

STATEMENTS OF POLICY

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 130e]

Interim Commercial Manure Hauler and Broker Certification and Enforcement

This statement of policy applies to the regulation and certification of commercial manure haulers and commercial manure brokers by the Department of Agriculture (Department) between the effective date of section 4(a) of the Commercial Manure Hauler and Broker Certification Act (act) (3 P.S. § 2010.4(a)) and the promulgation of a final-form rulemaking establishing the Department's certification and training criteria.

Purpose

The Department is adopting this statement of policy to set forth and delineate its policy with regard to interim enforcement of the act and the establishment of an interim certification program developed under section 3 of the act (3 P.S. § 2010.3) prior to the Department's final-form rulemaking implementing the Department's certification program.

Authority

This statement of policy is adopted under authority of the act.

Need for this Statement of Policy

This statement of policy is necessary to establish and provide notice of the Department's position regarding the enforcement of the act and the certification program that the Department is required to develop under section 3 of the act. The statement of policy will also provide guidance with regard to the specific terms and conditions for temporary certification.

This statement of policy only applies to sections 3 and 4(a) of the act and does not constitute a rule or regulation, does not have the force and effect of law and is not intended to circumscribe the Department's authority or administrative discretion to enforce other provisions of the act.

Certification

Individuals interested in obtaining certification as a commercial manure hauler or broker are advised to review the Department's information at www.agriculture.state.pa.us and the proposed rulemaking published at 35 Pa.B. 6751 (December 17, 2005). Individuals without access to the Internet may request information from the Department by calling the contact person listed in this preamble.

Persons Likely to be Affected

This statement of policy will impact commercial manure haulers and brokers who are required by the act to be certified to haul or apply, or both, manure. The act requires that all manure haulers and brokers stop transporting or spreading manure without being certified by the Department within 18 months of the enactment date of the act. The Governor signed the act on June 28, 2004. Therefore, all commercial manure haulers and dealers that are not certified by the Department were prohibited from transporting or spreading without being certified by December 28, 2005, even though the Department has not

yet instituted a certification program since the deadline for the Department's implementation of a certification program is not until February 27, 2006, and the Department is currently in the process of enacting regulations implementing the certification program. The temporary certification program established by the Department and set forth in this statement of policy is required by the act and will provide commercial manure haulers and dealers the ability to comply with the certification mandates of the act.

Fiscal Impact

Commonwealth

This statement of policy will have no appreciable fiscal impact upon the Commonwealth. While the Department will incur costs in implementing the testing the Department has calculated the projected cost of administering the certification program and will recoup the administrative costs through fees that will ultimately be charged for certification and testing under a final-form rulemaking that will be promulgated by the Department.

Political subdivisions, private sector and the general public

This statement of policy will have no appreciable fiscal impact upon political subdivisions, the private sector or the general public.

Paperwork Requirements

This statement of policy will result in an appreciable increase in the paperwork handled by the Department. The Department will be required to draft application forms, test manuals, test questions and certification papers.

Contact Person

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Johan E. Berger, (717) 772-4189, joberger@state.pa.us.

Effective Date

This statement of policy will take effect upon publication in the *Pennsylvania Bulletin*.

Applicability

This statement of policy will apply to commercial manure haulers and brokers transporting or land-applying manure in this Commonwealth from December 28, 2005, through the Department's promulgation of the final-form rulemaking implementing the act.

Sunset/Expiration Date

This statement of policy will be deleted upon the Department's promulgation of final regulations implementing the act.

(Editor's Note: The regulations of the Department 7 Pa. Code, are amended by adding a statement of policy in §§ 130e.1 and 130e.2 to read as set forth in Annex A.)

DENNIS C WOLFF,
Secretary

Fiscal Note: 2-153. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE

PART V. BUREAU OF PLANT INDUSTRY

CHAPTER 130e. INTERIM COMMERCIAL MANURE
HAULER AND BROKER CERTIFICATION AND
ENFORCEMENT—STATEMENT OF POLICY

Sec.

130e.1. Enforcement.

130e.2. Temporary certification.

§ 130e.1. Enforcement.

(a) The Commercial Manure Hauler and Broker Certification Act (act) (3 P. S. §§ 2010.1—2010.12) requires that after December 28, 2005, commercial manure haulers and commercial manure brokers shall be certified under the Department's program prior to transporting or land-applying manure in this Commonwealth on behalf of an agricultural operation, regardless of where the manure is generated.

(b) If a commercial manure hauler or commercial manure broker is not certified prior to transporting or land-applying manure in this Commonwealth on behalf of an agricultural operation, the hauler or broker is subject to administrative penalties imposed by the Department and civil remedies sought on behalf of the Department.

(c) As of December 28, 2005, the Department has not established a commercial manure hauler and broker certification program that would enable commercial manure haulers and commercial manure brokers to be certified by the Department. Therefore, the Department will not impose administrative penalties or ask the Office of General Counsel to seek civil remedies if a commercial manure hauler or broker transporting or land-applying manure in this Commonwealth on behalf of an agricultural operation between the effective date of section 4(a) of the act (3 P. S. § 2010.4(a)) and the Department's promulgation of final regulations implementing the act if the Department believes that the commercial manure

hauler or broker is making a good faith effort to seek temporary certification by the Department.

§ 130e.2. Temporary certification.

(a) The Department will implement a temporary certification program that will allow the Department to provide training and testing to commercial manure haulers and brokers prior to the February 27, 2006, deadline for promulgating regulations established in section 3 of the Commercial Manure Hauler and Broker Certification Act (act) (3 P. S. § 2010.3). This temporary certification program will occur prior to the promulgation of the final regulations authorizing the Department to collect fees, and will therefore be offered at no initial cost to the applicants. The Department will not take any enforcement action prior to the offering of training and testing for certification. Also, the Department will deem that individuals who attend the training and take the test have made a good faith effort to seek temporary certification by the Department and the Department will not enforce violations of section 4(a) of the act (3 P. S. § 2010.4(a)) against these individuals prior to the promulgation of the final regulations under the act.

(b) The Department will train and test individuals participating in the temporary certification program in accordance with the act. An individual who participates in the temporary certification program and successfully passes the required test for the individual's respective certification level will be issued a temporary certification that will expire 30 days after the Department's promulgation of the final regulations under the act. An individual who receives temporary certification shall be able to convert the temporary certification into a multi-year certification upon payment of the required fees within 30 days after the promulgation of the final regulations under the act.

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