costs for the use of the contracted facilities and the convenience offered to the regulated community.

#### *Political Subdivisions*

The proposed regulation, once published as final-form regulations, would impose no additional fiscal impacts upon any political subdivisions. There is no role enforcement or otherwise for any political subdivision with regard to this regulatory amendment.

#### *Private Sector*

The regulations once published as final-form regulations will impose additional costs only on those persons that chose to utilize the outside vendor locations to take pesticide certification examinations. The Department will continue to offer all certification at Department locations on at least a monthly basis and no additional costs will be incurred by the regulated community.

#### *General Public*

The regulations, once promulgated as final-form regulations will not impose any additional costs on the general public.

#### *Paperwork Requirements*

The Department will not have to develop new application forms or review procedures. It will need to amend billing statements to include any additional charges by the contracted vendor and will need to interface with the vendor's payment systems. All transfers of information between the Bureau and the outside vendors will be done via computer with no new computer systems and only minor programming modification will have to be developed in order to effectuate such exchanges.

*Effective Date*

The proposed rulemaking will be effective 30 days after publication in the *Pennsylvania Bulletin* as final-form rulemaking.

*Sunset Date*

There is no sunset date for the regulation. The Department will review the efficacy of this regulation on an ongoing basis.

*Public Comment Period*

Interested persons are invited to submit written comments regarding the proposed regulation within 30 days following publication in the *Pennsylvania Bulletin*. These comments are public documents that will be posted on the Independent Regulatory Review Commission (IRRC) web site. The comments may be mailed to the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, PA 17110, Attention: Dave Scott.

*Regulatory Review*

The Department submitted a copy of the proposed regulation to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs on March 21, 2014, in accordance with section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)). The Department also provided IRRC and the Committees a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has an objection to any portion of the proposed regulation, it must so notify the Department within 30 days of the close of the public comment period.

The notification shall specify the regulatory criteria that have not been met by that portion. The Regulatory Review Act sets forth detailed procedures for review of these objections by the Department, the General Assembly and the Governor prior to the final publication of the proposed regulation.

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GEORGE D. GREIG, Secretary

ANNEX A

Rules and Regulations –Title 7-Agriculture

Department of Agriculture  
[7 PA.Code CH. 128]

PESTICIDES

CHAPTER 128. PESTICIDES

|                            |       |
|----------------------------|-------|
| Subchap.                   | Sec.  |
| A. GENERAL PROVISIONS..... | 128.1 |

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Subchapter A. GENERAL PROVISIONS

|        |              |
|--------|--------------|
| Sec.   |              |
| 128.1. | Scope.       |
| 128.2. | Definitions. |
| 128.3. | Fees.        |

\*\*\*

§ 128.3. Fees.

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(f) *Examination fees.* Examination fees are nonrefundable. The following examination fees, with payment made in advance, will be charged:

\*\*\*

(6) In addition to the examination fees established by this subsection (f), where a person chooses to take a pesticide examination offered by an agency or vendor that is under contract with the Department of Agriculture, such additional costs as may be charged by the contracted agency or vendor shall be assessed to the person taking the examination. Provided however, that the Department shall continue to offer pesticide certification examinations on at least a monthly basis at Department of Agriculture sites where no additional charges shall be assessed. The Department shall post on its website the addresses of the contracted examinations, the dates and times examinations are offered at those locations and the additional costs that will be charged by the contracted agency or vendor and assessed by the Department.



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

March 21, 2014

Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17101

**RE: NOTICE OF PROPOSED RULEMAKING**  
**Department of Agriculture**  
**7 Pa. Code Chapter 128, Section 128.3**  
**Pesticides – Third Party Transactions**  
**I.D. No. 2-179**

Dear Sir or Madam:

Please find enclosed copies of the Face Sheet, Preamble, Annex "A" and Regulatory Analysis Form with respect to the above proposed regulation.

Copies of these documents have been submitted to the majority and minority chairpersons of the House and Senate Agriculture and Rural Affairs Committees and to the Legislative Reference Bureau on this date.

The proposed regulation will be published in the April 5, 2014 edition of the *Pennsylvania Bulletin*. If I may be of further information, please advise.

Sincerely,

David C. Kennedy  
Assistant Counsel

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

**I.D. NUMBER:** 2-179  
**SUBJECT:** PESTICIDES – THIRD PARTY TRANSACTIONS  
**AGENCY:** DEPARTMENT OF AGRICULTURE


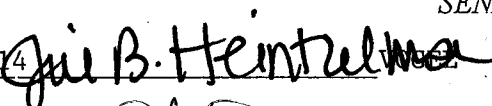
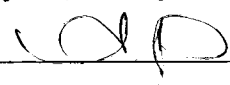
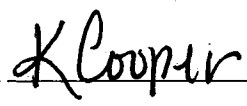

**TYPE OF REGULATION**

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

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**RECEIVED  
IRRC**

**FILING OF REGULATION**

| <u>DATE</u> | <u>SIGNATURE</u>  | <u>DESIGNATION</u>  |
|-------------|---|---|
|             |   | <i>HOUSE COMMITTEE ON AGRICULTURE &amp; RURAL AFFAIRS</i>   |
| 3-21-14     |  | MAHER MAJORITY CHAIR MAHER                                  |
| 3-21-14     |   | PETRARCA MINORITY CHAIR                                     |
|             |   | <i>SENATE COMMITTEE ON AGRICULTURE &amp; RURAL AFFAIRS</i>  |
| 3-21-14     |  | MAJORITY CHAIR VOGEL  |
| 3-21-14     |  | SCHWANK MINORITY CHAIR                                      |
| 3-21-14     |  | IRRC <i>INDEPENDENT REGULATORY REVIEW COMMISSION</i>        |
|             |   | <i>ATTORNEY GENERAL (for Final Omitted only)</i>            |
| 3-21-14     |  | LRB <i>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</i> |



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

**I.D. NUMBER:** 2-179  
**SUBJECT:** PESTICIDES – THIRD PARTY TRANSACTIONS  
**AGENCY:** DEPARTMENT OF AGRICULTURE

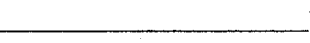

**TYPE OF REGULATION**

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- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
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IRRC**

**FILING OF REGULATION**

| <u>DATE</u> | <u>SIGNATURE</u>  | <u>DESIGNATION</u>  |
|-------------|---|---|
|             |   | <i>HOUSE COMMITTEE ON AGRICULTURE &amp; RURAL AFFAIRS</i>   |
| 3-21-14     |  | MAHER MAJORITY CHAIR MAHER                                  |
| 3-21-14     |  | PETRARCA MINORITY CHAIR                                     |
|             |   | <i>SENATE COMMITTEE ON AGRICULTURE &amp; RURAL AFFAIRS</i>  |
| 3-21-14     |   | VOGEL MAJORITY CHAIR VOGEL                                  |
| 3-21-14     |   | SCHWANK MINORITY CHAIR                                      |
| 3-21-14     |   | IRRC <i>INDEPENDENT REGULATORY REVIEW COMMISSION</i>        |
|             |   | <i>ATTORNEY GENERAL (for Final Omitted only)</i>            |
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