AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes, repealing provisions relating to fertilizer; providing for fertilizer; in soil and plant amendment, further providing for disposition of funds; and, in seed, further providing for disposition of funds; AND IMPOSING DUTIES ON THE DEPARTMENT OF AGRICULTURE.

2 The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

3 Section 1. The heading of Chapter 67 of Title 3 of the Pennsylvania Consolidated Statutes is repealed:

4 [CHAPTER 67 FERTILIZER]

5 Section 2. Chapter 67 of Title 3 is repealed:

6 § 6701. Short title of chapter.

7 This chapter shall be known and may be cited as the Fertilizer Act.

8 § 6702. Definitions.

9 The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Brand." A term, design or trademark used in connection with one or several grades of fertilizer.

"Bulk fertilizer." A fertilizer distributed in a nonpackaged form.

"By-product." Municipal waste or residual waste as defined in the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, that contains a plant nutrient and meets all the applicable regulations of the Department of Environmental Protection.

"Consumer." A person who purchases fertilizer for the end use of the product.

"Deficiency." The amount of nutrient found by analysis to be less than that guaranteed.

"Department." The Department of Agriculture of the Commonwealth.

"Distribute." To import, consign, offer for sale, sell, barter or otherwise supply fertilizer in this Commonwealth.

"Facility." Each separate mill or plant that manufactures fertilizer.

"Fertilizer." Any substance, including fertilizer material, mixed fertilizer, specialty fertilizer and bulk fertilizer, containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manure, agricultural liming materials, wood ashes and other materials exempted by regulation by the Department of Agriculture.

"Fertilizer material." A fertilizer which:

(1) contains only one of the following primary plant nutrients: nitrogen, phosphate or potash;
(2) has 85% or more of its plant nutrient content present in the form of a single chemical compound; or

(3) is derived from a plant or animal residue, by-product, coproduct as defined in regulation or natural material deposit which has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.

"Grade." The percentage of total nitrogen, available phosphate and soluble potash stated in whole numbers in the same terms, order and percentages as in the guaranteed analysis except that, with respect to specialty fertilizers, fertilizer materials, bone meal, manures and similar materials, the guaranteed analysis may be stated in fractional units.

"Guaranteed analysis." The minimum percentage of plant nutrients claimed in the following order and form:

- Total nitrogen (N) %
- Available phosphate (P2O5) %
- Soluble potash (K2O) %

For other organic phosphatic materials, the total phosphate or degree of fineness may also be guaranteed. Guarantees for plant nutrients other than nitrogen, phosphorus and potassium may be established by regulation.

"Guarantor." The person whose name and address appears on the label of a fertilizer.

"Label." The display of all written, printed or graphic matter upon the immediate container or a statement accompanying a fertilizer.

"Labeling." All written, printed or graphic matter upon or accompanying any fertilizer or advertisements, brochures, posters or electronic media used in promoting the distribution
of fertilizer.

"Manufacture." To produce, mix, blend, repackage or further process fertilizer or fertilizer material for distribution.

"Micronutrient." Any of the following: boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium and zinc.

"Official sample." A sample of fertilizer taken by the Department of Agriculture or its agent to effect the provisions of this chapter and designated as official.

"Overall index value." The value obtained from the calculation: (commercial value found) x 100/(commercial value guaranteed).

"Percent" or "percentage." A percentage by weight.

"Person." An individual, partnership, association, firm, corporation or any other legal entity.

"Plant nutrient." Any of the following: primary nutrient, secondary nutrient and micronutrient.

"Primary nutrient." Any of the following: total nitrogen, available phosphate and soluble potash.

"Secondary nutrient." Any of the following: calcium, magnesium and sulfur.

"Secretary." The Secretary of Agriculture of the Commonwealth or the secretary's designee.

"Specialty fertilizer." A fertilizer distributed for nonfarm use and fertilizer material primarily intended to supply plant nutrients other than nitrogen, phosphate or potash.

"Tolerance." A permitted variation from the guarantee of an official sample of fertilizer.

§ 6703. Licensing.

(a) General rule.--Every person engaged in the manufacture of fertilizer to be distributed in this Commonwealth and every
guarantor of fertilizer shall, on or before July 1 of each year or prior to manufacture or distribution, apply for and obtain an annual license for each guarantor and each facility located in this Commonwealth. The application for licensure must be on the form prescribed by the department and shall be accompanied by a $25 application fee. All licenses shall expire on June 30 of each year.

(b) Labeling and typical analysis.--The department may require an applicant for a license or a current licensee to submit the labeling that the person is using or intends to use for the fertilizer. The department may also require an applicant or licensee to provide a typical analysis of selected components that may be in the fertilizer.

§ 6704. Registration of specialty fertilizers.

(a) Application.--Each brand and grade of specialty fertilizer shall be registered by the guarantor with the department before being offered for sale, sold or distributed in this Commonwealth. An application for each brand and grade of specialty fertilizer shall be made on a form prescribed by the department and shall be accompanied by a fee of $25 per each grade of each brand. Labels for each brand and grade shall accompany the application. Upon the approval of an application by the department, a copy of the registration shall be furnished to the applicant. All registrations shall expire on June 30 of each year.

(b) Contents of application.--An application for registration shall include:

(1) The brand and grade.
(2) The guaranteed analysis.
(3) The name and address of the guarantor.
(c) Exemption.--A distributor shall not be required to register a specialty fertilizer which is already registered under this chapter by another person, providing the label does not differ in any material respect.

(d) Late fee.--If the application for renewal of the specialty fertilizer registration required in this section is not filed prior to June 30 of each year, a penalty of $25 or 10% of the registration fee, whichever is greater, may be assessed and added to the original fee and shall be paid by the applicant before the renewal specialty fertilizer registration is issued. The penalty shall not apply if the applicant furnished an affidavit that the applicant has not distributed the specialty fertilizer subsequent to the expiration of the applicant's prior registration.

§ 6705. Labels and labeling.

(a) General rule.--Any fertilizer distributed in a container in this Commonwealth shall have placed on or affixed to the container a label setting forth in legible and conspicuous form:

(1) The brand and grade of the fertilizer, provided that the grade shall not be required when no primary nutrients are claimed.

(2) The guaranteed analysis.

(3) The name and address of the guarantor.

(4) The net weight.

(b) Bulk fertilizer.--In the case of bulk fertilizer shipments, the information required by subsection (a) shall accompany delivery and shall be provided in writing to the purchaser at time of delivery.

(c) Other guarantees.--Guarantees for other nutrients shall
be expressed in the form of the element. The department may require by regulation that the source of such other nutrients be stated on the application for registration and may be required on the label. The department may require by regulation that other beneficial substances or compounds be guaranteed. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analysis in accordance with the methods and regulations prescribed by the department.

(d) Proof of labeling claims.--The department may require proof of any labeling claims made for fertilizer. Any research in support of such claims shall be performed by an institution approved by the department utilizing acceptable scientific methodology.

(e) Consumer-specified fertilizer formulations.--A fertilizer formulated according to specifications which are furnished by a consumer prior to mixing shall be labeled to show:

(1) The net weight.
(2) The guaranteed analysis.
(3) The name and address of the guarantor.

(f) Bulk storage.--Fertilizer in bulk storage that is intended for distribution shall be identified with a label attached to the storage bin or container giving the name and grade of the product.
case shall the inspection fee paid semiannually amount to
less than $25.

(2) On packages of 15 pounds or less, there shall be
paid in lieu of the inspection fee of 15¢ per ton provided
for in paragraph (1), annually and not later than January 31
of each year, an inspection fee of $25 for each brand and
grade of fertilizer distributed.

(3) If the guarantor whose name appears on the label
distributes fertilizers in this Commonwealth in both packages
of less and more than 15 pounds, the $25 inspection fee shall
be paid for its brands and grades sold in packages of 15
pounds or less, and the 15¢ per ton fee shall be paid for its
packages of more than 15 pounds.

(b) Adjustment to fees by secretary.--

(1) Notwithstanding the provisions of subsection (a), if
the secretary determines following notice to the registrants
and licensees that moneys derived from the registration and
inspection fees are either greater or less than that required
to administer this chapter, the secretary may reduce or
increase the inspection fee so as to maintain revenues
sufficient to administer this chapter.

(2) An inspection fee established under this subsection
may not be changed by more than 2¢ in one year and may not
exceed 25¢ per ton.

(3) The secretary shall announce the adjustment of fees
by publishing a notice in the Pennsylvania Bulletin. The
adjusted fees shall take effect 60 days after publication of
such notice in the Pennsylvania Bulletin.

§ 6707. Tonnage reports.

(a) General rule.--The guarantor whose name appears on the
label shall submit, along with the requisite inspection fee, a
report in a manner prescribed by the department listing by
county the net tons of each brand and grade of fertilizer
distributed in this Commonwealth for the period covered by the
inspection fee.

(b) Multiple guarantors.--When more than one guarantor is
involved in the distribution of fertilizer, the guarantor who
distributed the fertilizer last shall report the tonnage and pay
the inspection fee unless the report and payment have been made
by a prior distributor.

(c) Late fee.--A penalty of $25 or 10% of the inspection
fee, whichever is greater, shall be imposed for any fee or
report not submitted at the required time.

(d) Examination permitted.--The department or its authorized
representative may examine the records of the guarantor to
verify the information contained in the reports filed with the
department. Reports containing fraudulent or incorrect
information shall be considered a violation of this chapter for
which the department may assess any penalty as provided for in
this chapter.

(e) Confidentiality of information.--

(1) No proprietary information furnished to the
department under this section shall be disclosed in such a
way as to knowingly or intentionally divulge a trade secret
of any person subject to the provisions of this chapter.

(2) This subsection shall not apply to information
furnished to a court or administrative tribunal in accordance
with law.

§ 6708. Inspection, sampling and analysis.

(a) General rule.--The department shall inspect, sample,
make analyses of and test fertilizers distributed within this Commonwealth and shall inspect the storage of bulk fertilizer at any time and place and to such an extent as the department may deem necessary to determine whether such fertilizers are in compliance with the provisions of this chapter. The department or its agent may enter upon any public or private premises or carriers during regular business hours in order to have access to fertilizer subject to provisions of this chapter and the records relating to this chapter.

(b) Laboratory methodology.--The department shall establish by regulation the methods of fertilizer sampling and analysis. In promulgating such regulations, the department shall consider methods such as those adopted by the Association of Official Analytical Chemists International. In cases not covered by such methods or in cases where improved methods are available, the department may issue a temporary order defining the method to be utilized. The method defined in the temporary order shall be effective upon publication in the Pennsylvania Bulletin. The temporary order shall remain in effect for a period not to exceed one year unless reissued or until such order is promulgated as a regulation.

(c) Deficiency determination.--The department, in determining whether any fertilizer is deficient, shall be guided solely by the official sample obtained and analyzed as provided for in subsections (a) and (b).

(d) Retention of official samples.--Official samples maintained by the department and that require imposition of a penalty for nutrient deficiency shall be retained for a minimum of 90 days from issuance of a deficiency report. Upon request, the department shall furnish to the guarantor a portion of any
sample that is subject to penalty or other legal action. Such requests must be made within 30 days of notification of sample violations.

§ 6709. Plant food deficiency.

(a) Penalties.--The following penalties shall be assessed for deficiencies from the guaranteed analysis:

(1) A penalty payment of five times the commercial value of each deficiency shall be assessed when the analysis shows that a fertilizer is deficient:

   (i) in one or more of its guaranteed primary nutrients beyond a tolerance of 10% (two unit maximum); or

   (ii) when the overall index value of the primary nutrients in the fertilizer is below 97.

(2) When a fertilizer is subject to a penalty payment under both paragraph (1)(i) and (ii), the larger penalty payment shall apply. Any such penalties assessed may not exceed the retail price of the lot of fertilizer represented by the official sample.

(3) Deficiencies beyond the tolerance as established by regulation in a component other than a primary nutrient shall be evaluated by the department and shall be subject to any penalty under this chapter.

(b) Payment of penalties.--All penalties assessed under this section shall be paid by the guarantor to the consumer of the lot of fertilizer represented by the sample analyzed within 90 days after the date of notice from the department to the guarantor. Receipts of payment shall be promptly forwarded by the guarantor to the department. If the consumer cannot be found, the penalties shall be paid to the department.
(c) Deficiencies in mixed fertilizers. -- A deficiency in an official sample of mixed fertilizer resulting from nonuniformity shall not be deemed distinguishable from a deficiency due to actual plant nutrient shortage and shall be deemed a violation of this chapter for which the department may assess any penalty as provided for in this chapter.

§ 6710. Commercial value.

For the purpose of determining the commercial value to be applied under section 6709 (relating to plant food deficiency), the department shall determine and publish annually the values per pound of nitrogen, available phosphate and soluble potash in fertilizers in this Commonwealth. The amounts determined and published shall be used in determining and assessing penalty payments.

§ 6711. Misbranding.

No person shall distribute a misbranded fertilizer. A fertilizer shall be deemed to be misbranded if:

(1) its labeling is false or misleading in any particular;

(2) it is distributed under the name of another fertilizer product;

(3) it is not labeled as required in section 6705 (relating to labels and labeling) and in accordance with regulations prescribed under this chapter; or

(4) it purports to be or is represented as a fertilizer or is represented as containing a plant nutrient or fertilizer unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by regulation.

§ 6712. Adulteration.
(a) General rule.--No person shall distribute an adulterated fertilizer product. A fertilizer shall be deemed to be adulterated if:

(1) it contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when applied in accordance with its intended use or directions for use on the label;

(2) adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil or water are not shown upon the label;

(3) its composition falls below or differs from that which it is purported to possess by its labeling; or

(4) it contains viable weed seed in amounts exceeding the limits which the department establishes by regulation.

(b) Exception.--A fertilizer shall not be considered adulterated under this section if the quantity of the substance in the fertilizer does not ordinarily render it injurious.

§ 6713. Publications.

The department shall publish at least annually and in such form as it deems proper such information concerning the distribution of fertilizers and results of analyses based on official samples of fertilizer distributed within this Commonwealth as compared with analyses guaranteed under sections 6704 (relating to registration of specialty fertilizers) and 6705 (relating to labels and labeling).

§ 6714. Short weight.

If any fertilizer in the possession of a consumer is found by the department to be short in weight, the guarantor of that
fertilizer shall, within 30 days after official notice from the
department, submit to the consumer a penalty payment of two
times the value of the actual shortage.

§ 6715. Refusal, suspension or revocation of registration or
license.

The department may refuse, suspend or revoke the registration
of any fertilizer or refuse, suspend or revoke the license of
any person where the registrant or licensee has not complied
with the provisions of this chapter or of any person who has
used fraudulent or deceptive practices in the evasion of the
provisions of this chapter.

§ 6716. Stop-sale orders.

(a) General rule.--The department may issue and enforce a
written or printed stop-sale, use or removal order to the owner
or custodian of any lot of fertilizer and to hold at a
designated place when the department finds the fertilizer is
being offered or exposed for sale in violation of any of the
provisions of this chapter. The order shall remain in effect
until the law has been complied with and the fertilizer is
released in writing by the department or the violation has been
otherwise legally disposed of by written authority.

(b) Release by department.--The department shall release
fertilizer held under a stop-sale order when the requirements of
the provisions of this chapter have been complied with and all
costs and expenses incurred in connection with the withdrawal
have been paid by the person responsible for the violation.

§ 6717. Seizure and condemnation.

A lot of fertilizer not in compliance with the provisions of
this chapter shall be subject to seizure and condemnation by the
department, provided that in no instance shall the disposition
of the fertilizer be ordered by the department without first
giving the claimant an opportunity for a hearing as provided for
in section 6718 (relating to appeal process) or for opportunity
to apply for permission to process or relabel the fertilizer to
bring it into compliance with this chapter.
§ 6718. Appeal process.
All appeals shall be taken and hearings conducted in
accordance with the provisions of 2 Pa.C.S. Chs. 5 Subch. A
(relating to practice and procedure of Commonwealth agencies)
and 7 Subch. A (relating to judicial review of Commonwealth
agency action).
§ 6719. Cooperation with other entities.
The department may cooperate with and enter into agreement
with governmental agencies of the Federal Government, agencies
of this Commonwealth and any other state in order to carry out
the purpose and provisions of this chapter.
§ 6720. Rules and regulations.
The department shall promulgate and enforce rules and
regulations necessary for administration and implementation of
this chapter.
§ 6721. Unlawful conduct.
It shall be unlawful for any person to fail to comply with or
to cause or assist in the violation of any order or any of the
provisions of this chapter or the rules and regulations adopted
under this chapter.
§ 6722. Interference with officer or employee of department.
A person who willfully or intentionally interferes with an
employee or officer of the department in the performance of that
employee's or officer's duties or activities authorized under
this chapter commits a misdemeanor of the third degree and
shall, upon conviction, be subject to a term of imprisonment of not more than one year or a fine of not more than $2,500, or both.

§ 6723. Enforcement and penalties.

(a) Criminal penalties.--Unless otherwise specified, any person who violates any of the provisions of this chapter or a rule or regulation adopted thereunder or any order issued pursuant thereto:

(1) For the first offense, commits a summary offense and may, upon conviction, be sentenced for each offense to pay a fine of not less than $50 nor more than $100 and costs of prosecution or to undergo imprisonment for a term which shall be fixed at not more than 90 days, or both.

(2) For a subsequent offense committed within three years of a prior conviction for any violation of this chapter or any rule, regulation or order made under this chapter, commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not less than $500 nor more than $1,000 and costs of prosecution or to imprisonment for not more than two years, or both.

(b) Trade secrets.--

(1) Any person who uses to that person's own advantage or reveals to anyone other than the department, administrative tribunal or the courts when relevant in any judicial proceeding any information acquired under the authority of this chapter concerning any method, records, formulations or processes which as a trade secret is entitled to protection under the law commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not less than $500 or to imprisonment for not less
than one year, or both.

(2) This subsection shall not be construed to prohibit
the department from exchanging information of a regulatory
nature with governmental agencies of the Federal Government,
agencies of this Commonwealth or any other state to implement
the provisions of this chapter.

(c) Civil penalties.--

(1) In addition to any other remedy available at law or
in equity for a violation of this chapter, the department may
assess a civil penalty of not more than $2,500 upon any
person for each violation of this chapter. The civil penalty
assessed shall be payable to the department and shall be
collectible in any manner provided by law for the collection
of debt.

(2) No civil penalty shall be assessed unless the person
assessed the penalty has been given notice and an opportunity
for a hearing on the assessment in accordance with the
provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice
and procedure of Commonwealth agencies) and 7 Subch. A
(relating to judicial review of Commonwealth agency action).

(d) Certified copy of official analysis.--In prosecution
under this chapter involving the composition of a lot of
fertilizer, a certified copy of the official analysis signed by
the secretary or the secretary's designee shall be accepted as
prima facie evidence of the composition.

(e) De minimis violations.--Nothing in this chapter shall be
construed as requiring the department to report a violation and
to institute seizure proceedings as a result of de minimis
violations of this chapter when the department concludes that
the public interest will be best served by a suitable notice of
§ 6724. Exchanges between manufacturers.

Nothing in this chapter shall be construed as restricting or avoiding sales or exchanges of fertilizers to each other by importers, manufacturers or manipulators who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of fertilizer to manufacturers or manipulators who are licensed as required by provisions of this chapter.

§ 6725. Disposition of funds.

Moneys received from license fees, registration fees, inspection fees, fines and penalties shall be paid into a special restricted account in the General Fund to be known as the Agronomic Regulatory Account. All moneys in the Agronomic Regulatory Account are hereby appropriated to the department for the purposes of this chapter and Chapters 69 (relating to soil and plant amendment) and 71 (relating to seed).]

Section 3. Title 3 is amended by adding a chapter to read:

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CHAPTER 67A

FERTILIZER

Subchapter

A. General Provisions
B. Fertilizer Manufacturers and Guarantors
C. Applicator Licensing and Certification
D. Recordkeeping for Applicators and Airports
E. Application Rates, Requirements and Prohibitions
F. Agricultural and Homeowner Education Program
G. Administrative and Penalty Provisions

SUBCHAPTER A

GENERAL PROVISIONS
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§ 67A01. Short title.
This chapter shall be known and may be cited as the Fertilizer Act.

§ 67A02. Definitions.
The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agricultural production." The production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of crops, livestock or livestock products if more than 50% of the processed or merchandised products are produced by the farm operator. The term includes use of land that is devoted to and meets the requirements of and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

"Application." The process of placement or usage of fertilizer onto a targeted growing area.

"Brand." A term, design or trademark used in connection with one or several grades of fertilizer.

"Bulk fertilizer." A fertilizer distributed in a nonpackaged form.

"By-product." Municipal waste or residual waste as defined in the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, or its successor statute, that contains a plant nutrient and meets all applicable regulations of the Department of Environmental Protection.

"Certified applicator." Any person who is certified under...
section 67A23 (relating to certification of applicators) as competent to use or supervise the use of fertilizer or train fertilizer technicians on the proper application of fertilizer.

"Commercial applicator." Anyone who applies or supervises the application of fertilizer to the property or premises of another or anyone who applies or supervises application of fertilizer to the property or premises of the following:

(1) A golf course.
(2) A public or private park.
(3) A public, nonpublic or licensed private elementary or secondary school wherein a resident of this Commonwealth may fulfill the compulsory school attendance requirements and which meets the applicable requirements of Title IV of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241), or its successor statute. This term does not include the residence of a home schooled student.
(4) A public or private college or university that applies fertilizer to the campus grounds.
(5) A public playground or an athletic field.

"Consumer." A person who purchases fertilizer for the end use of the product.

"Crops, livestock and livestock products." Shall include, but not be limited to:

(1) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
(2) Fruits, including apples, peaches, grapes, cherries and berries.
(3) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms.
(4) Horticultural specialties, including nursery stock.
ornamental shrubs, ornamental trees and flowers.

(5) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.

(6) Timber, wood and other wood products derived from trees.

(7) Aquatic plants and animals and their products.

"Deficiency." The amount of nutrient found by analysis to be less than that guaranteed, which may result from a lack of nutrient ingredients or uniformity.

"Department." The Department of Agriculture of the Commonwealth.

"Distribute." To import, consign, offer for sale, sell, barter or otherwise supply fertilizer in this Commonwealth.

"Distributor." A person who distributes fertilizer or fertilizer material.

"Enhanced efficiency fertilizer." A fertilizer product with characteristics that allow increased plant uptake and reduced potential of nutrient losses to the environment, such as gaseous losses, leaching or runoff, when compared to an appropriate reference product.

"Facility." Each separate mill or plant that manufactures fertilizer.

"Fertilizer." A substance, including fertilizer material, mixed fertilizer, specialty fertilizer and bulk fertilizer, containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manure, agricultural liming materials, wood ashes and other materials exempted by the
department's regulations.

"Fertilizer application business." A governmental or public entity, commercial applicator or business for profit or not-for-profit that applies fertilizer on the property or premises of another or that applies fertilizer to the property or premises of a golf course, park, school, college or university, public playground or to an athletic field.

"Fertilizer application business license." A license obtained under section 67A22 (relating to licensing of fertilizer application businesses).

"Fertilizer license." A license obtained under section 67A11 (relating to licensing).

"Fertilizer material." A fertilizer which:

(1) contains only one of the following primary plant nutrients:

   (i) nitrogen;

   (ii) phosphate; or

   (iii) potash;

(2) has 85% or more of its plant nutrient content present in the form of a single chemical compound; or

(3) is derived from a plant or animal residue, by-product, coproduct as defined in 25 Pa. Code § 287.1 (relating to definitions) or natural material deposit which has been processed in a way that its content of plant nutrients has not been materially changed except by purification and concentration.

"Fertilizer technician." A person working for a fertilizer application business that is not certified under this chapter, who works under the direction of a certified applicator.

"Fertilizer use category." The end use of the fertilizer,
such as agricultural, nonagricultural or unknown.

"Governmental or public entity." An executive or independent agency or governmental unit of the Commonwealth or local agency, including a county, city, borough, town, township, school district, municipal authority or political subdivision of the Commonwealth.

"Grade." The percentage of total nitrogen, available phosphate and soluble potash stated in whole numbers in the same terms order and percentages as in the guaranteed analysis, provided that specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphate and soluble potash, provided that fertilizer materials, bone meal, manures and similar materials may be guaranteed in fractional units.

"Guaranteed analysis." The minimum percentage of plant nutrients claimed in the following order and form:

<table>
<thead>
<tr>
<th>Plant Nutrient</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total nitrogen (N)</td>
<td>%</td>
</tr>
<tr>
<td>Available phosphate (P2O5)</td>
<td>%</td>
</tr>
<tr>
<td>Soluble potash (K2O)</td>
<td>%</td>
</tr>
</tbody>
</table>

For other organic phosphatic materials, the total phosphate or degree of fineness may also be guaranteed. Guarantees for plant nutrients other than nitrogen, phosphorus and potassium may be established by regulation.

"Guarantor." A person, including a manufacturer or distributor, whose name and address appears on the label of fertilizer.

"Impervious surface." A structure, surface or improvement, including, but not limited to, a roadway, sidewalk, parking lot, driveway or patio constructed out of plastic, concrete, asphalt or other material that reduces or prevents infiltration of water.
"Intermittent stream." A body of water flowing in a channel or bed composed primarily of substrates associated with flowing water which, during periods of the year, is below the water table and obtains its flow from both surface runoff and groundwater discharges.

"Label." The display of all written, printed or graphic matter upon the immediate container or a statement accompanying a fertilizer.

"Labeling." All written, printed or graphic matter upon or accompanying any fertilizer or advertisements, brochures, posters or electronic media used in promoting the distribution of the fertilizer.

"Manipulation." Processed or treated in any manner, including drying to a moisture content of less than 30%.

"Manufacture." To produce, mix, blend, repackage or further process fertilizer or fertilizer material for distribution.

"Micronutrient." Any of the following:

(1) boron;
(2) chlorine;
(3) cobalt;
(4) copper;
(5) iron;
(6) nickel;
(7) manganese;
(8) molybdenum;
(9) sodium; or
(10) zinc.

"Mixed fertilizer." A fertilizer containing any combination or mixture of fertilizer materials.
“Natural organic fertilizer.” A fertilizer derived from either plant or animal products containing one or more elements, other than carbon, hydrogen and oxygen, which are essential for plant growth. These materials may be subjected to biological degradation processes under normal conditions of aging, rainfall, sun curing, air drying, composting, rotting, enzymatic or anaerobic or aerobic bacterial action or a combination of these processes. These materials may not be mixed with synthetic materials or changed in any physical or chemical manner from their initial state except by physical manipulation such as drying, cooking, chopping, grinding, shredding or pelleting.

“Net weight.” The total weight of fertilizer as offered for sale, excluding the weight of the container.

“Official sample.” A sample of fertilizer collected or obtained by the department to effectuate the provisions of this chapter and designated as official.

“Organic-base fertilizer.” A mixed fertilizer where:

(1) More than half of the fertilizer materials are organic.

(2) More than half of the sum of the guaranteed primary nutrient percentages are derived from organic materials.

“Overall index value.” The value obtained from the calculation: (commercial value found) x 100 / (commercial value guaranteed).

“Park.” Privately or publicly owned outdoor real estate which includes a public recreational area, including an area with restricted access.

“Percent or percentage.” A percentage by weight.

“Perennial stream.” A body of water flowing in a channel or bed composed primarily of substrates associated with flowing...
waters and capable, in the absence of pollution or other manmade-
stream disturbances, of supporting bottom-dwelling aquatic
animals.

"Person." An individual, partnership, association, firm, corporation or any other legal entity.

"Plant nutrient." Any of the following:
(1) primary nutrient;
(2) secondary nutrient; or
(3) micro nutrient.

"Primary nutrient." Any of the following:
(1) nitrogen;
(2) phosphorus; or
(3) potassium.

"Public applicator." A person employed by a governmental or
public entity who applies or supervises the application of
fertilizer as part of the applicator's employment duties.

"Readily available nitrogen." Water soluble nitrogen in
either ammoniacal, urea or nitrate form that does not have-
enhanced efficiency properties.

"Registrant." A person who registers fertilizer under this
chapter.

"Repackage." The placement of fertilizer into a container or-
bulk bin other than what is supplied by the guarantor.

"Secondary nutrient." Any of the following:
(1) calcium;
(2) magnesium; or
(3) sulfur.

"Soil test." A chemical, physical or biological procedure-
that estimates the suitability of the soil to support plant
growth.
"Specialty fertilizer." A fertilizer distributed for nonfarm use or a fertilizer primarily intended to supply plant nutrients other than nitrogen, phosphate or potash. "Stream buffer zone." A permanent strip of dense perennial vegetation established parallel and immediately adjacent to the bank of a pond, wetland or flowing body of water that is used to slow water runoff, enhancing water infiltration and minimizing the risk of any potential nutrients reaching the waters. "Tolerance." A permitted variation from the guarantee of an official sample of fertilizer. "Ton." A net weight of 2,000 pounds. "Turf." Land, including, but not limited to, residential property, golf courses and privately or publicly owned land, that is planted in closely mowed, managed grass, except for land used for agricultural production. 

SUBCHAPTER B
FERTILIZER MANUFACTURERS AND GUARANTORS

See:
67A11. Licensing.
67A12. Registration of specialty fertilizers.
67A13. Labels and labeling.
67A14. Fertilizer sold to consumers.
67A15. Inspection fees.
67A16. Tonnage reports.
67A17. Inspection, sampling and analysis.
67A18. Plant food deficiency.
67A20. Misbranding.
6 67A11. Licensing.
(a) General rule.—Every person engaged in the manufacture of fertilizer to be distributed in this Commonwealth and each guarantor of the fertilizer shall, on or before July 1 of each year or prior to manufacture or distribution of the fertilizer, obtain a fertilizer license for each manufacturing facility located in this Commonwealth and for each guarantor by completing a form furnished by the department and paying a $50 application fee, or the fee as is later established in the manner set forth under section 67A75 (relating to fees, fines, and civil penalties). All licenses shall expire on June 30 of each year.

(b) Labeling and typical analysis.—The department may require an applicant for a fertilizer license or a current fertilizer licensee to submit the labeling that the person is using or intends to use for the fertilizer. The department may also require an applicant or fertilizer licensee to provide a typical analysis of selected components that may be in the fertilizer.

(c) Exemption.—A person repackaging fertilizer may not be deemed a manufacturer if the person who repackages fertilizer has a letter of responsibility, recognized by the department, stating the original guarantor remains as the original guarantor and the person does not alter the fertilizer in any way. The letter of responsibility shall be provided to the department upon request. Noncompliance with any provision of this exemption shall require the person to obtain a fertilizer license and meet the labeling and typical analysis standards as set forth under subsections (a) and (b). In addition, the department may impose any penalty established under this chapter.

§ 67A12. Registration of specialty fertilizers.
(a) Application.--Each brand and grade of specialty fertilizer shall be registered by the guarantor with the department before being offered for sale, sold or distributed in this Commonwealth. An application for each brand and grade of specialty fertilizer shall be made on a form furnished by the department and shall be accompanied by a fee of $100 or the fee later established in the manner set forth under section 67A75 (relating to fees, fines and civil penalties), per each grade of each brand. Labels for each brand and grade shall accompany the application. All registrations shall expire on June 30 of each year.

(b) Contents of application.--An application for registration shall include:

(1) The brand and grade.
(2) The guaranteed analysis.
(3) Name and address of the guarantor.
(4) Net weight.

(c) Exemption.--A distributor shall not be required to register:

(1) A specialty fertilizer which is already registered under this chapter by another person, provided the label does not differ in any material respect.
(2) A fertilizer formulated according to the specifications which are furnished by the end user and are not further distributed or offered for sale to the general public.

(d) Late fee.--If the application for renewal of the specialty fertilizer registration required under this section is not filed prior to June 30 of each year, a penalty of $25 or 10% of the total registration fee for all products sought to be
registered, whichever is greater, or any fee as is later
established in the manner set forth under section 67A75, may be
assessed and added to the original fee and shall be paid by the
applicant before the renewal of the specialty fertilizer
registration. The penalty shall not apply if the applicant
furnished an affidavit that the applicant has not distributed
the specialty fertilizer subsequent to the expiration of the
applicant's prior registration.
§ 67A13. Labels and labeling.
(a) General rule. The guarantor of any fertilizer
distributed in a container in this Commonwealth shall have
placed on or affixed to the container a label setting forth in a
legible and conspicuous form the following:
(1) The brand and grade of the fertilizer, provided that
the grade shall not be required when no primary nutrients are
claimed.
(2) The guaranteed analysis.
(3) A derived from statement.
(4) Directions for use for fertilizer distributed to the
end-user.
(5) The name and address of the guarantor.
(6) The net weight.
(b) Bulk fertilizer. In the case of bulk fertilizer
distribution, the information required by subsection (a) shall
accompany delivery and shall be provided in writing to the
purchaser at time of delivery.
(c) Other guarantees. - Guarantees for nutrients other than
primary nutrients shall be expressed in the form of the element.
The department may require by regulation that other beneficial
substances or compounds be guaranteed. When any plant nutrients

or other substances or compounds are guaranteed, they shall be subject to inspection and analysis in accordance with the methods and regulation prescribed by the department.

(d) Proof of labeling claims.--The department may require proof of any labeling claims made for fertilizer. Any research in support of a claim shall be performed by an institution approved by the department utilizing acceptable scientific methodology.

(e) Consumer-specified fertilizer formulations.--In lieu of the requirements of subsection (a), a fertilizer formulated according to specifications which are furnished by the end user prior to mixing shall be labeled in a clearly legible and conspicuous form to show the net weight, the guaranteed analysis and the name and address of the guarantor.

(f) Bulk storage.--Fertilizer in bulk storage that is intended for distribution shall be identified with a label attached to the storage bin or container giving the name and grade of the product.

(g) Mandatory label.--The following shall apply:

(1) Fertilizer intended for use on turf, in bulk or packages greater than one pound that is distributed to end users in this Commonwealth shall include a statement in legible and conspicuous form that at a minimum sets forth the following requirements:

(i) This product shall not be applied near water, storm drains or drainage ditches.

(ii) This product shall not be applied if heavy rain is expected.

(iii) The application of this product shall only be to the intended application site.
(iv) Any material that lands on an impervious surface shall be swept back onto the lawn. This statement shall not be required if the product is intended to be applied in a liquid form.

(2) Fertilizer that is not labeled for turf, stream banks, an aquatic setting, potted plants or indoor use, in bulk or packages greater than one pound, that is distributed to end users in this Commonwealth shall include a statement in legible and conspicuous form that at a minimum sets forth the following requirements:

(i) This product shall not be applied near water, storm drains or drainage ditches or to any impervious surface.

(ii) This product shall not be applied if heavy rain is expected.

(iii) This product shall only be applied to the intended application site.

(3) Statements required under this section shall be not be smaller than the height of the minimum font required by the Fair Packaging and Labeling Act (Public Law 89-755, 15 U.S.C. § 1451 et seq.) for the quantity statement as shown by the following:

(i) Panel size is less than five square inches, minimum statement type size one sixteenth inch.

(ii) Panel size is between five and 25 square inches, minimum statement type size one eighth inch.

(iii) Panel size is between 25 and 100 square inches, minimum statement type size three sixteenths inch.

(iv) Panel size is between 100 and 400 square
Panel size is greater than 400 square inches, minimum statement type size one-half inch.

Prohibition.—The label for fertilizer, fertilizer material or any nitrogen-based material shall not be labeled for the purposes of melting snow or ice, unless the product is distributed to an airport to be used on aircraft or areas an aircraft accesses.

Other label information.—The department may, by regulation, require that additional information be present on the label or labeling of fertilizers.

Fertilizer sold to consumers.

(a) Contents.—Fertilizer sold at retail and intended for use on turf shall:

(1) contain no more than 0.7 pounds of readily available nitrogen and no more than 0.9 pounds of total nitrogen per 1,000 square feet when applied pursuant to the instructions on the container;

(2) consist of at least 20% enhanced efficiency nitrogen of the total nitrogen; and

(3) contain no phosphorus, except when specifically labeled for the following purposes:

(i) providing nutrients to specific soils and target vegetation as determined to be necessary pursuant to a soil test performed no more than three years prior to application;

(ii) establishing vegetation for the first time;

(iii) reestablishing or repairing a turf area; or

(iv) as an enhanced-efficiency phosphorus fertilizer, natural organic fertilizer, organic-base
fertilizer or fertilizer derived from a by-product, as
long as the application rate does not exceed 0.25 pounds
of phosphorus per 1,000 square feet per application, with
a maximum total annual application of 0.5 pounds of
phosphorus per 1,000 square feet, when applied pursuant
to the instructions on the container.

(b) Turf. Notwithstanding the limits of subsection (a)(1),
fertilizer sold at retail and intended for use on turf may
contain up to 2.5 pounds of enhanced efficiency nitrogen
fertilizer per 1,000 square feet when applied pursuant to the
instructions on the container, provided the monthly release rate
does not exceed 0.7 pounds of nitrogen per 1,000 square feet.

§ 67A15. Inspection fees.

(a) Amounts. The following shall apply:

(1) The guarantor whose name appears on the label of a
fertilizer distributed in this Commonwealth shall pay
semiannually and not later than January 31 and July 31 of
each year an inspection fee at the rate of 17¢ per ton of
fertilizer distributed in this Commonwealth or a fee later
established in the manner set forth by section 67A75
(relating to fees, fines and civil penalties). In no case
shall the inspection fee paid semiannually amount to less
than $25 or a fee as is later established in the manner set
forth by section 67A75.

(2) On packages of 15 pounds or less, there shall be
paid in lieu of the inspection fee provided for under
paragraph (1), annually and not later than January 31 of each-
year, an inspection fee of $25 for each brand and grade of
fertilizer distributed or the fee later established in the
manner set forth under section 67A75.
(3) Where a guarantor's name appears on the label of fertilizers distributed in this Commonwealth in both packages of less and more than 15 pounds, the inspection fee established under paragraph (2) shall be paid for its brands and grades sold in packages of 15 pounds or less and the inspection fee provided for under paragraph (1) shall be paid for its packages of more than 15 pounds.

(b) Adjustment of fees by the department.

(1) Notwithstanding the provisions of subsection (a), if the department determines following notice to the registrants and licensees that the money derived from the registration and inspection fees is either greater or less than that required to administer this chapter, the department may reduce or increase the registration or inspection fee, or both, so as to maintain revenues sufficient to administer this chapter.

(2) An inspection fee established under this subsection may not be changed by more than five cents in one year.

(3) The department shall announce the adjustment of fees by publishing a notice in the Pennsylvania Bulletin. The adjusted fees shall take effect 60 days after publication of the notice in the Pennsylvania Bulletin.

§ 67A16. Tonnage reports.

(a) General rule. The guarantor whose name appears on the label shall submit, along with the requisite inspection fee, a report in a manner prescribed by the department listing by county and fertilizer use category the net tons of each brand and grade of fertilizer distributed in this Commonwealth for the period covered by the inspection fee. The department may promulgate regulations to establish additional tonnage reporting.
requirements.

(b) Multiple guarantors.—When more than one guarantor is involved in the distribution of fertilizer, the guarantor who distributed the fertilizer last shall report the tonnage and pay the inspection fee, unless the report and payment have been made by a prior distributor.

(c) Late fee.—A penalty of $25 or 10% of the total inspection fee, whichever is greater, or the fee later established in the manner set forth under section 67A75 (relating to fees, fines and civil penalties) shall be imposed for any fee or report not submitted at the required time.

(d) Examination permitted.—The department or its authorized representative may examine the records of the guarantor to verify the information contained in the reports filed with the department. Reports containing fraudulent or incorrect information shall be considered a violation of this chapter for which the department may assess any penalty as provided for in this chapter.

(e) Confidentiality of information.

(1) Notwithstanding the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, or its successor statute, no proprietary information furnished to the department under this section shall be disclosed in a way as to knowingly or intentionally divulge a trade secret of any person subject to the provisions of this chapter.

(2) This subsection shall not apply to information furnished to a court or administrative tribunal in accordance with law.
make analyses of and test fertilizers distributed within this
Commonwealth and shall inspect the storage of bulk fertilizer at
any time and place and to an extent the department may deem
necessary to determine whether the fertilizers are in compliance
with the provisions of this chapter. The department or its agent
may enter upon any public or private premises or carriers during
regular business hours in order to have access to fertilizer
subject to and the records relating to the provisions of this
chapter or the regulations promulgated thereunder.

(b) Methodology. The methods of fertilizer sampling and
analysis by the department shall be methods such as those
adopted by the Association of Official Analytical Chemists
International. In cases not covered by the methods or in cases
where improved methods are available, the department may issue a
temporary order defining the method to be utilized. The method
defined in the temporary order shall be effective upon
publication in the Pennsylvania Bulletin. The temporary order
shall remain in effect for a period not to exceed one year,
unless reissued or until the notice is promulgated as a
regulation.

(c) Deficiency determination. The department, in
determining whether any fertilizer is deficient in nutrients,
shall be guided solely by the official sample obtained and
analyzed as provided for under subsections (a) and (b).

(d) Maintenance of official samples. Official samples
maintained by the department shall be retained for a minimum of
90 days from issuance of a fertilizer deficiency report or an
official report of analysis. Upon request, the department shall
furnish to the guarantor a portion of the official sample.

Requests must be made within 30 days of receipt of a fertilizer
§ 67A18. Plant food deficiency.

(a) Penalties.--The following penalties shall be assessed for deficiencies from the guaranteed analysis:

(1) A penalty payment of five times the commercial value of each deficiency shall be assessed when the analysis shows that a fertilizer is deficient:

(i) in one or more of its guaranteed primary plant nutrients beyond a tolerance of 10% (two unit maximum); or

(ii) when the overall index value of the primary nutrients in the fertilizer is below 97.

(2) When a fertilizer is subject to a penalty payment under both paragraph (1)(i) and (1)(ii), the larger penalty payment shall apply. Any penalties assessed shall not exceed the retail price of the lot of fertilizer represented by the official sample.

(3) Deficiencies beyond the tolerance as established by regulation in a component other than a primary nutrient shall be evaluated by the department and shall be subject to any penalty under this chapter.

(b) Payment of penalties.--All penalties assessed under this section shall be paid by the guarantor to the consumer of the lot of fertilizer represented by the sample analyzed within 90 days after the date of notice from the department to the guarantor. Receipts of payment shall be promptly forwarded by the guarantor to the department. If the consumer cannot be found, the penalties shall be paid to the department.

(c) Deficiencies in fertilizers.--A deficiency in an official sample of mixed fertilizer resulting from nonuniformity...
shall not be deemed distinguishable from a deficiency due to actual plant nutrient shortage and shall be deemed a violation of this chapter for which the department may assess any penalty as provided for under this chapter.


For the purpose of determining the commercial value to be applied under section 67A18 (relating to plant food deficiency), the department shall determine and publish in the Pennsylvania Bulletin annually the values per pound of total nitrogen, available phosphate and soluble potash in fertilizer in this Commonwealth. The values so determined and published in the Pennsylvania Bulletin shall go into effect July 1 of each year and be used in determining and assessing penalty payments.

§ 67A20. Misbranding.

No person shall distribute a misbranded fertilizer. A fertilizer shall be deemed to be misbranded if any of the following apply:

(1) Its labeling is false or misleading in any particular.
(2) It is distributed under the name of another fertilizer product.
(3) It is not labeled as required under section 67A13 (relating to labels and labeling) and in accordance with regulations prescribed under this chapter.
(4) It purports to be or is represented as a fertilizer or is represented as containing a plant nutrient or fertilizer unless the plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by regulation.

No person shall distribute an adulterated fertilizer product. A fertilizer shall be deemed to be adulterated if any of the following apply:

   (1) It contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when applied in accordance with its intended use or directions for use on the label.

   (2) Adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil or water are not shown upon the label.

   (3) Its composition falls below or differs from that which it is purported to possess by its labeling.

   (4) It contains viable weed seed or unwanted crop seed in amounts exceeding the limit which the department establishes by regulation.

SUBCHAPTER C

APPLICATOR LICENSING AND CERTIFICATION

See:

67A22. Licensing of fertilizer application businesses.
67A25. Reciprocal agreement.
§ 67A22. Licensing of fertilizer application businesses.

(a) Requirements.—A fertilizer application business must be licensed prior to applying any fertilizer and shall comply with the provisions of this chapter and any regulation or order of the department. A fertilizer application business with more than
one place of business or that is operating under more than one
name in this Commonwealth shall license each location, place of
business and business entity. For a governmental or public
entity, each district or region will be considered a separate
business and shall require a separate license.

(b) Operation, application and expiration. A fertilizer
application business shall not be operated without first
obtaining a fertilizer application business license. The
application for licensure shall be on a form furnished by the
department and shall be accompanied by a $100 application fee or
the fee later established in the manner set forth under section
67A75 (relating to fees, fines and civil penalties). All
business licenses shall expire on December 31 each year, except
that the department may issue a license for the following year
when an initial license application is filed during the last two
months of a licensing year.

(c) Employer requirement. A fertilizer application business
shall employ at all times and at each licensed business at least
one person who holds a current valid commercial or public
applicator certification. This person shall be responsible for
training fertilizer technicians on the proper handling and
application of fertilizer.

(d) Fertilizer technicians. A fertilizer application
business shall ensure that fertilizer technicians do not apply
fertilizer unless the persons have gone through a training
program as described by section 67A26 (relating to training of
fertilizer technicians).

(e) Record. A fertilizer application business shall
maintain a record and provide to the department, upon request,
(1) a list of all certified applicators employed by the
business; and

(2) a list of all fertilizer technicians employed by the
business and an attestation that each has completed a
training program meeting the requirements of section 67A26.
The attestation shall be subject to the penalties for a
violation of 18 Pa.C.S. § 4904 (relating to unsworn
falsification to authorities) or its successor statute.

(f) Notification. A licensed fertilizer application
business shall notify the department in writing within 15 days
of a change in its license information, including the employment
status of its certified applicators and fertilizer technicians.

(g) License number display. A fertilizer application
business shall prominently display on every vehicle involved in
the fertilizer application phase of its business the license
number assigned by the department. The number shall be in
figures at least three inches high and be located on both sides
of the vehicle at a readily visible location in a contrasting
color.

(h) Aerial application. If a fertilizer application
business, or an applicator of fertilizer engages in aerial
applications, the applicant shall, upon request by the
department, provide proof of compliance with the Federal
Aviation Administration regulations as described in 14 CFR Pt.
137 (relating to agricultural aircraft operations) or its
successor regulations.


(a) Condition. A commercial applicator or public applicator
for a fertilizer application business must be certified under
the requirements established under this chapter and the
department's regulations prior to:

(1) applying fertilizer or conducting training of
fertilizer technicians; and

(2) the fertilizer application business applying
fertilizer.

(b) Training. Only a fully certified applicator may train
fertilizer technicians.

(c) Certification examination. The following shall apply:

(1) A person wishing to obtain full certification under
this chapter shall take and pass a written examination
prepared or approved by the department and shall demonstrate
minimum standard proficiency on the basis of a written
examination conducted at an approved test site under the
direction of the department or its designated agents. All
fees associated with the certification examination shall be
paid in full prior to certification by the department.

(2) Each applicant for certification shall demonstrate
knowledge and competence as to:

(i) Safety and health.
(ii) Labeling and label comprehension.
(iii) Environmental protection.
(iv) Equipment use, calibration and dosage
calculations.
(v) Personal protective equipment.
(vi) Cleaning and maintaining equipment.
(vii) Transportation, storage, security and
disposal.
(viii) Applicable Federal and State laws.
(ix) Any subject matter deemed appropriate by the
department's regulations.
(3) The department shall require a minimum examination fee of $10 or the fee as is later established in the manner set forth under section 67A75 (relating to fees, fines and civil penalties).

(d) Commercial and public applicators.

(1) A commercial or public applicator's certification shall not be valid until the applicator is associated with a fertilizer application business that is licensed according to the requirements of section 67A22 (relating to licensing of fertilizer application businesses).

(2) If a commercial or public applicator separates employment from a fertilizer application business, the eligibility for certification shall remain with the applicator and may be transferred to another fertilizer application business.

(e) Issuance of certification. Certification shall be issued to a person upon successful completion of all classroom, examination, testing and certification requirements established under this chapter, an order of the department and regulations of the department and the payment of all fees, unless revoked or suspended by the department.

(f) Activation. Upon receiving notice of passing all certification requirements, the applicant shall, within 12 months of becoming eligible to be certified as a commercial or public applicator, file with the department a request to activate certification. A person who fails to request activation within the 12-month period shall lose certification eligibility and shall again establish eligibility in accordance with this section.

(g) Expiration. Certification shall expire as follows:
(1) Commercial applicator certification shall expire on September 30 of each year following the date of certification.

(2) Public applicator certification shall expire on September 30 every three years following the date of certification.

(3) With regard to an initial application for certification, the department may issue a certificate for an additional year when a person becomes fully certified within the last two months of the certification year.

(h) Grandfathering.—A person holding a valid pesticide applicator certification in categories 1, 2, 3, 5, 6, 7, 18, 22, 23 and 25 under the act of March 1, 1974 (P.L.90, No.24), known as the Pennsylvania Pesticide Control Act of 1973, at the time this chapter is enacted shall be granted certification as a certified fertilizer applicator under this chapter but shall still comply with all other requirements of this chapter. The certification shall be valid until each person's pesticide core recertification is due, at which time that person shall be required to meet all the recertification requirements as required under section 67A24 (relating to recertification of applicators).


(a) Continuing education. At intervals of three years, a certified applicator shall provide evidence of having received continuing education credits in technology relating to fertilizer applications. Recertification training shall be in the following content areas:

(1) Safety and health.

(2) Labeling and label comprehension.
(3) Environmental protection.

(4) Equipment use, calibration and dosage calculations.

(5) Personal protective equipment.

(6) Cleaning and maintaining equipment.

(7) Transportation, storage, security and disposal.

(8) Applicable Federal and State laws.

(9) Any subject matter deemed appropriate by the department's regulations.

(b) Credits.—Continuing education credits will be given on the basis of attendance at courses or other appropriate training approved by the department. Training will be evaluated by the department and assigned credits. At a minimum, certified applicators shall obtain two credits or the total amount of credits later established by publication in the Pennsylvania Bulletin.

(c) Training.—Training shall be approved based on the following:

(1) Training shall be conducted or sponsored by the department or a department-approved institution, association, business entity or a governmental agency. The department-approved trainer shall submit course materials for approval by the department and shall establish that courses will be conducted by a person or persons that are certified applicators in good standing under this chapter and with at least three years' experience as a certified fertilizer applicator or by an approved entity with other documented qualifications to serve as a trainer, such as an appropriate educational background.

(2) Training shall be approved for continuing education credits at the rate of one credit per 60 minutes, or as later
established by regulation, of applicable instruction, exclusive of coffee breaks, lunches, visits to exhibits and other similar activities.

(3) An approved entity wishing to conduct or sponsor continuing education training shall submit a written request for course and trainer approval to the department's regional office for the region in which the meeting will be held. A request to approve out of State training must be submitted to the department's headquarters. The request shall include evidence of compliance with the standards established by paragraph (1).

(d) Information request.—A request for training approval shall include the following information:

(1) The name, address and telephone number of the contact person who is coordinating the training.

(2) The specific location where the training course will be offered.

(3) The date and time of the training course.

(4) A listing of the trainers, trainer qualifications, subject matter and time allotted to each subject.

(5) A statement of whether the training is open to the public and, where applicable, the charge to attend.

(6) A detailed course syllabus setting forth the subject matter to be covered and a description of the content, the time period allotted for each subject matter and trainer name and certification.

(e) Oath or affirmation.—A statement made in a request to approve training shall be supported by oath or affirmation and is subject to the penalties for a violation of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) or its
(f) Assignment of credits.--Credits shall be assigned to each training course based upon the subjects covered and the amount of time expended on each subject.

(g) Monitoring of training.--All training shall be monitored by an employee of the department. If an employee of the department is unable to monitor the training, the training course coordinator shall be responsible for authenticating attendance and shall compile an approved list of Pennsylvania certified applicators in attendance. This list shall be returned to the department within 10 working days following the meeting date and shall include the name of each individual attending and applicator certification number.

(h) Modification of credits.--Credits assigned may be modified if the content, approved trainer or time of the actual training course differs from the original training course approved by the department.

(i) Violation.--Falsification by a department-approved course trainer or sponsor of information required under this section shall be considered a violation of this chapter for which the department may assess a penalty as provided for in this chapter and withdraw approval of the course as set forth under this section.

(j) Attendance falsification.--A person may not falsify attendance or that of another person's attendance at a continuing education meeting. Falsification of attendance at a continuing education course by a person shall be considered a violation of this chapter for which the department may assess a penalty as provided for under this chapter and revoke the applicator's certification and require full renewal of
certification as required under section 67A23 (relating to certification of applicators).

(k) Failure to obtain required credits.—If a person does not obtain the required number of recertification credits in the triennial year in which continuing education credits are due, the person's certification shall be invalid and that person shall cease and desist from all fertilizer application and recertification shall require completion of delinquent continuing education credits as established in this section prior to certification being renewed.

(l) Failure to complete delinquent credits.—If a person fails to complete delinquent continuing education credits within one year from the triennial expiration date or fails to renew the certification for any reason during that time period, the person shall cease and desist from all fertilizer application and shall be required to reestablish eligibility by meeting the requirements in section 67A23.

§ 67A25. Reciprocal agreement.
The department may issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed, or certified, in another state that administers a fertilizer licensing or certification course substantially in accordance with the provision of this chapter.

§ 67A26. Training of fertilizer technicians.
(a) Prohibition.—Fertilizer technicians working for a fertilizer application business may not apply fertilizer without first going through a training program, as required by the provisions of this chapter, an order of the department or the department's regulations.

(b) Requirements.—Fertilizer technicians shall be an
employee of the business and trained by a certified applicator who is an employee of the same business.

(c) Transferability.--Training of fertilizer technicians shall not be transferrable between businesses.

(d) Program administration. The training program for fertilizer technicians shall be administered by a certified applicator, employed by the fertilizer application business employing the fertilizer technician, in subject matter involving the assigned tasks of the fertilizer technician. The training program shall include, but not be limited to:

(1) Proper use of fertilizers and use of application equipment, including calibration and maintenance equipment used on the job.

(2) Protective clothing required during the application and handling of fertilizers.

(3) Transportation and disposal of fertilizers used in and around the workplace.

(4) Applicable Federal and State regulations as they affect the work assignments.

(5) Competence in reading and following label and application requirements.

(e) Nonecertified employees.--When there are nonecertified employees engaged in the application of fertilizer, they shall be trained according to subsection (d) or work under the supervision of a certified applicator who is physically present on the job site.

(f) Training and supervision prohibition.--A fertilizer technician may not train applicators or supervise the use or application of fertilizers by other fertilizer technicians or nonecertified employees.
Record.--At the completion of training, the certified applicator conducting the training shall complete a record of training. Training records shall be maintained by the firm for one year following separation of the fertilizer technician's employment and at a minimum shall include:

1. Name and certification number of the trainer.
2. Name of fertilizer technician trained.
3. Date of training.
4. Areas of training.
5. Business name and address of the fertilizer application business employing the fertilizer technician.
6. Any other requirements as established by the department through order or regulations.

SUBCHAPTER D
RECORDKEEPING FOR APPLICATORS AND AIRPORTS

Sec.

(a) Required information.--Applicators required to be certified under section 67A23 (relating to certification of applicators) and fertilizer technicians trained under section 67A26 (relating to training of fertilizer technicians) shall keep for every application of fertilizer a record containing the following information:

1. The name and address of the customer and the address and location of the application site, if different from the address of the customer.
2. A record of the date of each fertilizer application.

For continuous applications, such as hydroponics or drip lines, the record shall include start and finish dates and
the total amount of fertilizer products used during that time period. For each addition of a fertilizer to the system, an entry to the record is required.

(3) The weather conditions, including approximate temperature.

(4) The brand name and grade of the fertilizer used.

(5) The dosage or rate of application of every fertilizer used.

(6) The total amount of fertilizer used in pounds, ounces, gallons or liters applied to a treated area.

(7) The identification of the application site, including the specific field or land area and the crop and size of the area treated with fertilizer.

(8) The name and certification number of each person involved with the application and the name of each fertilizer technician and noncertified employee involved in the application.

(9) Additional information as the department may require through order or regulation.

(b) Fertilizer application record.--A fertilizer application record shall be completed in written or printable form no later than 24 hours after the application date and made immediately available to the department upon request. The department may require the submission of annual reports.

(c) Airports. Airports using nitrogen-based materials for melting snow or ice shall:

(1) Develop and submit to the department, every five years, or upon revision, a plan for collecting runoff that will reduce the amount of material that would enter a lake, pond, wetland or flowing body of water.
(2) Report to the department, prior to January 31 of each year, the total tonnage of nitrogen-based material utilized in the previous calendar year. Reports shall be on a form prescribed by the department. The department shall not require a fee for the report. At a minimum, airport tonnage reports shall include:

(i) The airport name and address.
(ii) The brand name of the product used.
(iii) List of ingredients and the percentage of each.
(iv) Total amount of material applied during the calendar year.
(v) Any other information required by the department through regulation.

(d) Maintenance requirements.—A record required under this section shall be maintained for at least three years.

(e) Additional requirements.—In addition to the requirements established under this section, the department may promulgate regulations to require additional record-keeping and application-reporting requirements.

SUBCHAPTER E
APPLICATION RATES, REQUIREMENTS AND PROHIBITIONS

Sec.
67A41. Application of fertilizer.
67A42. Prohibited acts.
67A41. Application of fertilizer.

(a) Restrictions.—No person may:
(1) Apply fertilizer to an impervious surface. Any fertilizer inadvertently applied to an impervious surface shall be removed from the impervious surface immediately.
following the application.

(2) Apply fertilizer containing nitrogen or phosphorus to turf at any time when the ground is frozen to a depth of at least two inches or snow covered.

(3) Apply nonaquatic fertilizer within 15 feet of the top of a bank of a lake, pond, wetlands or flowing body of water, except that fertilizer may be applied to the top of the bank of the waterways if applied using a drop spreader, rotary spreader with deflector, targeted spray liquid or other available targeted application technology when establishing a stream buffer zone. The establishment of setbacks for fertilizer application under this paragraph shall not preclude the establishment or applicability of or required compliance with any other environmental standard established under any other Federal or State law, rule or regulation.

(4) Apply fertilizer containing phosphorus or nitrogen to turf before March 1 or after December 15 in any calendar year, except fertilizer containing no more than 0.5 pounds of total nitrogen per 1,000 square feet may be applied by a certified applicator or fertilizer technician to turf after December 15 but before March 1 in a calendar year.

(b) Fertilizer use and application rates for turf. Except as provided under subsections (c), (d), (e) and (f), at least 20% of the total nitrogen applied to turf per 1,000 square feet shall be enhanced efficiency nitrogen and application rates for turf shall:

(1) not exceed 0.7 pounds of readily available nitrogen per 1,000 square feet per application;

(2) not exceed 0.9 pounds of total nitrogen per 1,000 square feet per application.
and

(3) contain zero phosphorus, except when specifically labeled for the following purposes:

(i) establishing vegetation for the first time;
(ii) reestablishing or repairing a turf area; or
(iii) as an enhanced efficiency phosphorus fertilizer, natural organic fertilizer, organic-base fertilizer or fertilizer derived from a by-product applied at a rate not to exceed 0.25 pounds of phosphorus per 1,000 square feet, with a maximum total annual application of 0.5 pounds of phosphorus per 1,000 square feet per year.

(c) Application based on soil test and site-specific plan. An applicator shall not be required to follow the application rates under subsection (b) if a site-specific plan is used based on the following:

(1) a soil test that was conducted within the previous three years. Soil testing procedures shall be those recommended by The Pennsylvania State University or published in Recommended Soil Testing Procedures for the Northeastern United States, Bulletin #493, published by the University of Delaware, or its successor publication;

(2) current soil, plant species, climate, use, topography and other appropriate management factors including the promotion of water infiltration and the reduction of erosion; and

(3) rates recommended by The Pennsylvania State University or other Pennsylvania university or college recognized by the department.

(d) Golf courses. The use of enhanced efficiency fertilizer
shall not be required on the tees, fairways or greens of a golf course.

e) Additional restrictions.--Where science indicates, the department may establish additional restrictions.

(f) Exemption. The requirements of this section shall not apply to fertilizer applied by a public or private college or university for research purposes.

§ 67A42. Prohibited acts.

e) Prohibited acts by business, certified applicator or fertilizer technician. A fertilizer application business, certified applicator or fertilizer technician may not:

(1) Apply fertilizer without a license, certification or the training as required by this chapter.

(2) Apply any fertilizer that is misbranded or adulterated.

(3) Make false or fraudulent records, invoices or reports concerning the application, storage or disposal of fertilizer.

(4) Make a false statement or misrepresentation of material fact on an application for issuance or renewal of a license or certification required pursuant to the provisions of this chapter, an order or the regulations promulgated under this chapter.

(5) Refuse or neglect to comply with any conditions or limitations imposed upon a license or certification issued pursuant to this chapter, a regulation promulgated under this chapter or an order issued under the authority of this chapter.

(6) Refuse to present evidence of proper licensure or certification to an agent of the department upon request.
(7) Refuse to display their license or certification number in a manner as required by this chapter or the regulations of the department.

(8) Fail to comply with any provision of this chapter, a regulation promulgated under this chapter or any order issued under the authority of this chapter.

(b) Prohibited acts by person. A person may not:

(1) Apply, use or cause to be used any fertilizer in a manner that differs from or is inconsistent with its labeling.

(2) Apply fertilizer with a device that is not intended for the application of fertilizer or that has not been properly calibrated.

(3) Operate fertilizer application equipment or devices in a faulty, careless or negligent manner.

(4) Apply, dispose of, discard or store any fertilizer product in a manner that is inconsistent with its label, would cause over application of fertilizer, would result in direct discharge to a storm drain or waters of the Commonwealth or in a manner inconsistent with regulations promulgated by the department or any order issued by the department.

(5) Refuse or neglect to keep and maintain the records required by this chapter and order of the department or the regulations promulgated under this chapter or to refuse or neglect to make reports when and as required by regulation or order of the department.

(6) Aid or abet another to evade the provisions of this chapter, a regulation promulgated hereunder or an order issued under the authority of this chapter, conspire with
another for that purpose or allow a certification to be used
by another.

(7) Hinder, mislead, make false statements to or refuse
to cooperate with an employee or agent of the department in
any investigation or inspection undertaken pursuant to the
authority delegated to the department under the provisions of
this chapter.

(8) Apply fertilizer, fertilizer material or any
nitrogen-based material for the purposes of melting snow or
ice, unless the material is applied to aircraft or areas an
aircraft accesses at an airport. Airports using nitrogen-
based materials for melting snow or ice shall establish a
method for collecting runoff to reduce the amount of material
that would enter a lake, wetlands or flowing body of water.

(9) Fail to comply with any provision of this chapter,
the regulations promulgated under this chapter or any order
issued under the authority of this chapter.

SUBCHAPTER F
AGRICULTURAL AND HOMEOWNER EDUCATION PROGRAM

See:
67A51. Agricultural and homeowner education.
§ 67A51. Agricultural and homeowner education.
The department, through guidelines established in
consultation with The Pennsylvania State University and
representatives of the agricultural and turf grass industries,
shall undertake a program of public outreach to educate the
public on proper use, application, handling and storage of
fertilizers.

SUBCHAPTER G
ADMINISTRATIVE AND PENALTY PROVISIONS

The department may publish on an annual basis, and in a form the department deems proper, information concerning the distribution of fertilizers by county and fertilizer use category and results of analyses based on official samples of fertilizer distributed within this Commonwealth as compared with analyses guaranteed under sections 67A12 (relating to registration of specialty fertilizers) and 67A13 (relating to labels and labeling).

The department may, where necessary, promulgate and enforce rules and regulations necessary for administration and implementation of this chapter.

§ 67A63. Short weight.

If any fertilizer in possession of a consumer is found by the department to be short in weight, the guarantor of that fertilizer shall, within 30 days after official notice from the department, submit to the consumer a penalty payment of two times the value of the actual shortage.

§ 67A64. Refusal, suspension or revocation of registration, license or certification.

(a) Authority of department. The department may refuse, suspend or revoke the registration of any fertilizer or refuse, suspend or revoke the license or certification of a person where the registrant, licensee or certificate holder has not complied with the provisions of this chapter or a regulation or order of the department or of a person who has used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of this chapter.

(b) Hearing. The department shall provide an opportunity for a hearing, as set forth under section 67A70 (relating to appeal process), to a person appealing an action of the department under this section.

§ 67A65. Stop-sale orders.

(a) General rule. The department may issue and enforce a written or printed stop sale, use or removal order to the owner or custodian of any lot of fertilizer being offered or exposed for sale in violation of any of the provisions of this chapter or a regulation or order issued hereunder. Fertilizer placed under the order shall be held at a designated place approved by
the department and not moved in any way without written approval by the department. The order shall remain in effect until the law has been complied with and the fertilizer is released in writing by the department or the fertilizer in violation has been disposed of in a manner authorized by the department. The authorization shall be set forth in writing.

(b) Release by department. The department shall release the fertilizer held under a stop-sale order when the requirements of the provisions of this chapter or a regulation or order issued hereunder, have been complied with and all costs and expenses incurred in connection with the order have been paid by the person responsible for the violation.

§ 67A66. Seizure and condemnation.

Fertilizer not in compliance with the provisions of this chapter, or a regulation or order issued hereunder, shall be subject to seizure and condemnation by the department, provided that in no instance shall the disposition of the fertilizer be ordered by the department without first giving the claimant an opportunity for a hearing as provided for under section 67A70 (relating to appeal process) or for opportunity to apply for permission to process or relabel the fertilizer to bring it into compliance with this chapter.

§ 67A67. Unlawful conduct.

It shall be unlawful for any person to fail to comply with or to cause to assist in the violation of any order or any of the provisions of this chapter or the rules and regulations adopted under this chapter.

§ 67A68. Interface with officer or employee of department.

A person who willfully or intentionally interferes with an employee or officer of the department in the performance of that
employee's or officer's duties or activities authorized under this chapter commits a misdemeanor of the third degree and shall, upon conviction, be subject to a term of imprisonment for not more than one year or a fine of not more than $2,500, or both.

§ 67A69. Enforcement and penalties.

(a) Criminal penalties. Unless otherwise specified, a person who violates any of the provisions of this chapter or a rule or regulation adopted thereunder or any order issued pursuant thereto:

(1) For the first offense, commits a summary offense and may, upon conviction, be sentenced for each offense to pay a fine of not less than $50 nor more than $100 and costs of prosecution or to undergo imprisonment for a term which shall be fixed at not more than 90 days, or both.

(2) For a subsequent offense committed within three years of a prior conviction for any violation of this chapter or any rule, regulation or order made under this chapter, commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not less than $500 nor more than $1,000 and costs of prosecution or to imprisonment for not more than two years, or both.

(b) Civil penalties. The following shall apply:

(1) In addition to any other remedy available at law or in equity for a violation of this chapter, the department may assess a civil penalty of not more than $2,500 upon any person for each violation of this chapter. The civil penalty assessed shall be payable to the department and shall be collectible in any manner provided by law for the collection of debt.
(2) No civil penalty shall be assessed unless the person assessed the penalty has been given notice and an opportunity for a hearing on the assessment in accordance with the provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(c) Trade secrets. The following shall apply:

(1) A person who uses to their own advantage or reveals to anyone other than the department, administrative tribunal or the courts when relevant in any judicial proceeding any information acquired under the authority of this chapter concerning any method, records, formulations or processes which as a trade secret is entitled to protection under the law commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not less than $500.

(2) This subsection shall not be construed to prohibit the department from exchanging information of a regulatory nature with governmental agencies of the Federal Government, agencies of this Commonwealth or any other state.

(d) Certified copy of official analysis. In prosecution under this chapter involving the composition of a lot of fertilizer, a certified copy of the official analysis signed by the department shall be accepted as prima facie evidence of the composition.

(e) De minimis violations. Nothing in this chapter shall be construed as requiring the department to report a violation and to institute seizure proceedings as a result of de minimis violations of this chapter when the department concludes that the public interest will be best served by a suitable notice of warning in writing.
(f) District attorney.--It is the duty of each district attorney to whom any criminal violation of this chapter is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

§ 67A70. Appeal process.

All appeals shall be taken and hearings conducted in accordance with the provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action). A person shall have 15 days to appeal an enforcement action of the department.

§ 67A71. Civil remedy.

(a) Office of Attorney General.--In addition to any other remedies provided for under this chapter, the Office of Attorney General, at the request of the department, may initiate in the Commonwealth Court or the court of common pleas of the county in which the defendant resides or has a place of business an action in equity for an injunction to restrain any violations of this chapter or the rules and regulations promulgated under this chapter or any order issued pursuant to this chapter from which no timely appeal has been taken or which has been sustained on appeal.

(b) Preliminary injunctions. In a proceeding under subsection (a), the court shall, upon motion of the Commonwealth, issue a preliminary injunction if the court finds that the defendant is engaging in conduct that causes immediate or irreparable harm to the public or has engaged in other conduct which the court has developed through case law.

(c) Bonds not required.--The Commonwealth may not be required to furnish bond or other security in connection with
proceedings under this section.

(d) Civil penalties. In addition to an injunction, the
court may levy civil penalties as provided under this chapter.

§ 67A72. Cooperation with other entities.
The department may cooperate with and enter into agreement
with governmental agencies of the Federal Government, agencies
of this Commonwealth and any other state in order to carry out
the purpose and provisions of this chapter.

§ 67A73. Exchanges between manufacturers.
Nothing in this chapter shall be construed as restricting or
avoiding sales or exchanges of fertilizers to each other by
importers, manufacturers or manipulators who mix fertilizer
materials for sale or as preventing the free and unrestricted
shipments of fertilizer to manufacturers or manipulators who are
in compliance with the provisions of this chapter.

§ 67A74. Confidentiality.
All proprietary business information contained in records,
data, formulations and other information filed with or collected
by the department relating to inspections, tonnage reports and
trade secrets, such as product formulation, customer lists or
production methods, shall be exempt from the act of February 14,
2008 (P.L.6, No.3), known as the Right-to-Know Law, or its
successor statute and subject to inspection only upon the order
of a court of competent jurisdiction.

§ 67A75. Fees, fines and civil penalties.
(a) Insufficient revenues. If the revenues raised by fees,
fines and civil penalties imposed under this chapter are not
sufficient to meet expenditures for the administration and
enforcement of this chapter over a two-year period, the
department may increase those fees so that the project revenues
will meet or exceed projected expenditures.

(b) Notice and effective date.—The department shall announce the adjustment of fees, fines and penalties by publishing a notice in the Pennsylvania Bulletin. The adjusted fees shall take effect 60 days after publication of the notice in the Pennsylvania Bulletin.

§ 67A76. Disposition of funds.

Money received from license fees, registration fees, applicator certification, inspection fees, fines and penalties shall be paid into a special restricted account in the General Fund known as the Agronomic Regulatory Account. All money in the Agronomic Regulatory Account is hereby appropriated to the department for the purposes of this chapter and chapters 69 (relating to soil and plant amendment) and 71 (relating to seed).

§ 67A77. Delegation of duties and exclusion of local laws and regulations.

(a) General rule.—This act and its provisions are of Statewide concern and occupy the whole field of regulation regarding the registration, packaging, labeling, sale, transportation, distribution, use and application of fertilizers and certification of fertilizer applicators to the exclusion of all local regulations.

(b) Enforcement.—No ordinance or regulation of any local agency, political subdivision or home rule municipality may prohibit or in any way attempt to regulate any matter relating to the registration, packaging, labeling, sale, transportation, distribution, use or application of fertilizer, if any of these ordinances, laws or regulations are in conflict with this chapter.
(e) Stricter requirements. Nothing in this chapter shall
prevent a political subdivision or home rule municipality from
adopting and enforcing ordinances or regulations which are
consistent with and no more stringent than the requirements of
this chapter and the regulations or guidelines promulgated under
this chapter. No penalty shall be assessed under any local
ordinance or regulation under this subsection for any violation
for which a penalty has been assessed under this chapter.

Section 4. Sections 6921 and 7122 of Title 3 are amended to
read:

§ 6921. Disposition of funds.
Moneys received from license fees, registration fees,
inspection fees, fines and penalties shall be paid into the
Agronomic Regulatory Account established in section [6725] 67A76
(relating to disposition of funds). All moneys in the Agronomic-
Regulatory Account are hereby appropriated to the department for
the purposes of this chapter and Chapter [67] 67A (relating to
fertilizer).

§ 7122. Disposition of funds.
Moneys received from license fees, seed testing fees,
certification fees, fines and penalties shall be paid into the
Agronomic Regulatory Account established in section [6725] 67A76
(relating to disposition of funds). All moneys in the Agronomic-
Regulatory Account are hereby appropriated to the department for
the purposes of Chapters [67] 67A (relating to fertilizer) and
69 (relating to soil and plant amendment) and this chapter.

Section 5. Specific appropriation. The sum of $100,000 is
hereby appropriated to the department to be deposited in the
Agronomic Regulatory Account, for use by the Department of
Agriculture to develop the certification and recertification
courses required under 3 Pa.C.S. §§ 67A22 (relating to licensing of fertilizer application businesses) and 67A23 (relating to certification of applicators) and any computer programming or software necessary for administration and enforcement of 3 Pa.C.S. Ch. 67A.

Section 6. This act shall take effect as follows:

   (1) The addition of 3 Pa.C.S. §67A13 shall take effect in eighteen (18) months.

   (2) The addition of 3 Pa.C.S. §67A22 shall take effect upon the development of the certification courses specified under 3 Pa.C.S. §67A22(e).

   (3) The addition of 3 Pa.C.S. §67A23 shall take effect upon the development of the recertification courses specified under 3 Pa.C.S. §67A23(a).

   (4) The remainder of this act shall take effect immediately.

CHAPTER 68
FERTILIZER

SUBCHAPTER
A. GENERAL PROVISIONS
B. FERTILIZER MANUFACTURERS AND GUARANTORS
C. APPLICATOR LICENSING AND CERTIFICATION
D. RECORDKEEPING FOR APPLICATORS
E. APPLICATION RATES, REQUIREMENTS AND PROHIBITIONS
F. AGRICULTURAL AND HOMEOWNER EDUCATION PROGRAM
G. ADMINISTRATION AND PENALTIES

SUBCHAPTER A
GENERAL PROVISIONS

SEC.

6801. SHORT TITLE OF CHAPTER.
§ 6801. SHORT TITLE OF CHAPTER.

This chapter shall be known and may be cited as the Fertilizer Act.

§ 6802. LEGISLATIVE INTENT.

This chapter is intended to:

(1) provide for the labeling, application, recordkeeping, packaging, use, sale and distribution of agricultural fertilizer as well as turf or other specialty fertilizer.

(2) provide consumer protection through licensing, labeling and sampling.

(3) establish professional fertilizer applicator certification.

(4) provide a means of consumer education and outreach.

(5) ensure that applicators follow best practices when applying fertilizer.

§ 6803. DEFINITIONS.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Brand." A term, design or trademark used in connection with one or several grades of fertilizer.

"Bulk fertilizer." A fertilizer distributed in a nonpackaged form.

"By-product." Municipal waste or residual waste as defined in the act of July 7, 1980 (P.L. 380, No. 97), known as the Solid Waste Management Act, or its successor statute, that contains a plant nutrient and meets all applicable regulations of the
"CERTIFIED APPLICATOR." A person who is certified under Section 6832 (relating to certification of applicators) as competent to use or supervise the use of fertilizer or train fertilizer technicians on the proper application of fertilizer.

"COMMERCIAL APPLICATOR." A person who applies or supervises the application of fertilizer to the property or premises of another or who applies or supervises application of fertilizer to any of the following:

1. A golf course.
2. The property or premises of a public or private park.
3. The property or premises of a public, nonpublic or licensed private elementary or secondary school wherein a resident of this Commonwealth may fulfill the compulsory school attendance requirements and which meets the applicable requirements of Title IV of the Civil Rights Act of 1964 (42 U.S.C.A. § 2000C) (Public Law 88-352, 78 Stat. 241), or its successor statute. This term does not include the residence of a home schooled student.
4. A public or private college or university that applies fertilizer to the campus grounds. A person conducting research at a public or private college or university or a state-related university that applies fertilizer to test plots shall not be deemed a commercial applicator.
5. A public playground or an athletic field.

"CONSUMER." A person who purchases fertilizer for the end use of the product.

"DEFICIENCY." The amount of nutrient found by analysis to be less than that guaranteed, which may result from a lack of
"DEPARTMENT." THE DEPARTMENT OF AGRICULTURE OF THE
COMMONWEALTH.
"DISTRIBUTE." TO IMPORT, CONSIGN, OFFER FOR SALE, SELL,
BARTER OR OTHERWISE SUPPLY FERTILIZER IN THIS COMMONWEALTH.
"DISTRIBUTOR." A PERSON WHO DISTRIBUTES FERTILIZER OR
FERTILIZER MATERIAL.
"ENHANCED EFFICIENCY." RELATING TO A FERTILIZER PRODUCT WITH
CHARACTERISTICS THAT ALLOW INCREASED PLANT NUTRIENT UPTAKE AND
REDUCED POTENTIAL OF NUTRIENT LOSSES TO THE ENVIRONMENT, SUCH AS
GASEOUS LOSSES, LEACHING OR RUNOFF, WHEN COMPARED TO AN
APPROPRIATE REFERENCE PRODUCT AS DETERMINED BY THE DEPARTMENT BY
PUBLISHING A NOTICE IN THE PENNSYLVANIA BULLETIN.
"FACILITY." EACH SEPARATE MILL OR PLANT THAT MANUFACTURES
FERTILIZER.
"FERTILIZER." A SUBSTANCE CONTAINING ONE OR MORE RECOGNIZED
PLANT NUTRIENTS WHICH IS USED FOR ITS PLANT NUTRIENT CONTENT AND
WHICH IS DESIGNED FOR USE OR CLAIMED TO HAVE VALUE IN PROMOTING
PLANT GROWTH, EXCEPT UNMANIPULATED ANIMAL MANURE AND PLANT
REMAINS, AGRICULTURAL LIMING MATERIALS, WOOD ASHES AND OTHER
MATERIALS EXEMPTED BY THE DEPARTMENT'S REGULATIONS. THE TERM
SHALL NOT APPLY TO ANIMAL MANURE WHICH IS REGULATED UNDER:
(1) 25 PA. CODE § 91.36(B) (RELATING TO POLLUTION
CONTROL AND PREVENTION AT AGRICULTURAL OPERATIONS);
(2) CHAPTER 5 (RELATING TO NUTRIENT MANAGEMENT AND ODOR
MANAGEMENT); OR
(3) THE ACT OF JUNE 28, 2004 (P.L.454, NO.49), KNOWN AS
THE COMMERCIAL MANURE HAULER AND BROKER CERTIFICATION ACT.
"FERTILIZER APPLICATION BUSINESS." A GOVERNMENTAL OR PUBLIC
ENTITY, COMMERCIAL APPLICATOR OR BUSINESS FOR PROFIT OR NOT FOR
PROFIT THAT APPLIES FERTILIZER:

(1) ON THE PROPERTY OR PREMISES OF ANOTHER;
(2) TO THE PROPERTY OR PREMISES OF A GOLF COURSE, PARK, SCHOOL, COLLEGE OR UNIVERSITY OR PUBLIC PLAYGROUND; OR
(3) TO AN ATHLETIC FIELD.

"FERTILIZER APPLICATION BUSINESS LICENSE." A LICENSE OBTAINED UNDER SECTION 6831 (RELATING TO LICENSING OF FERTILIZER APPLICATION BUSINESSES).

"FERTILIZER LICENSE." A LICENSE OBTAINED UNDER SECTION 6811 (RELATING TO LICENSING).

"FERTILIZER MATERIAL." A FERTILIZER WHICH:

(1) CONTAINS ONLY ONE OF THE FOLLOWING PRIMARY PLANT NUTRIENTS:
   (I) NITROGEN;
   (II) PHOSPHATE; OR
   (III) POTASH;
(2) HAS 85% OR MORE OF ITS PLANT NUTRIENT CONTENT PRESENT IN THE FORM OF A SINGLE CHEMICAL COMPOUND; OR
(3) IS DERIVED FROM A PLANT OR ANIMAL RESIDUE, BY-PRODUCT, COPRODUCT AS DEFINED IN 25 PA. CODE § 287.1 (RELATING TO DEFINITIONS) OR NATURAL MATERIAL DEPOSIT WHICH HAS BEEN PROCESSED IN A WAY THAT ITS CONTENT OF PLANT NUTRIENTS HAS NOT BEEN MATERIALLY CHANGED EXCEPT BY PURIFICATION AND CONCENTRATION.

"FERTILIZER TECHNICIAN." A PERSON WHO:

(1) IS NOT CERTIFIED UNDER THIS CHAPTER;
(2) WORKS FOR A FERTILIZER APPLICATION BUSINESS; AND
(3) WORKS UNDER THE DIRECTION OF A CERTIFIED APPLICATOR.

"GOVERNMENTAL OR PUBLIC ENTITY." AN EXECUTIVE OR INDEPENDENT AGENCY OR GOVERNMENTAL UNIT OF THE COMMONWEALTH OR LOCAL AGENCY,
INCLUDING A COUNTY, CITY, BOROUGH, TOWN, TOWNSHIP, SCHOOL DISTRICT, MUNICIPAL AUTHORITY OR POLITICAL SUBDIVISION OF THE COMMONWEALTH.

"GRADE." THE PERCENTAGE OF TOTAL NITROGEN, AVAILABLE PHOSPHATE AND SOLUBLE POTASH STATED IN WHOLE NUMBERS IN THE SAME TERMS, ORDER AND PERCENTAGES AS IN THE GUARANTEED ANALYSIS.

SPECIALTY FERTILIZERS MAY BE GUARANTEED IN FRACTIONAL UNITS OF LESS THAN 1% OF TOTAL NITROGEN, AVAILABLE PHOSPHATE AND SOLUBLE POTASH, PROVIDED THAT FERTILIZER MATERIALS, BONE MEAL, MANURES AND SIMILAR MATERIALS MAY BE GUARANTEED IN FRACTIONAL UNITS.

"GROWING MEDIA." MATERIAL IN WHICH PLANTS ARE GROWN, SUCH AS GARDEN SOIL, POTTING SOIL OR COMMERCIAL SOIL-LESS MIXES.

"GUARANTEED ANALYSIS." THE MINIMUM PERCENTAGE OF PLANT NUTRIENTS CLAIMED IN THE FOLLOWING ORDER AND FORM:

- TOTAL NITROGEN (N) %
- AVAILABLE PHOSPHATE (P₂O₅) %
- SOLUBLE POTASH (K₂O) %

FOR OTHER ORGANIC PHOSPHATIC MATERIALS, THE TOTAL PHOSPHATE OR DEGREE OF FINENESS MAY ALSO BE GUARANTEED. GUARANTEES FOR PLANT NUTRIENTS OTHER THAN NITROGEN, PHOSPHORUS AND POTASSIUM MAY BE ESTABLISHED BY REGULATION.

"GUARANTOR." A PERSON, INCLUDING A MANUFACTURER OR DISTRIBUTOR, WHOSE NAME AND ADDRESS APPEARS ON THE LABEL OF FERTILIZER.

"IMPERVIOUS SURFACE." A STRUCTURE, SURFACE OR IMPROVEMENT, INCLUDING, BUT NOT LIMITED TO, A ROADWAY, SIDEWALK, PARKING LOT, DRIVEWAY OR PATIO CONSTRUCTED OUT OF PLASTIC, CONCRETE, ASPHALT OR OTHER MATERIAL THAT REDUCES OR PREVENTS INFILTRATION OF WATER INTO THE SOIL.

"LABEL." THE DISPLAY OF ALL WRITTEN, PRINTED OR GRAPHIC...
MATTER UPON THE IMMEDIATE CONTAINER OR A STATEMENT ACCOMPANYING A FERTILIZER.

"LABELING." ALL WRITTEN, PRINTED OR GRAPHIC MATTER, UPON OR ACCOMPANYING ANY FERTILIZER OR ADVERTISEMENTS, BROCHURES, POSTERS OR ELECTRONIC MEDIA USED IN PROMOTING THE DISTRIBUTION OF THE FERTILIZER.

"MANIPULATION." PROCESSED OR TREATED IN ANY MANNER, INCLUDING DRYING TO A MOISTURE CONTENT OF LESS THAN 30%.

"MANUFACTURE." TO PRODUCE, MIX, BLEND, REPACKагE OR FURTHER PROCESS FERTILIZER OR FERTILIZER MATERIAL FOR DISTRIBUTION.

"MANURE." ANIMAL EXCREMENT, WITH OR WITHOUT THE BEDDING, LITTER, STRAW, WASHWATER AND OTHER REFUSE MATERIALS, DIRT AND WASTE ORDINARILY MIXED OR COMMINGLED WITH THAT EXCREMENT, WHICH IS PRODUCED AT AN AGRICULTURAL OPERATION.

"MICRONUTRIENT." ANY OF THE FOLLOWING:

1. BORON.
2. CHLORINE.
3. COBALT.
4. COPPER.
5. IRON.
6. MANGANESE.
7. MOLYBDENUM.
8. NICKEL.
9. SODIUM.
10. ZINC.

"NATURAL ORGANIC FERTILIZER." MATERIALS DERIVED FROM EITHER PLANT OR ANIMAL PRODUCTS CONTAINING ONE OR MORE ELEMENTS, OTHER THAN CARBON, HYDROGEN AND OXYGEN, WHICH ARE ESSENTIAL FOR PLANT GROWTH. THESE MATERIALS MAY BE SUBJECTED TO BIOLOGICAL DEGRADATION PROCESSES UNDER NORMAL CONDITIONS OF AGING,
RAINFALL, SUN CURING, AIR DRYING, COMPOSTING, ROTTING, ENZYMATIC
OR ANAEROBIC OR AEROBIC BACTERIAL ACTION OR ANY COMBINATION OF
THESE PROCESSES. THESE MATERIALS SHALL NOT BE MIXED WITH
SYNTHETIC MATERIALS OR CHANGED IN ANY PHYSICAL OR CHEMICAL
MANNER FROM THEIR INITIAL STATE EXCEPT BY MANIPULATIONS SUCH AS
DRYING, COOKING, CHOPPING, GRINDING, SHREDDING, HYDROLYSIS OR
PELLETING.

"NET WEIGHT." THE TOTAL WEIGHT OF FERTILIZER AS OFFERED FOR
SALE, EXCLUDING THE WEIGHT OF THE CONTAINER.

"OFFICIAL SAMPLE." A SAMPLE OF FERTILIZER COLLECTED OR
OBTAINED BY THE DEPARTMENT OR ITS AGENT TO EFFECTUATE THE
PROVISIONS OF THIS CHAPTER AND DESIGNATED AS OFFICIAL.

"ORGANIC BASED FERTILIZER." A MIXED FERTILIZER WHERE:

(1) MORE THAN HALF OF THE FERTILIZER MATERIALS ARE
ORGANIC.

(2) MORE THAN HALF OF THE SUM OF THE GUARANTEED PRIMARY
NUTRIENT PERCENTAGES ARE DERIVED FROM ORGANIC MATERIALS.

"OVERALL INDEX VALUE." THE VALUE OBTAINED FROM THE
CALCULATION: (COMMERCIAL VALUE FOUND) X 100 / (COMMERCIAL VALUE
GUARANTEED).

"PARK." PRIVATELY OR PUBLICLY OWNED OUTDOOR REAL ESTATE
WHICH INCLUDES A PUBLIC RECREATIONAL AREA, INCLUDING AN AREA
WITH RESTRICTED ACCESS.

"PERCENT" OR "PERCENTAGE." A PERCENTAGE BY WEIGHT.

"PERSON." AN INDIVIDUAL, A PARTNERSHIP, AN ASSOCIATION, A
FIRM, A CORPORATION OR ANOTHER LEGAL ENTITY.

"PLANT NUTRIENT." ANY OF THE FOLLOWING:

(1) A PRIMARY NUTRIENT.

(2) A SECONDARY NUTRIENT.

(3) A MICRONUTRIENT.
"PRIMARY NUTRIENT." ANY OF THE FOLLOWING:

(1) NITROGEN.
(2) PHOSPHORUS.
(3) POTASSIUM.

"PUBLIC APPLICATOR." A PERSON EMPLOYED BY A GOVERNMENTAL OR
PUBLIC ENTITY WHO APPLIES OR SUPERVISES THE APPLICATION OF
FERTILIZER AS PART OF THE APPLICATOR'S EMPLOYMENT DUTIES.

"REGISTRANT." A PERSON WHO REGISTERS FERTILIZER UNDER THIS
CHAPTER.

"REPACK motivate." THE PLACEMENT OF FERTILIZER INTO A CONTAINER OR
BULK BIN OTHER THAN WHAT IS SUPPLIED BY THE GUARANTOR.

"SECONDARY NUTRIENT." ANY OF THE FOLLOWING:

(1) CALCIUM.
(2) MAGNESIUM.
(3) SULFUR.

"SPECIALTY FERTILIZER." A FERTILIZER DISTRIBUTED FOR NONFARM
USE OR A FERTILIZER PRIMARILY INTENDED TO SUPPLY PLANT NUTRIENTS
OTHER THAN NITROGEN, PHOSPHATE OR POTASH.

"STREAM BUFFER ZONE." A PERMANENT STRIP OF DENSE PERENNIAL
VEGETATION ESTABLISHED PARALLEL AND IMMEDIATELY ADJACENT TO THE
BANK OF A POND, WETLAND OR FLOWING BODY OF WATER, SUCH AS A
STREAM, RIVER OR CREEK, THAT IS USED TO SLOW WATER RUNOFF,
ENHANCING WATER INfiltrATION AND MINIMIZING THE RISK OF
POTENTIAL NUTRIENTS REACHING THE WATERS.

"TOLERANCE." A PERMITTED VARIATION FROM THE GUARANTEE OF AN
OFFICIAL SAMPLE OF FERTILIZER.

"TON." A NET WEIGHT OF 2,000 POUNDS.

"TURF." LAND, INCLUDING, BUT NOT LIMITED TO, RESIDENTIAL
PROPERTY, GOLF COURSES AND PRIVATELY OR PUBLICLY OWNED LAND,
THAT IS PLANTED IN CLOSELY MOWED, MANAGED GRASS, EXCEPT FOR LAND.
SEC.

6811. LICENSING.

6812. REGISTRATION OF SPECIALTY FERTILIZERS.

6813. TURF FERTILIZER COMPONENTS.

6814. LABELS AND LABELING.

6815. INSPECTION FEES.

6816. TONNAGE REPORTS.

6817. INSPECTION, SAMPLING AND ANALYSIS.

6818. PLANT FOOD DEFICIENCY.

6819. COMMERCIAL VALUE.

6820. MISBRANDING.

6821. ADULTERATION.

§ 6811. LICENSING.

(A) REQUIREMENTS.--EACH PERSON ENGAGED IN THE MANUFACTURE OF FERTILIZER TO BE DISTRIBUTED IN THIS COMMONWEALTH AND EACH GUARANTOR OF THE FERTILIZER SHALL, ON OR BEFORE JULY 1 OF EACH YEAR OR PRIOR TO MANUFACTURE OR DISTRIBUTION OF THE FERTILIZER, OBTAIN A FERTILIZER LICENSE FOR EACH MANUFACTURING FACILITY LOCATED IN THIS COMMONWEALTH AND FOR EACH GUARANTOR BY COMPLETING A FORM FURNISHED BY THE DEPARTMENT AND PAYING A $50 APPLICATION FEE OR A FEE LATER ESTABLISHED IN THE MANNER UNDER SECTION 6885 (RELATING TO FEES, FINES AND CIVIL PENALTIES). ALL LICENSES SHALL EXPIRE ON JUNE 30 OF EACH YEAR.

(B) LABELING AND TYPICAL ANALYSIS.--THE DEPARTMENT MAY REQUIRE AN APPLICANT FOR A FERTILIZER LICENSE OR A CURRENT FERTILIZER LICENSEE TO SUBMIT THE LABELING THAT THE PERSON IS USING OR INTENDS TO USE FOR THE FERTILIZER. THE DEPARTMENT MAY
ALSO REQUIRE AN APPLICANT OR FERTILIZER LICENSEE TO PROVIDE A
TYPICAL ANALYSIS OF SELECTED COMPONENTS THAT MAY BE IN THE
FERTILIZER.

§ 6812. REGISTRATION OF SPECIALTY FERTILIZERS.
(A) APPLICATION.--EACH BRAND AND GRADE OF SPECIALTY
FERTILIZER SHALL BE REGISTERED BY THE GUARANTOR WITH THE
DEPARTMENT BEFORE BEING OFFERED FOR SALE, SOLD OR DISTRIBUTED IN
THIS COMMONWEALTH. AN APPLICATION FOR EACH BRAND AND GRADE OF
SPECIALTY FERTILIZER SHALL BE MADE ON A FORM FURNISHED BY THE
DEPARTMENT AND SHALL BE ACCOMPANIED BY A FEE OF $100 OR A FEE
LATER ESTABLISHED IN THE MANNER UNDER SECTION 6885 (RELATING TO
FEES, FINES AND CIVIL PENALTIES), PER EACH GRADE OF EACH BRAND.
ALL REGISTRATIONS SHALL EXPIRE ON JUNE 30 OF EACH YEAR.
(B) CONTENTS OF SPECIALTY FERTILIZER REGISTRATION
APPLICATION.--AN APPLICATION FOR REGISTRATION SHALL INCLUDE:
(1) THE BRAND AND GRADE.
(2) THE GUARANTEED ANALYSIS.
(3) THE NAME AND ADDRESS OF THE GUARANTOR.
(4) NET WEIGHT.
(C) EXEMPTION.--
(1) A DISTRIBUTOR SHALL NOT BE REQUIRED TO REGISTER A
SPECIALTY FERTILIZER WHICH IS ALREADY REGISTERED UNDER THIS
CHAPTER BY ANOTHER PERSON, IF THE LABEL DOES NOT DIFFER IN A
MATERIAL RESPECT.
(2) REGISTRATION IS NOT REQUIRED WHEN A FERTILIZER IS
FORMULATED ACCORDING TO THE SPECIFICATIONS WHICH ARE
FURNISHED BY THE END USER AND IS NOT FURTHER DISTRIBUTED OR
OFFERED FOR SALE TO THE GENERAL PUBLIC.
(D) LATE FEE.--IF THE APPLICATION FOR RENEWAL OF THE
SPECIALTY FERTILIZER REGISTRATION REQUIRED UNDER THIS SECTION IS NOT FILED PRIOR TO JUNE 30 OF EACH YEAR, A PENALTY OF $25 OR 10% OF THE TOTAL REGISTRATION FEE FOR ALL PRODUCTS SOUGHT TO BE REGISTERED, WHICHERVER IS GREATER, OR A FEE LATER ESTABLISHED IN THE MANNER UNDER SECTION 6885, MAY BE ASSESSED AND ADDED TO THE ORIGINAL FEE AND SHALL BE PAID BY THE APPLICANT BEFORE THE RENEWAL OF THE SPECIALTY FERTILIZER REGISTRATION IS ISSUED. THE PENALTY SHALL NOT APPLY IF THE APPLICANT FURNISHED AN AFFIDAVIT THAT THE APPLICANT HAS NOT DISTRIBUTED THE SPECIALTY FERTILIZER SUBSEQUENT TO THE EXPIRATION OF THE APPLICANT'S PRIOR REGISTRATION.

§ 6813. TURF FERTILIZER COMPONENTS.
(A) GENERAL RULE.—EXCEPT AS PROVIDED IN SUBSECTION (B), FERTILIZER LABELED FOR TURF THAT IS DISTRIBUTED TO END USERS IN THIS COMMONWEALTH SHALL:

(1) CONTAIN NO MORE THAN 0.9 POUNDS OF TOTAL NITROGEN PER 1,000 SQUARE FEET WHEN APPLIED PURSUANT TO THE INSTRUCTIONS ON THE CONTAINER.

(2) CONSIST OF AT LEAST 20% ENHANCED EFFICIENCY NITROGEN OF THE TOTAL NITROGEN OR AS DETERMINED BY THE DEPARTMENT BY PUBLISHING A NOTICE IN THE PENNSYLVANIA BULLETIN.

(3) CONTAIN NO PHOSPHORUS, UNLESS THE FERTILIZER IS A NATURAL ORGANIC OR ORGANIC BASED FERTILIZER.

(B) EXEMPTIONS.—

(1) SUBSECTION (A) SHALL NOT APPLY WHEN TURF FERTILIZER IS LABELED FOR REPAIRING A TURF AREA OR ESTABLISHING A TURF AREA FOR THE FIRST TIME.

(2) SUBSECTION (A)(1) SHALL NOT APPLY TO LIQUID TURF FERTILIZERS OR READILY AVAILABLE NITROGEN FERTILIZERS LABELED FOR TURF, IF THE DIRECTIONS FOR USE ARE IN ACCORDANCE WITH
THE REQUIREMENTS OF SECTION 6852 (RELATING TO APPLICATION OF FERTILIZER TO TURF).

(C) ADDITIONAL REQUIREMENTS.--THE DEPARTMENT, THROUGH REGULATION, MAY ESTABLISH ADDITIONAL REQUIREMENTS FOR TURF FERTILIZER.

§ 6814. LABELS AND LABELING.

(A) CONTENTS OF LABEL.--THE GUARANTOR OF A FERTILIZER DISTRIBUTED IN A CONTAINER IN THIS COMMONWEALTH SHALL HAVE PLACED ON OR AFFIXED TO THE CONTAINER A LABEL SETTING FORTH IN LEGIBLE AND CONSPICUOUS FORM THE FOLLOWING:

(1) THE BRAND AND GRADE OF THE FERTILIZER, BUT THE GRADE SHALL NOT BE REQUIRED WHEN NO PRIMARY NUTRIENTS ARE CLAIMED.

(2) THE GUARANTEED ANALYSIS.

(3) A DERIVED FROM STATEMENT.

(4) DIRECTIONS FOR USE FOR FERTILIZER DISTRIBUTED TO THE END USER.

(5) THE NAME AND ADDRESS OF THE GUARANTOR.

(6) THE NET WEIGHT.

(B) BULK FERTILIZER.--IN THE CASE OF BULK FERTILIZER DISTRIBUTION, THE INFORMATION REQUIRED UNDER SUBSECTION (A) SHALL ACCOMPANY DELIVERY AND SHALL BE PROVIDED IN WRITING TO THE PURCHASER AT TIME OF DELIVERY.

(C) OTHER GUARANTEES.--GUARANTEES FOR NUTRIENTS OTHER THAN PRIMARY NUTRIENTS, SHALL BE EXPRESSED IN THE FORM OF THE ELEMENT. THE DEPARTMENT MAY REQUIRE BY REGULATION THAT OTHER BENEFICIAL SUBSTANCES OR COMPOUNDS BE GUARANTEED. WHEN PLANT NUTRIENTS OR OTHER SUBSTANCES OR COMPOUNDS ARE GUARANTEED, THEY SHALL BE SUBJECT TO INSPECTION AND ANALYSIS IN ACCORDANCE WITH THE METHODS AND REGULATION PRESCRIBED BY THE DEPARTMENT.

(D) PROOF OF LABELING CLAIMS.--THE DEPARTMENT MAY REQUIRE
PROOF OF LABELING CLAIMS MADE FOR FERTILIZER. RESEARCH IN SUPPORT OF THE CLAIMS SHALL BE PERFORMED BY AN INSTITUTION APPROVED BY THE DEPARTMENT UTILIZING ACCEPTABLE SCIENTIFIC METHODOLOGY.

(E) CONSUMER-SPECIFIED FERTILIZER FORMULATIONS.—IN LIEU OF THE REQUIREMENTS UNDER SUBSECTION (A), A FERTILIZER FORMULATED ACCORDING TO SPECIFICATIONS WHICH ARE FURNISHED BY THE END USER PRIOR TO MIXING SHALL BE LABELED IN A CLEARLY LEGIBLE AND CONSPICUOUS FORM TO SHOW THE GRADE, NET WEIGHT, GUARANTEED ANALYSIS AND NAME AND ADDRESS OF THE GUARANTOR.

(F) BULK STORAGE.—FERTILIZER IN BULK STORAGE THAT IS INTENDED FOR DISTRIBUTION SHALL BE IDENTIFIED WITH A LABEL ATTACHED TO THE STORAGE BIN OR CONTAINER GIVING THE NAME AND GRADE OF THE PRODUCT.

(G) TURF FERTILIZER.—SUBJECT TO SUBSECTION (I), FERTILIZER INTENDED FOR USE ON TURF THAT IS DISTRIBUTED TO END USERS IN THIS COMMONWEALTH, IN BULK OR PACKAGES THAT ARE ONE POUND OR GREATER, SHALL INCLUDE A STATEMENT IN LEGIBLE AND CONSPICUOUS FORM THAT AT A MINIMUM SETS FORTH THE FOLLOWING REQUIREMENTS:

(1) THIS PRODUCT SHALL NOT BE APPLIED NEAR WATER, STORM DRAINS OR DRAINAGE DITCHES.

(2) THIS PRODUCT SHALL NOT BE APPLIED IF HEAVY RAIN IS EXPECTED.

(3) THIS PRODUCT SHALL ONLY BE APPLIED TO THE INTENDED APPLICATION SITE.

(4) MATERIAL THAT LANDS ON AN IMPERVIOUS SURFACE SHALL BE SWEPT BACK ONTO THE TURF. THIS STATEMENT SHALL NOT BE REQUIRED IF THE PRODUCT IS APPLIED IN A LIQUID FORM.

(H) NONTURF FERTILIZER.—SUBJECT TO SUBSECTIONS (I) AND (K), FERTILIZER THAT IS NOT LABELED FOR TURF, IN BULK OR PACKAGES
THAT ARE 40 POUNDS OR GREATER, THAT IS DISTRIBUTED TO END USERS IN THIS COMMONWEALTH SHALL INCLUDE A STATEMENT, IN LEGIBLE AND CONSPICUOUS FORM THAT AT A MINIMUM SETS FORTH THE FOLLOWING REQUIREMENTS:

(1) THIS PRODUCT SHALL NOT BE APPLIED NEAR WATER, STORM DRAINS OR DRAINAGE DITCHES OR TO ANY IMPERVIOUS SURFACE.

(2) THIS PRODUCT SHALL NOT BE APPLIED IF HEAVY RAIN IS EXPECTED.

(3) THIS PRODUCT SHALL ONLY BE APPLIED TO THE INTENDED APPLICATION SITE.

(I) FERTILIZERS CONTAINING PESTICIDES.--IN LIEU OF THE STATEMENTS REQUIRED UNDER SUBSECTIONS (G) AND (H), THE LABEL FOR FERTILIZER PRODUCTS CONTAINING PESTICIDES SHALL CONTAIN THE ENVIRONMENTAL HAZARD STATEMENT RECOMMENDED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR THAT PRODUCT.

(J) MINIMUM FONT SIZE.--STATEMENTS REQUIRED UNDER SUBSECTIONS (G) AND (H) SHALL BE PRINTED IN A LEGIBLE AND CONSPICUOUS MANNER AND NOT BE SMALLER THAN THE HEIGHT OF THE FONT USED FOR THE DIRECTIONS FOR USE ON THE PRODUCT LABELING.

(K) EXEMPTION.--THE REQUIREMENTS OF SUBSECTION (H) AND OF THIS SECTION SHALL NOT APPLY TO FERTILIZER LABELED FOR AQUATIC SETTINGS, GROWING MEDIA, INDOOR USE OR POTTED PLANTS.

(L) PROHIBITION.--THE LABEL FOR FERTILIZER OR NITROGEN-BASED MATERIAL SHALL NOT BE LABELED FOR THE PURPOSES OF MELTING SNOW OR ICE, UNLESS THE PRODUCT IS DISTRIBUTED TO AN AIRPORT TO BE USED ON AIRCRAFT OR AREAS AN AIRCRAFT ACCESSES.

(M) OTHER LABEL INFORMATION.--THE DEPARTMENT MAY, BY REGULATION, REQUIRE ADDITIONAL INFORMATION TO BE PRESENT ON THE LABEL OR LABELING OF FERTILIZERS.

§ 6815. INSPECTION FEES.
(A) AMOUNTS.--THE GUARANTOR WHOSE NAME APPEARS ON THE LABEL
OF A FERTILIZER DISTRIBUTED IN THIS COMMONWEALTH SHALL PAY
SEMIANNUALLY AND NOT LATER THAN JANUARY 31 AND JULY 31 OF EACH
YEAR AN INSPECTION FEE AT THE RATE OF 17¢ PER TON OF FERTILIZER
DISTRIBUTED IN THIS COMMONWEALTH OR A FEE LATER ESTABLISHED IN
THE MANNER UNDER SECTION 6885 (RELATING TO FEES, FINES AND CIVIL
PENALTIES). IN NO CASE SHALL THE INSPECTION FEE PAID
SEMIANNUALLY AMOUNT TO LESS THAN $25 OR A FEE LATER ESTABLISHED
IN THE MANNER UNDER SECTION 6885.

(B) ADJUSTMENT OF FEES BY DEPARTMENT.--

(1) NOTWITHSTANDING SUBSECTION (A), FOLLOWING NOTICE TO
THE REGISTRANTS AND LICENSEES, IF THE DEPARTMENT DETERMINES
THAT THE MONEY DERIVED FROM THE REGISTRATION AND INSPECTION
FEES ARE EITHER GREATER OR LESS THAN THAT REQUIRED TO
ADMINISTER THIS CHAPTER, THE DEPARTMENT MAY REDUCE OR
INCREASE THE REGISTRATION OR INSPECTION FEE, OR BOTH, SO AS
TO MAINTAIN REVENUES SUFFICIENT TO ADMINISTER THIS CHAPTER.

(2) AN INSPECTION FEE ESTABLISHED UNDER THIS SUBSECTION
MAY NOT BE CHANGED BY MORE THAN 5¢ IN ONE YEAR.

(3) THE DEPARTMENT SHALL ANNOUNCE THE ADJUSTMENT OF FEES
BY PUBLISHING A NOTICE IN THE PENNSYLVANIA BULLETIN. THE
ADJUSTED FEES SHALL TAKE EFFECT 60 DAYS AFTER PUBLICATION OF
THE NOTICE IN THE PENNSYLVANIA BULLETIN.

§ 6816. TONNAGE REPORTS.

(A) REQUIREMENTS.--THE GUARANTOR WHOSE NAME APPEARS ON THE
LABEL SHALL SUBMIT, ALONG WITH THE REQUISITE INSPECTION FEE, A
REPORT IN A MANNER PRESCRIBED BY THE DEPARTMENT LISTING BY
COUNTY THE INTENDED USE AND NET TONS OF EACH BRAND AND GRADE OF
FERTILIZER DISTRIBUTED IN THIS COMMONWEALTH FOR THE PERIOD
COVERED BY THE INSPECTION FEE. THE DEPARTMENT MAY PROMULGATE
REGULATIONS TO ESTABLISH ADDITIONAL TONNAGE REPORTING

(B) MULTIPLE GUARANTORS.--WHEN MORE THAN ONE GUARANTOR IS
INVOLVED IN THE DISTRIBUTION OF FERTILIZER, THE GUARANTOR WHO
DISTRIBUTED THE FERTILIZER LAST SHALL REPORT THE TONNAGE AND PAY
THE INSPECTION FEE, UNLESS THE REPORT AND PAYMENT HAVE BEEN MADE
BY A PRIOR DISTRIBUTOR.

(C) LATE FEE.--A PENALTY OF $25 OR 10% OF THE TOTAL
INSPECTION FEE, WHICHEVER IS GREATER, OR A FEE LATER ESTABLISHED
IN THE MANNER UNDER SECTION 6885 (RELATING TO FEES, FINES AND
CIVIL PENALTIES), SHALL BE IMPOSED FOR A FEE OR REPORT NOT
SUBMITTED AT THE REQUIRED TIME.

(D) EXAMINATION PERMITTED.--THE DEPARTMENT OR ITS AUTHORIZED
REPRESENTATIVE MAY EXAMINE THE RECORDS OF THE GUARANTOR TO
VERIFY THE INFORMATION CONTAINED IN THE REPORTS FILED WITH THE
DEPARTMENT. REPORTS CONTAINING FRAUDULENT OR INCORRECT
INFORMATION SHALL BE CONSIDERED A VIOLATION OF THIS CHAPTER FOR
WHICH THE DEPARTMENT MAY ASSESS A PENALTY AS PROVIDED FOR IN
THIS CHAPTER.

(E) CONFIDENTIALITY OF INFORMATION.--
(1) NOTWITHSTANDING THE ACT OF FEBRUARY 14, 2008 (P.L.6,
NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW, OR ITS SUCCESSOR
STATUTE, NO PROPRIETARY INFORMATION FURNISHED TO THE
DEPARTMENT UNDER THIS SECTION SHALL BE DISCLOSED IN A WAY AS
TO KNOWINGLY OR INTENTIONALLY DIVULGE A TRADE SECRET OF ANY
PERSON SUBJECT TO THE PROVISIONS OF THIS CHAPTER.
(2) THIS SUBSECTION SHALL NOT APPLY TO INFORMATION
FURNISHED TO A COURT OR ADMINISTRATIVE TRIBUNAL IN ACCORDANCE
WITH LAW.

§ 6817. INSPECTION, SAMPLING AND ANALYSIS.
(A) AUTHORIZATION.--THE DEPARTMENT SHALL INSPECT, SAMPLE, MAKE ANALYSES OF AND TEST FERTILIZERS DISTRIBUTED WITHIN THIS COMMONWEALTH AND SHALL INSPECT THE STORAGE OF BULK FERTILIZER AT ANY TIME AND PLACE AND TO AN EXTENT THAT THE DEPARTMENT MAY DEEM NECESSARY TO DETERMINE WHETHER THE FERTILIZERS ARE IN COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER. THE DEPARTMENT OR ITS AGENT MAY ENTER UPON PUBLIC OR PRIVATE PREMISES OR CARRIERS DURING REGULAR BUSINESS HOURS TO HAVE ACCESS TO FERTILIZER SUBJECT TO AND THE RECORDS RELATING TO THE PROVISIONS OF THIS CHAPTER OR THE REGULATIONS PROMULGATED UNDER THIS CHAPTER.

(B) METHODOLOGY.--THE METHODS OF FERTILIZER SAMPLING AND ANALYSIS BY THE DEPARTMENT SHALL INCLUDE THOSE METHODS ADOPTED BY THE ASSOCIATION OF OFFICIAL ANALYTICAL CHEMISTS INTERNATIONAL. IN CASES NOT COVERED BY THOSE METHODS OR IN CASES WHERE IMPROVED METHODS ARE AVAILABLE, THE DEPARTMENT MAY ISSUE A TEMPORARY ORDER DEFINING THE METHOD TO BE UTILIZED. THE METHOD DEFINED IN THE TEMPORARY ORDER SHALL BE EFFECTIVE UPON PUBLICATION IN THE PENNSYLVANIA BULLETIN. THE TEMPORARY ORDER SHALL REMAIN IN EFFECT FOR A PERIOD NOT TO EXCEED ONE YEAR, UNLESS REISSUED, OR UNTIL THE NOTICE IS PROMULGATED AS A REGULATION.

(C) DEFICIENCY DETERMINATION.--IN DETERMINING WHETHER A FERTILIZER IS DEFICIENT IN NUTRIENTS, THE DEPARTMENT SHALL BE GUIDED SOLELY BY THE OFFICIAL SAMPLE OBTAINED AND ANALYZED AS PROVIDED FOR IN SUBSECTIONS (A) AND (B).

(D) MAINTENANCE OF OFFICIAL SAMPLES.--OFFICIAL SAMPLES MAINTAINED BY THE DEPARTMENT AND THAT REQUIRE IMPOSITION OF A PENALTY FOR NUTRIENT DEFICIENCY SHALL BE RETAINED FOR A MINIMUM OF 90 DAYS FROM ISSUANCE OF A FERTILIZER DEFICIENCY REPORT OR AN OFFICIAL REPORT OF ANALYSIS. UPON REQUEST, THE DEPARTMENT SHALL
FURNISH TO THE GUARANTOR A PORTION OF THE OFFICIAL SAMPLE.
REQUESTS MUST BE MADE WITHIN 30 DAYS OF RECEIPT OF A FERTILIZER DEFICIENCY REPORT OR AN OFFICIAL REPORT OF ANALYSIS.
§ 6818. PLANT FOOD DEFICIENCY.

(A) Penalties.--The following penalties shall be assessed for deficiencies from the guaranteed analysis:

(1) A penalty payment of five times the commercial value of each deficiency shall be assessed when the analysis shows that a fertilizer is deficient:

(I) in one or more of its guaranteed primary plant nutrients beyond a tolerance of 10% (two unit maximum);

or

(II) when the overall index value of the primary nutrients in the fertilizer is below 97.

(2) When a fertilizer is subject to a penalty payment under paragraph (1)(I) and (II), the larger penalty payment shall apply. Any penalties assessed shall not exceed the retail price of the lot of fertilizer represented by the official sample.

(3) Deficiencies beyond the tolerance as established by regulation in a component other than a primary nutrient shall be evaluated by the department and shall be subject to a penalty under this chapter.

(B) Payment of Penalties.--Within 90 days following receipt of the official report of analysis, the guarantor shall pay to the consumer a deficiency penalty in the amount prescribed on the report of analysis. Receipts of payment shall be promptly forwarded by the guarantor to the department. If the consumer cannot be found, the penalties shall be paid to the department.

(C) Deficiencies in Fertilizers.--A deficiency in an
OFFICIAL SAMPLE OF FERTILIZER RESULTING FROM NONUNIFORMITY SHALL NOT BE DEEMED DISTINGUISHABLE FROM A DEFICIENCY DUE TO ACTUAL PLANT NUTRIENT SHORTAGE AND SHALL BE DEEMED A VIOLATION OF THIS CHAPTER FOR WHICH THE DEPARTMENT MAY ASSESS A PENALTY AS PROVIDED FOR IN THIS CHAPTER.

§ 6819. COMMERCIAL VALUE.

FOR THE PURPOSE OF DETERMINING THE COMMERCIAL VALUE TO BE APPLIED UNDER SECTION 6818 (RELATING TO PLANT FOOD DEFICIENCY), THE DEPARTMENT SHALL DETERMINE AND PUBLISH IN THE PENNSYLVANIA BULLETIN ANNUALLY THE VALUES PER POUND OF TOTAL NITROGEN, AVAILABLE PHOSPHATE AND SOLUBLE POTASH IN FERTILIZERS IN THIS COMMONWEALTH. THE VALUES SO DETERMINED AND PUBLISHED IN THE PENNSYLVANIA BULLETIN SHALL GO INTO EFFECT JULY 1 OF EACH YEAR AND BE USED IN DETERMINING AND ASSESSING PENALTY PAYMENTS.

§ 6820. MISBRANDING.

NO PERSON SHALL DISTRIBUTE A MISBRANDED FERTILIZER. A FERTILIZER SHALL BE DEEMED TO BE MISBRANDED IF ANY OF THE FOLLOWING APPLY:

(1) ITS LABELING IS FALSE OR MISLEADING IN ANY PARTICULAR.

(2) IT IS DISTRIBUTED UNDER THE NAME OF ANOTHER FERTILIZER PRODUCT.

(3) IT IS NOT LABELED AS REQUIRED IN SECTION 6814 (RELATING TO LABELS AND LABELING) AND IN ACCORDANCE WITH REGULATIONS PRESCRIBED UNDER THIS CHAPTER.

(4) IT PURPORTS TO BE OR IS REPRESENTED AS A FERTILIZER OR IS REPRESENTED AS CONTAINING A PLANT NUTRIENT OR FERTILIZER UNLESS SUCH PLANT NUTRIENT OR FERTILIZER CONFORMS TO THE DEFINITION OF IDENTITY, IF ANY, PRESCRIBED BY REGULATION.
§ 6821. ADULTERATION.

No person shall distribute an adulterated fertilizer product. A fertilizer shall be deemed to be adulterated if any of the following apply:

(1) It contains any deleterious or harmful substance in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water when applied in accordance with its intended use or directions for use on the label.

(2) Adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil or water are not shown upon the label.

(3) Its composition falls below or differs from that which it is purported to possess by its labeling.

(4) It contains viable weed seed or unwanted crop seed in amounts exceeding the limit which the department establishes by regulation.

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SUBCHAPTER C

APPLICATOR LICENSING AND CERTIFICATION

SEC.

6831. LICENSING OF FERTILIZER APPLICATION BUSINESSES.

6832. CERTIFICATION OF APPLICATORS.

6833. RECERTIFICATION OF APPLICATORS.

6834. RECIPROCAL AGREEMENT.

6835. TRAINING OF FERTILIZER TECHNICIANS.

§ 6831. LICENSING OF FERTILIZER APPLICATION BUSINESSES.

(A) REQUIREMENTS.—A fertilizer application business must be licensed prior to applying fertilizer and shall comply with the provisions of this chapter and any regulation or order of the
DEPARTMENT. A FERTILIZER APPLICATION BUSINESS WITH MORE THAN ONE
LOCATION OR PLACE OF BUSINESS OR OPERATING UNDER MORE THAN ONE
NAME IN THIS COMMONWEALTH SHALL LICENSE EACH LOCATION, PLACE OF
BUSINESS AND BUSINESS ENTITY. FOR A GOVERNMENTAL OR PUBLIC
ENTITY, EACH DISTRICT OR REGION SHALL BE CONSIDERED A SEPARATE
BUSINESS AND SHALL REQUIRE A SEPARATE LICENSE.

(B) OPERATION, APPLICATION AND EXPIRATION.--A FERTILIZER
APPLICATION BUSINESS MAY NOT BE OPERATED WITHOUT FIRST OBTAINING
A FERTILIZER APPLICATION BUSINESS LICENSE. THE APPLICATION FOR
LICENSURE SHALL BE ON A FORM FURNISHED BY THE DEPARTMENT AND
SHALL BE ACCOMPANIED BY A $100 APPLICATION FEE OR A FEE LATER
ESTABLISHED IN THE MANNER UNDER SECTION 6885 (RELATING TO FEES,
FINES AND CIVIL PENALTIES). ALL BUSINESS LICENSES SHALL EXPIRE
ON DECEMBER 31 EACH YEAR, EXCEPT THAT THE DEPARTMENT MAY ISSUE A
LICENSE FOR THE FOLLOWING YEAR WHEN AN INITIAL LICENSE
APPLICATION IS FILED DURING THE LAST TWO MONTHS OF A LICENSING
YEAR.

(C) EMPLOYER REQUIREMENT.--A FERTILIZER APPLICATION BUSINESS
SHALL EMPLOY AT ALL TIMES AND AT EACH LICENSED BUSINESS AT LEAST
ONE PERSON WHO HOLDS A CURRENT VALID COMMERCIAL OR PUBLIC
APPLICATOR CERTIFICATION. THIS PERSON SHALL BE RESPONSIBLE FOR
TRAINING FERTILIZER TECHNICIANS ON THE PROPER HANDLING AND
APPLICATION OF FERTILIZER.

(D) FERTILIZER TECHNICIANS.--A FERTILIZER APPLICATION
BUSINESS SHALL ENSURE FERTILIZER TECHNICIANS DO NOT APPLY
FERTILIZER UNLESS THE PERSONS HAVE GONE THROUGH A TRAINING
PROGRAM AS DESCRIBED BY SECTION 6835 (RELATING TO TRAINING OF
FERTILIZER TECHNICIANS).

(E) RECORD.--A FERTILIZER APPLICATION BUSINESS SHALL
MAINTAIN A RECORD AND PROVIDE TO THE DEPARTMENT, UPON REQUEST,
THE FOLLOWING:

(1) A LIST OF ALL CERTIFIED APPLICATORS EMPLOYED BY THE BUSINESS.

(2) A LIST OF ALL FERTILIZER TECHNICIANS EMPLOYED BY THE BUSINESS AND AN ATTESTATION THAT EACH HAS COMPLETED A TRAINING PROGRAM MEETING THE REQUIREMENTS OF SECTION 6835. THE ATTESTATION SHALL BE SUBJECT TO THE PENALTIES FOR A VIOLATION OF 18 PA.C.S. § 4904 (RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES) OR ITS SUCCESSOR STATUTE.

(F) NOTIFICATION.--A LICENSED FERTILIZER APPLICATION BUSINESS SHALL NOTIFY THE DEPARTMENT IN WRITING WITHIN 15 DAYS OF A CHANGE IN ITS LICENSE INFORMATION, INCLUDING THE EMPLOYMENT STATUS OF ITS CERTIFIED APPLICATORS AND FERTILIZER TECHNICIANS.

(G) LICENSE NUMBER DISPLAY.--A FERTILIZER APPLICATION BUSINESS SHALL PROMINENTLY DISPLAY ON EVERY VEHICLE INVOLVED IN THE FERTILIZER APPLICATION PHASE OF ITS BUSINESS THE LICENSE NUMBER ASSIGNED BY THE DEPARTMENT. THE NUMBER SHALL BE IN FIGURES AT LEAST THREE INCHES HIGH AND BE LOCATED ON BOTH SIDES OF THE VEHICLE AT A READILY VISIBLE LOCATION IN A CONTRASTING COLOR.

(H) AERIAL APPLICATION.--IF A FERTILIZER APPLICATION BUSINESS OR AN APPLICATOR OF FERTILIZER ENGAGES IN AERIAL APPLICATIONS, THE APPLICANT SHALL, UPON REQUEST BY THE DEPARTMENT, PROVIDE PROOF OF COMPLIANCE WITH THE FEDERAL AVIATION ADMINISTRATION REGULATIONS AS DESCRIBED IN 14 CFR PT. 137 (RELATING TO AGRICULTURAL AIRCRAFT OPERATIONS) OR ITS SUCCESSOR REGULATIONS.

20170SB0792PN1547 - 90 -
THE REQUIREMENTS ESTABLISHED IN THIS CHAPTER AND THE
DEPARTMENT'S REGULATIONS PRIOR TO:

(1) APPLYING FERTILIZER OR CONDUCTING TRAINING OF
FERTILIZER TECHNICIANS; AND

(2) THE FERTILIZER APPLICATION BUSINESS APPLYING
FERTILIZER.

(B) TRAINING.--ONLY A FULLY CERTIFIED APPLICATOR MAY TRAIN
FERTILIZER TECHNICIANS.

(C) CERTIFICATION EXAMINATION.--

(1) A PERSON WISHING TO OBTAIN FULL CERTIFICATION UNDER
THIS CHAPTER SHALL TAKE AND PASS A WRITTEN EXAMINATION
PREPARED OR APPROVED BY THE DEPARTMENT AND SHALL DEMONSTRATE
MINIMUM STANDARD PROFICIENCY ON THE BASIS OF A WRITTEN
EXAMINATION CONDUCTED AT AN APPROVED TEST SITE UNDER THE
DIRECTION OF THE DEPARTMENT OR ITS DESIGNATED AGENTS. ALL
FEES ASSOCIATED WITH THE CERTIFICATION EXAMINATION SHALL BE
PAID IN FULL PRIOR TO THE ISSUANCE OF A CERTIFICATION
CERTIFICATE BY THE DEPARTMENT.

(2) EACH APPLICANT FOR CERTIFICATION SHALL DEMONSTRATE
KNOWLEDGE AND COMPETENCE AS TO:

(I) SAFETY AND HEALTH.

(II) LABELING AND LABEL COMPREHENSION.

(III) ENVIRONMENTAL PROTECTION.

(IV) EQUIPMENT USE, CALIBRATION AND DOSAGE
CALCULATIONS.

(V) PERSONAL PROTECTIVE EQUIPMENT.

(VI) CLEANING AND MAINTAINING EQUIPMENT.

(VII) TRANSPORTATION, STORAGE, SECURITY AND
DISPOSAL.

(VIII) APPLICABLE FEDERAL AND STATE LAWS.
(IX) ANY SUBJECT MATTER DEEMED APPROPRIATE BY THE
DEPARTMENT'S REGULATIONS.

(3) THE DEPARTMENT SHALL REQUIRE A MINIMUM EXAMINATION
FEE OF $10 OR A FEE LATER ESTABLISHED IN THE MANNER UNDER
SECTION 6885 (RELATING TO FEES, FINES AND CIVIL PENALTIES).

(D) COMMERCIAL AND PUBLIC APPLICATORS.--

(1) A COMMERCIAL OR PUBLIC APPLICATOR'S CERTIFICATION
SHALL NOT BE VALID UNTIL THE APPLICATOR IS ASSOCIATED WITH A
FERTILIZER APPLICATION BUSINESS THAT IS LICENSED ACCORDING TO
THE REQUIREMENTS OF SECTION 6831 (RELATING TO LICENSING OF
FERTILIZER APPLICATION BUSINESSES).

(2) IF A COMMERCIAL OR PUBLIC APPLICATOR SEPARATES
EMPLOYMENT FROM A FERTILIZER APPLICATION BUSINESS, THE
ELIGIBILITY FOR CERTIFICATION SHALL REMAIN WITH THE
APPLICATOR AND MAY BE TRANSFERRED TO ANOTHER FERTILIZER
APPLICATION BUSINESS.

(E) ISSUANCE OF CERTIFICATION.--CERTIFICATION SHALL BE
ISSUED TO A PERSON UPON SUCCESSFUL COMPLETION OF ALL CLASSROOM,
EXAMINATION, TESTING AND CERTIFICATION REQUIREMENTS ESTABLISHED
BY THIS CHAPTER, AN ORDER OF THE DEPARTMENT AND REGULATIONS OF
THE DEPARTMENT AND THE PAYMENT OF ALL FEES, UNLESS REVOKED OR
SUSPENDED BY THE DEPARTMENT.

(F) ACTIVATION.--UPON RECEIVING NOTICE OF PASSING ALL
CERTIFICATION REQUIREMENTS, THE APPLICANT SHALL, WITHIN 12
MONTHS OF BECOMING ELIGIBLE TO BE CERTIFIED AS A COMMERCIAL OR
PUBLIC APPLICATOR, FILE WITH THE DEPARTMENT A REQUEST TO
ACTIVATE CERTIFICATION. A PERSON WHO FAILS TO REQUEST ACTIVATION
WITHIN THIS 12-MONTH PERIOD SHALL LOSE CERTIFICATION ELIGIBILITY
AND SHALL AGAIN ESTABLISH ELIGIBILITY IN ACCORDANCE WITH THIS
SECTION.
(G) EXPIRATION.--CERTIFICATION SHALL EXPIRE AS FOLLOWS:

(1) COMMERCIAL APPLICATOR CERTIFICATION SHALL EXPIRE ON SEPTEMBER 30 OF EACH YEAR FOLLOWING THE DATE OF CERTIFICATION.

(2) PUBLIC APPLICATOR CERTIFICATION SHALL EXPIRE ON SEPTEMBER 30 EVERY THREE YEARS FOLLOWING THE DATE OF CERTIFICATION.

(3) WITH REGARD TO AN INITIAL APPLICATION FOR CERTIFICATION, THE DEPARTMENT MAY ISSUE A CERTIFICATE FOR AN ADDITIONAL YEAR WHEN A PERSON BECOMES FULLY CERTIFIED WITHIN THE LAST TWO MONTHS OF THE CERTIFICATION YEAR.

(H) GRANDFATHERING.--

(1) A PERSON HOLDING A VALID PESTICIDE APPLICATOR CERTIFICATION IN THE FOLLOWING CATEGORIES UNDER 7 PA. CODE § 128.42 (RELATING TO CATEGORIES OF COMMERCIAL AND PUBLIC APPLICATORS) UPON THE EFFECTIVE DATE OF THIS SUBSECTION SHALL BE GRANTED CERTIFICATION AS A CERTIFIED FERTILIZER APPLICATOR UNDER THIS CHAPTER BUT SHALL STILL COMPLY WITH ALL OTHER REQUIREMENTS OF THIS CHAPTER:

(I) CATEGORY 1, AGRONOMIC CROPS.

(II) CATEGORY 2, FRUITS AND NUTS.

(III) CATEGORY 3, VEGETABLE CROPS.

(IV) CATEGORY 5, FOREST PEST CONTROL.

(V) CATEGORY 6, ORNAMENTAL AND SHADE TREES.

(VI) CATEGORY 7, LAWN AND TURF.

(VII) CATEGORY 18, DEMONSTRATION AND RESEARCH PEST CONTROL.

(VIII) CATEGORY 22, INTERIOR PLANTSCAPE.

(IX) CATEGORY 23, PARK OR SCHOOL PEST CONTROL.

(X) CATEGORY 25, AERIAL APPLICATOR.
(2) THE CERTIFICATION UNDER THIS SUBSECTION SHALL BE VALID UNTIL EACH PERSON'S PESTICIDE CORE RECERTIFICATION IS DUE, AT WHICH TIME THAT PERSON SHALL BE REQUIRED TO MEET ALL THE RECERTIFICATION REQUIREMENTS AS REQUIRED BY SECTION 6833 (RELATING TO RECERTIFICATION OF APPLICATORS).

§ 6833. RECERTIFICATION OF APPLICATORS.

(A) CONTINUING EDUCATION.--AT INTERVALS OF THREE YEARS, A CERTIFIED APPLICATOR SHALL PROVIDE EVIDENCE OF HAVING RECEIVED CONTINUING EDUCATION CREDITS IN PRACTICES RELATING TO FERTILIZER APPLICATIONS. RECERTIFICATION TRAINING SHALL BE IN THE FOLLOWING CONCEPT AREAS:

(1) SAFETY AND HEALTH.
(2) LABELING AND LABEL COMPREHENSION.
(3) ENVIRONMENTAL PROTECTION.
(4) EQUIPMENT USE, CALIBRATION AND DOSAGE CALCULATIONS.
(5) PERSONAL PROTECTIVE EQUIPMENT.
(6) CLEANING AND MAINTAINING EQUIPMENT.
(7) TRANSPORTATION, STORAGE, SECURITY AND DISPOSAL.
(8) APPLICABLE FEDERAL AND STATE LAWS.
(9) ANY SUBJECT MATTER DEEMED APPROPRIATE BY THE DEPARTMENT'S REGULATIONS.

(B) CREDITS.--CONTINUING EDUCATION CREDITS SHALL BE GIVEN ON THE BASIS OF ATTENDANCE AT COURSES OR OTHER APPROPRIATE TRAINING APPROVED BY THE DEPARTMENT. TRAINING SHALL BE EVALUATED BY THE DEPARTMENT AND ASSIGNED CREDITS. AT A MINIMUM, CERTIFIED APPLICATORS SHALL OBTAIN FOUR CREDITS EVERY THREE YEARS OR THE TOTAL AMOUNT OF CREDITS LATER ESTABLISHED BY PUBLICATION IN THE PENNSYLVANIA BULLETIN.

(C) TRAINING.--TRAINING SHALL BE APPROVED BASED ON THE FOLLOWING:
(1) Training shall be conducted or sponsored by the Department or a Department-approved institution, association, business entity or governmental agency. The Department-approved trainer shall submit course materials for approval by the Department and shall establish that courses will be conducted by a person or persons that are certified applicators in good standing under this chapter and with at least three years' experience as a certified fertilizer applicator or by an approved entity with other documented qualifications to serve as a trainer, such as an appropriate educational background.

(2) Training shall be approved for continuing education credits at the rate of one credit per 30 minutes, or as later established by regulation, of applicable instruction, exclusive of coffee breaks, lunches, visits to exhibits and other similar activities.

(3) An approved entity wishing to conduct or sponsor continuing education training shall submit a written request for course and trainer approval to the Department's regional office for the region in which the meeting will be held. A request to approve out-of-state training must be submitted to the Department's headquarters. The request shall include evidence of compliance with the standards established by paragraph (1).

(D) Information request.--A request for training approval shall include the following information:

(1) The name, address and telephone number of the contact person who is coordinating the training.

(2) The specific location where the training course will be offered.
(3) The date and time of the training course.
(4) A listing of the trainers, trainer qualifications, subject matter and time allotted to each subject.
(5) A statement of whether the training is open to the public and where applicable the charge to attend.
(6) A detailed course syllabus setting forth the subject matter to be covered and a description of the content, the time period allotted for each subject matter and trainer name and certification.
(E) Oath or Affirmation.—A statement made in a request to approve training shall be supported by oath or affirmation and is subject to the penalties for a violation of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) or its successor statute.
(F) Assignment of Credits.—Credits shall be assigned to each training course based upon the subjects covered and the amount of time expended on each subject.
(G) Monitoring of Training.—All training shall be monitored by an employee of the department. If an employee of the department is unable to monitor the training, the training course coordinator shall be responsible for authenticating attendance and shall compile an approved list of Pennsylvania certified applicators in attendance. This list shall be returned to the department within 10 working days following the meeting date and shall include the name of each individual attending and the individual's applicator certification number.
(H) Modification of Credits.—Credits assigned may be modified if the content, approved trainer or time of the actual training course differs from the original training course approved by the department.
(I) VIOLATION.--FALSIFICATION BY A DEPARTMENT-APPROVED COURSE TRAINER OR SPONSOR OF INFORMATION REQUIRED UNDER THIS SECTION SHALL BE CONSIDERED A VIOLATION OF THIS CHAPTER FOR WHICH THE DEPARTMENT MAY ASSESS A PENALTY AS PROVIDED FOR UNDER THIS CHAPTER AND WITHDRAW APPROVAL OF THE COURSE AS SPECIFIED UNDER THIS SECTION.

(J) ATTENDANCE FALSIFICATION.--A PERSON MAY NOT FALSIFY ATTENDANCE OR THAT OF ANOTHER PERSON'S ATTENDANCE AT A CONTINUING EDUCATION MEETING. FALSIFICATION OF ATTENDANCE AT A CONTINUING EDUCATION COURSE BY A PERSON SHALL BE CONSIDERED A VIOLATION OF THIS CHAPTER FOR WHICH THE DEPARTMENT MAY ASSESS A PENALTY AS PROVIDED FOR UNDER THIS CHAPTER AND REVOKE THE APPLICATOR'S CERTIFICATION AND REQUIRE FULL RENEWAL OF CERTIFICATION AS REQUIRED UNDER SECTION 6832 (RELATING TO CERTIFICATION OF APPLICATORS).

(K) FAILURE TO OBTAIN REQUIRED CREDITS.--IF A PERSON DOES NOT OBTAIN THE REQUIRED NUMBER OF RECERTIFICATION CREDITS IN THE TRIENNIAL YEAR IN WHICH CONTINUING EDUCATION CREDITS ARE DUE, THE PERSON'S CERTIFICATION SHALL BE INVALID AND THAT PERSON SHALL CEASE AND DESIST FROM ALL FERTILIZER APPLICATION, AND RECERTIFICATION SHALL REQUIRE COMPLETION OF DELINQUENT CONTINUING EDUCATION CREDITS AS ESTABLISHED UNDER THIS SECTION PRIOR TO CERTIFICATION BEING RENEWED.

(L) FAILURE TO COMPLETE DELINQUENT CREDITS.--IF A PERSON FAILS TO COMPLETE DELINQUENT CONTINUING EDUCATION CREDITS WITHIN ONE YEAR FROM THE TRIENNIAL EXPIRATION DATE OR FAILS TO RENEW THE CERTIFICATION FOR ANY REASON DURING THAT TIME PERIOD, THE PERSON SHALL CEASE AND DESIST FROM ALL FERTILIZER APPLICATION AND SHALL BE REQUIRED TO REESTABLISH ELIGIBILITY BY MEETING THE REQUIREMENTS IN SECTION 6832.
§ 6834. RECIPROCAL AGREEMENT.

The department may issue a license or certification on a reciprocal basis with other states without examination to a nonresident who is licensed or certified in another state that administers a fertilizer licensing or certification course substantially in accordance with the provisions of this chapter.

§ 6835. TRAINING OF FERTILIZER TECHNICIANS.

(A) PROHIBITION.—Fertilizer technicians working for a fertilizer application business may not apply fertilizer without first going through a training program, as required by the provisions of this chapter, an order of the department or the department's regulations.

(B) REQUIREMENTS.—Fertilizer technicians shall be an employee of the business and trained by a certified applicator who is an employee of the same business.

(C) TRANSFERABILITY.—Training of fertilizer technicians shall not be transferrable between businesses.

(D) PROGRAM ADMINISTRATION.—The training program for fertilizer technicians shall be administered by a certified applicator, employed by the fertilizer application business employing the fertilizer technician, in subject matter involving the assigned tasks of the fertilizer technician. The training program shall include, but not be limited to:

(1) Proper use of fertilizers and use of application equipment, including calibration and maintenance equipment used on the job.

(2) Protective clothing required during the application and handling of fertilizers.

(3) Transportation and disposal of fertilizers used in and around the workplace.
(4) Applicable federal and state regulations as they affect the work assignments.

(5) Competence in reading and following label and application requirements.

(E) Noncertified employees.--When there are noncertified employees engaged in the application of fertilizer, they shall be trained in accordance with subsection (D) or work under the supervision of a certified applicator who is physically present on the job site.

(F) Training and supervision prohibition.--A fertilizer technician may not train applicators or supervise the use or application of fertilizers by other fertilizer technicians or noncertified employees.

(G) Record.--At the completion of training, the certified applicator conducting the training shall complete a record of training. Training records shall be maintained by the firm for one year following separation of the fertilizer technician's employment and at a minimum, shall include:

1. The name and certification number of the trainer.
2. The name of fertilizer technician trained.
3. The date of training.
4. The areas of training.
5. The business name and address of the fertilizer application business employing the fertilizer technician.
6. Any other requirements as established by the department through order or regulation.

Subchapter D

Recordkeeping for Applicators

Sec.

6841. Records.
§ 6841. RECORDS.

(A) REQUIRED INFORMATION.--APPLICATORS REQUIRED TO BE CERTIFIED UNDER SECTION 6832 (RELATING TO CERTIFICATION OF APPLICATORS) AND FERTILIZER TECHNICIANS TRAINED UNDER SECTION 6835 (RELATING TO TRAINING OF FERTILIZER TECHNICIANS) SHALL KEEP FOR EVERY APPLICATION OF FERTILIZER A RECORD CONTAINING THE FOLLOWING INFORMATION:


(2) A RECORD OF THE DATE OF EACH FERTILIZER APPLICATION. FOR CONTINUOUS APPLICATIONS, SUCH AS HYDROPONICS OR DRIP LINES, THE RECORD SHALL INCLUDE START AND FINISH DATES AND THE TOTAL AMOUNT OF FERTILIZER PRODUCTS USED DURING THAT TIME PERIOD. FOR EACH ADDITION OF A FERTILIZER TO THE SYSTEM, AN ENTRY TO THE RECORD IS REQUIRED.

(3) THE WEATHER CONDITIONS, INCLUDING APPROXIMATE TEMPERATURE.

(4) THE BRAND NAME AND GRADE OF THE FERTILIZER USED.

(5) THE DOSAGE OR RATE OF APPLICATION OF EVERY FERTILIZER USED.

(6) THE TOTAL AMOUNT OF FERTILIZER USED IN POUNDS, OUNCES, GALLONS OR LITERS APPLIED TO A TREATED AREA.

(7) THE IDENTIFICATION OF THE APPLICATION SITE, INCLUDING THE SPECIFIC FIELD OR LAND AREA AND THE CROP AND SIZE OF THE AREA TREATED WITH FERTILIZER.

(8) THE NAME AND CERTIFICATION NUMBER OF EACH PERSON INVOLVED WITH THE APPLICATION AND THE NAME OF EACH FERTILIZER TECHNICIAN AND NONCERTIFIED EMPLOYEE INVOLVED IN THE APPLICATION.
(9) ADDITIONAL INFORMATION AS THE DEPARTMENT MAY REQUIRE THROUGH ORDER OR REGULATION.

(B) FERTILIZER APPLICATION RECORD.--A FERTILIZER APPLICATION RECORD SHALL BE COMPLETED IN WRITTEN OR PRINTABLE FORM NO LATER THAN 24 HOURS AFTER THE APPLICATION DATE AND MADE IMMEDIATELY AVAILABLE TO THE DEPARTMENT UPON REQUEST.

(C) MAINTENANCE REQUIREMENTS.--A RECORD REQUIRED UNDER THIS SECTION SHALL BE MAINTAINED FOR AT LEAST THREE YEARS.

(D) ADDITIONAL REQUIREMENTS.--IN ADDITION TO THE REQUIREMENTS ESTABLISHED UNDER THIS SECTION, THE DEPARTMENT MAY PROMULGATE REGULATIONS TO REQUIRE ADDITIONAL RECORD KEEPING AND APPLICATION REPORTING REQUIREMENTS.

SUBCHAPTER E
APPLICATION RATES, REQUIREMENTS AND PROHIBITIONS

SEC.
6851. APPLICATION OF FERTILIZER.
6852. APPLICATION OF FERTILIZER TO TURF.
6853. PROHIBITED ACTS.
§ 6851. APPLICATION OF FERTILIZER.

(A) RESTRICTIONS.--NO PERSON MAY APPLY NONAQUATIC FERTILIZER WITHIN 15 FEET OF THE TOP OF A BANK OF A LAKE, POND, WETLANDS OR FLOWING BODY OF WATER, SUCH AS A STREAM, RIVER OR CREEK, EXCEPT THAT FERTILIZER MAY BE APPLIED TO THE TOP OF THE WATERWAYS IF APPLIED USING A DROP SPREADER, ROTARY SPREADER WITH DEFLECTOR, TARGETED SPRAY LIQUID OR OTHER AVAILABLE TARGETED APPLICATION TECHNOLOGY WHEN ESTABLISHING AND MAINTAINING A STREAM BUFFER ZONE. THE ESTABLISHMENT OF SETBACKS FOR FERTILIZER APPLICATION UNDER THIS SUBSECTION SHALL NOT PRECLUDE THE ESTABLISHMENT OR APPLICABILITY OF OR REQUIRED COMPLIANCE WITH ANY OTHER ENVIRONMENTAL STANDARD ESTABLISHED UNDER OTHER FEDERAL
OR STATE LAW, RULE OR REGULATION.

(B) REGULATION.--THE DEPARTMENT MAY ESTABLISH ADDITIONAL
RESTRICTIONS THROUGH REGULATION.

§ 6852. APPLICATION OF FERTILIZER TO TURF.

(A) APPLICATION RATES.--EXCEPT AS PROVIDED IN SUBSECTION
(D), FERTILIZER APPLICATION RATES TO TURF SHALL:

(1) NOT EXCEED 0.7 POUNDS OF READILY AVAILABLE NITROGEN
PER 1,000 SQUARE FEET PER APPLICATION.

(2) NOT EXCEED 0.9 POUNDS OF TOTAL NITROGEN PER 1,000
SQUARE FEET PER APPLICATION.

(3) CONTAIN ZERO PHOSPHORUS, EXCEPT WHEN SPECIFICALLY
LABELED FOR THE FOLLOWING PURPOSES:

(I) ESTABLISHING VEGETATION FOR THE FIRST TIME;

(II) REESTABLISHING OR REPAIRING A TURF AREA; OR

(III) AS AN ENHANCED-EFFICIENCY PHOSPHORUS
FERTILIZER, NATURAL ORGANIC FERTILIZER OR ORGANIC-BASED
FERTILIZER, IF THE APPLICATION RATE DOES NOT EXCEED 0.25
POUNDS OF PHOSPHORUS PER 1,000 SQUARE FEET PER
APPLICATION, WITH A MAXIMUM TOTAL ANNUAL APPLICATION OF
0.5 POUNDS OF PHOSPHORUS PER 1,000 SQUARE FEET.

(B) RESTRICTIONS.--NO PERSON MAY:

(1) APPLY TURF FERTILIZER TO AN IMPERVIOUS SURFACE. TURF
FERTILIZER WHICH IS INADVERTENTLY APPLIED TO AN IMPERVIOUS
SURFACE SHALL BE REMOVED FROM THE IMPERVIOUS SURFACE
IMMEDIATELY FOLLOWING THE APPLICATION.

(2) APPLY FERTILIZER CONTAINING NITROGEN OR PHOSPHORUS
TO TURF AT ANY TIME WHEN THE GROUND IS FROZEN TO A DEPTH OF
AT LEAST TWO INCHES OR SNOW COVERED.

(3) APPLY FERTILIZER CONTAINING NITROGEN OR PHOSPHORUS
TO TURF BEFORE MARCH 1 OR AFTER DECEMBER 15 IN A CALENDAR
YEAR OR DATES AS ARE LATER ESTABLISHED BY THE DEPARTMENT'S REGULATION. FERTILIZER CONTAINING NO MORE THAN 0.5 POUNDS OF TOTAL NITROGEN PER 1,000 SQUARE FEET OR A RATE AS IS LATER ESTABLISHED BY THE DEPARTMENT'S REGULATION MAY BE APPLIED BY A CERTIFIED APPLICATOR OR FERTILIZER TECHNICIAN TO TURF AFTER DECEMBER 15 BUT BEFORE MARCH 1 IN A CALENDAR YEAR.

(C) FERTILIZER USE AND APPLICATION RATES FOR TURF.--THE DEPARTMENT MAY ESTABLISH USE AND APPLICATION RATES FOR FERTILIZER THAT IS APPLIED TO TURF. FERTILIZER USE AND APPLICATION RATES ESTABLISHED SHALL BE BASED ON SCIENTIFIC RESEARCH REPRESENTING CONDITIONS OF THIS COMMONWEALTH AND RECOMMENDED BY THE PENNSYLVANIA STATE UNIVERSITY OR OTHER PENNSYLVANIA INSTITUTION OF HIGHER EDUCATION. THE RATES OR SOURCE OF ESTABLISHED FERTILIZER USE AND APPLICATION RATES SHALL BE PUBLISHED AT LEAST ONCE EVERY TWO YEARS BY THE DEPARTMENT IN THE PENNSYLVANIA BULLETIN. USE AND APPLICATION RATES PUBLISHED SHALL GO INTO EFFECT 90 DAYS AFTER PUBLICATION IN THE PENNSYLVANIA BULLETIN.

(D) APPLICATION BASED ON SOIL TEST AND SITE-SPECIFIC PLAN.--AN APPLICATOR SHALL NOT BE REQUIRED TO FOLLOW APPLICATION RATES ESTABLISHED UNDER SUBSECTION (A) OR (C) IF A SITE-SPECIFIC PLAN IS USED BASED ON ALL THE FOLLOWING:

(1) A SOIL TEST THAT WAS CONDUCTED WITHIN THE PREVIOUS THREE YEARS. SOIL TESTING PROCEDURES SHALL BE THOSE RECOMMENDED BY THE PENNSYLVANIA STATE UNIVERSITY OR PUBLISHED IN RECOMMENDED SOIL TESTING PROCEDURES FOR THE NORTHEASTERN UNITED STATES, BULLETIN #493 OR ITS SUCCESSOR PUBLICATION, PUBLISHED BY THE UNIVERSITY OF DELAWARE.

(2) CURRENT SOIL, PLANT SPECIES, CLIMATE, USE, TOPOGRAPHY OR OTHER APPROPRIATE MANAGEMENT FACTORS.
(3) Rates recommended by the Pennsylvania State University or other Pennsylvania University or College recognized by the department.

(E) Certified applicators or fertilizer technicians.--In addition to the requirements of Section 6841 (relating to records), when a certified applicator or fertilizer technician applies fertilizer in accordance with subsection (D), the certified applicator or fertilizer technician shall retain a copy of the soil test and recommendations received for the site-specific plan as part of the record-keeping requirements.

(F) Additional requirements.--The department may establish additional requirements through regulation.

(G) Exemption.--The requirements of this section shall not apply to fertilizer applied for agricultural production or by a public or private college or university for research purposes.

§ 6853. Prohibited acts.

(A) Prohibited acts by business, certified applicator or fertilizer technician.--A fertilizer application business, certified applicator or fertilizer technician may not:

(1) Apply fertilizer without a license, certification or the training as required by this chapter.

(2) Apply fertilizer that is misbranded or adulterated.

(3) Make false or fraudulent records, invoices or reports concerning the application, storage or disposal of fertilizer.

(4) Make a false statement or misrepresentation of material fact on an application for issuance or renewal of a license or certification required under this chapter, a regulation promulgated under this chapter or an order issued under the authority of this chapter.
(5) Refuse or neglect to comply with a condition or limitation imposed upon a license or certification issued under this chapter, a regulation promulgated under this chapter or an order issued under the authority of this chapter.

(6) Refuse to present evidence of proper licensure or certification to an employee or agent of the department upon request.

(7) Refuse to display the fertilizer application business's, certified applicator's or fertilizer technician's license or certification number in a manner required by this chapter, a regulation promulgated under this chapter or an order issued under the authority of this chapter.

(8) Refuse or neglect to keep and maintain the records, or make reports when and as required, by this chapter, a regulation promulgated under this chapter or an order issued under the authority of this chapter.

(9) Fail to comply with a provision of this chapter, a regulation promulgated under this chapter or an order issued under the authority of this chapter.

(B) Prohibited acts by person.--A person may not:

(1) Apply fertilizer with a device that is not intended for the application of fertilizer or that has not been properly calibrated.

(2) Operate fertilizer application equipment or devices in a faulty, careless or negligent manner.

(3) Dispose of, discard or store a fertilizer product in a manner that would be inconsistent with its label, would cause over-application of fertilizer, would result in direct discharge to a storm drain or waters of this commonwealth or
WOULD BE INCONSISTENT WITH THIS CHAPTER, A REGULATION
PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED UNDER THE
AUTHORITY OF THIS CHAPTER.

(4) AID OR ABET ANOTHER TO EVADE THE PROVISIONS OF THIS
CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN
ORDER ISSUED UNDER THE AUTHORITY OF THIS CHAPTER, CONSPIRE
WITH ANOTHER PERSON FOR THAT PURPOSE OR ALLOW THE PERSON’S
CERTIFICATION TO BE USED BY ANOTHER PERSON.

(5) HINDER, MISLEAD, MAKE FALSE STATEMENTS TO OR REFUSE
TO Cooperate WITH AN Employee OR AGENT OF THE Department IN
Any INVESTIGATION OR INSPECTION UNDERTAKEN BY THE AUTHORITY
DELEGATED TO THE Department UNDER THE PROVISIONS OF THIS
CHAPTER.

(6) APPLY FERTILIZER OR A NITROGEN-BASED MATERIAL FOR
THE PURPOSES OF MELTING SNOW OR ICE, UNLESS THE MATERIAL IS
APPLIED TO AIRCRAFT OR AREAS AN AIRCRAFT ACCESSES AT AN
AIRPORT.

(7) FAIL TO COMPLY WITH A PROVISION OF THIS CHAPTER, A
REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED
UNDER THE AUTHORITY OF THIS CHAPTER.

(C) EFFECT OF SECTION.—NOTHING IN THIS SECTION SHALL
PROHIBIT THE LAWFUL USE OF FERTILIZER IN BLASTING, AS REGULATED
BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

SUBCHAPTER F
AGRICULTURAL AND HOMEOWNER EDUCATION PROGRAM

SEC.

§ 6861. AGRICULTURAL AND HOMEOWNER EDUCATION.

§ 6861. AGRICULTURAL AND HOMEOWNER EDUCATION.

THE DEPARTMENT, THROUGH GUIDELINES ESTABLISHED IN
CONSULTATION WITH THE PENNSYLVANIA STATE UNIVERSITY AND
REPRESENTATIVES OF THE AGRICULTURAL AND TURF GRASS INDUSTRIES, SHALL UNDERTAKE A PROGRAM OF PUBLIC OUTREACH TO EDUCATE THE PUBLIC ON PROPER USE, APPLICATION, HANDLING AND STORAGE OF FERTILIZERS.

SUBCHAPTER G
ADMINISTRATION AND PENALTIES

SEC.
6871. PUBLICATIONS.
6872. RULES AND REGULATIONS.
6873. SHORT WEIGHT.
6874. REFUSAL, SUSPENSION OR REVOCATION OF REGISTRATION, LICENSE OR CERTIFICATION.
6875. STOP-SALE ORDERS.
6876. SEIZURE AND CONDEMNATION.
6877. UNLAWFUL CONDUCT.
6878. INTERFERENCE WITH OFFICER OR EMPLOYEE OF DEPARTMENT.
6879. ENFORCEMENT AND PENALTIES.
6880. APPEAL PROCESS.
6881. CIVIL REMEDY.
6882. COOPERATION WITH OTHER ENTITIES.
6883. EXCHANGES BETWEEN MANUFACTURERS.
6884. CONFIDENTIALITY.
6885. FEES, FINES AND CIVIL PENALTIES.
6886. DISPOSITION OF FUNDS.
6887. EXCLUSION OF LOCAL LAWS AND REGULATIONS.

§ 6871. PUBLICATIONS.

THE DEPARTMENT MAY PUBLISH ON AN ANNUAL BASIS, AND IN A FORM AS IT DEEMS PROPER, INFORMATION CONCERNING THE DISTRIBUTION OF FERTILIZERS FOR BOTH AGRICULTURAL AND NONAGRICULTURAL USES AND RESULTS OF ANALYSES BASED ON OFFICIAL SAMPLES OF FERTILIZER.
DISTRIBUTED WITHIN THIS COMMONWEALTH AS COMPARED WITH ANALYSES
GUARANTEED UNDER SECTIONS 6812 (RELATING TO REGISTRATION OF
SPECIALTY FERTILIZERS) AND 6814 (RELATING TO LABELS AND
LABELING).

§ 6872. RULES AND REGULATIONS.

THE DEPARTMENT MAY, WHERE NECESSARY, PROMULGATE AND ENFORCE
RULES AND REGULATIONS NECESSARY FOR ADMINISTRATION AND
IMPLEMENTATION OF THIS CHAPTER.

§ 6873. SHORT WEIGHT.

IF A FERTILIZER IN THE POSSESSION OF A CONSUMER IS FOUND BY
THE DEPARTMENT TO BE SHORT IN WEIGHT, THE GUARANTOR OF THAT
FERTILIZER SHALL, WITHIN 30 DAYS AFTER OFFICIAL NOTICE FROM THE
DEPARTMENT, SUBMIT TO THE CONSUMER A PENALTY PAYMENT OF TWO
TIMES THE VALUE OF THE ACTUAL SHORTAGE.

§ 6874. REFUSAL, SUSPENSION OR REVOCATION OF REGISTRATION,
LICENSE OR CERTIFICATION.

(A) AUTHORITY OF DEPARTMENT.--THE DEPARTMENT MAY REFUSE,
SUSPEND OR REVOKE:

(1) THE REGISTRATION OF A FERTILIZER;

(2) THE LICENSE OR CERTIFICATION OF A PERSON IF THE
PERSON IS A REGISTRANT, LICENSEE OR CERTIFICATE HOLDER AND
HAS NOT COMPLIED WITH THE PROVISIONS OF THIS CHAPTER, A
REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED
UNDER THE AUTHORITY OF THIS CHAPTER; OR

(3) THE LICENSE OR CERTIFICATION OF A PERSON IF THE
PERSON HAS USED FRAUDULENT OR DECEPTIVE PRACTICES IN THE
EVASION OR ATTEMPTED EVASION OF THE PROVISIONS OF THIS
CHAPTER.

(B) HEARING.--THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY
FOR A HEARING, AS SPECIFIED IN SECTION 6880 (RELATING TO APPEAL
§ 6875. STOP-SALE ORDERS.

(A) GENERAL RULE.--THE DEPARTMENT MAY ISSUE AND ENFORCE A WRITTEN OR PRINTED STOP-SALE, USE OR REMOVAL ORDER TO THE OWNER OR CUSTODIAN OF A LOT OF FERTILIZER BEING OFFERED OR EXPOSED FOR SALE IN VIOLATION OF A PROVISION OF THIS CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED UNDER THE AUTHORITY OF THIS CHAPTER. FERTILIZER PLACED UNDER THE ORDER SHALL BE HELD AT A DESIGNATED PLACE APPROVED BY THE DEPARTMENT AND NOT MOVED IN ANY WAY WITHOUT WRITTEN APPROVAL BY THE DEPARTMENT. THE ORDER SHALL REMAIN IN EFFECT UNTIL THE LAW HAS BEEN COMPLIED WITH AND THE FERTILIZER IS RELEASED IN WRITING BY THE DEPARTMENT OR THE FERTILIZER IN VIOLATION HAS BEEN DISPOSED OF IN A MANNER AUTHORIZED BY THE DEPARTMENT. THE AUTHORIZATION SHALL BE SPECIFIED IN WRITING.

(B) RELEASE BY DEPARTMENT.--THE DEPARTMENT SHALL RELEASE THE FERTILIZER HELD UNDER A STOP-SALE ORDER WHEN THE REQUIREMENTS OF THIS CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED UNDER THE AUTHORITY OF THIS CHAPTER HAVE BEEN COMPLIED WITH AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION WITH THE ORDER HAVE BEEN PAID BY THE PERSON RESPONSIBLE FOR THE VIOLATION.

§ 6876. SEIZURE AND CONDEMNATION.

FERTILIZER NOT IN COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED UNDER THE AUTHORITY OF THIS CHAPTER SHALL BE SUBJECT TO SEIZURE AND CONDEMNATION BY THE DEPARTMENT, PROVIDED THAT IN NO INSTANCE SHALL THE DISPOSITION OF THE FERTILIZER BE ORDERED BY THE DEPARTMENT WITHOUT FIRST GIVING THE CLAIMANT AN OPPORTUNITY TO A PERSON APPEALING AN ACTION OF THE DEPARTMENT UNDER THIS SECTION.
FOR A HEARING AS PROVIDED FOR IN SECTION 6880 (RELATING TO APPEAL PROCESS) OR FOR OPPORTUNITY TO APPLY FOR PERMISSION TO PROCESS OR RELABEL THE FERTILIZER TO BRING IT INTO COMPLIANCE WITH THIS CHAPTER.

§ 6877. UNLAWFUL CONDUCT.

IT SHALL BE UNLAWFUL FOR ANY PERSON TO FAIL TO COMPLY WITH OR CAUSE TO ASSIST IN THE VIOLATION OF THIS CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED UNDER THE AUTHORITY OF THIS CHAPTER.

§ 6878. INTERFERENCE WITH OFFICER OR EMPLOYEE OF DEPARTMENT.

A PERSON WHO WILLFULLY OR INTENTIONALLY INTERFERES WITH AN EMPLOYEE OR OFFICER OF THE DEPARTMENT IN THE PERFORMANCE OF THAT EMPLOYEE'S OR OFFICER'S DUTIES OR ACTIVITIES AUTHORIZED UNDER THIS CHAPTER COMMITS A MISDEMEANOR OF THE THIRD DEGREE AND SHALL, UPON CONVICTION, BE SUBJECT TO A TERM OF IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR A FINE OF NOT MORE THAN $2,500, OR BOTH.

§ 6879. ENFORCEMENT AND PENALTIES.

(A) CRIMINAL PENALTIES.--UNLESS OTHERWISE SPECIFIED, ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED UNDER THE AUTHORITY OF THIS CHAPTER:

(1) FOR THE FIRST OFFENSE, COMMITS A SUMMARY OFFENSE AND MAY, UPON CONVICTION, BE SENTENCED FOR EACH OFFENSE TO PAY A FINE OF NOT LESS THAN $50 NOR MORE THAN $100 AND COSTS OF PROSECUTION OR TO IMPRISONMENT FOR A TERM WHICH SHALL BE FIXED AT NOT MORE THAN 90 DAYS, OR BOTH.

(2) FOR A SUBSEQUENT OFFENSE COMMITTED WITHIN THREE YEARS OF A PRIOR CONVICTION FOR A VIOLATION OF THIS CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER
ISSUED UNDER THE AUTHORITY OF THIS CHAPTER COMMITS A
MISDEMEANOR OF THE SECOND DEGREE AND SHALL, UPON CONVICTION,
BE SENTENCED TO PAY A FINE OF NOT LESS THAN $500 NOR MORE
THAN $1,000 AND COSTS OF PROSECUTION OR TO IMPRISONMENT FOR
NOT MORE THAN TWO YEARS, OR BOTH.

(B) CIVIL PENALTIES.--

(1) IN ADDITION TO ANOTHER REMEDY AVAILABLE AT LAW OR IN
EQUITY FOR A VIOLATION OF THIS CHAPTER, THE DEPARTMENT MAY
ASSESS A CIVIL PENALTY OF NOT MORE THAN $2,500 UPON ANY
PERSON FOR EACH VIOLATION OF THIS CHAPTER. THE CIVIL PENALTY
ASSESSED SHALL BE PAYABLE TO THE DEPARTMENT AND SHALL BE
COLLECTIBLE IN ANY MANNER PROVIDED BY LAW FOR THE COLLECTION
OF DEBT.

(2) NO CIVIL PENALTY SHALL BE ASSESSED UNLESS THE PERSON
ASSESSED THE PENALTY HAS BEEN GIVEN NOTICE AND AN OPPORTUNITY
FOR A HEARING ON THE ASSESSMENT IN ACCORDANCE WITH THE
PROVISIONS OF 2 PA.C.S. CHS. 5 SUBCH. A (RELATING TO PRACTICE
AND PROCEDURE OF COMMONWEALTH AGENCIES) AND 7 SUBCH. A
(RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).

(C) TRADE SECRETS.--

(1) A PERSON WHO USES TO THE PERSON'S OWN ADVANTAGE OR
REVEALS TO ANYONE OTHER THAN THE DEPARTMENT, ADMINISTRATIVE
TRIBUNAL OR THE COURTS WHEN RELEVANT IN A JUDICIAL PROCEEDING
INFORMATION ACQUIRED UNDER THE AUTHORITY OF THIS CHAPTER
CONCERNING ANY METHOD, RECORDS, FORMULATIONS OR PROCESSES
WHICH AS A TRADE SECRET IS ENTITLED TO PROTECTION UNDER THE
LAW COMMITS A MISDEMEANOR OF THE THIRD DEGREE AND SHALL, UPON
CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS THAN $500.

(2) THIS SUBSECTION SHALL NOT BE CONSTRUED TO PROHIBIT
THE DEPARTMENT FROM EXCHANGING INFORMATION OF A REGULATORY
NATURE WITH GOVERNMENTAL AGENCIES OF THE FEDERAL GOVERNMENT, AGENCIES OF THIS COMMONWEALTH OR ANY OTHER STATE.

(D) CERTIFIED COPY OF OFFICIAL ANALYSIS.--IN A PROSECUTION UNDER THIS CHAPTER INVOLVING THE COMPOSITION OF A LOT OF FERTILIZER, A CERTIFIED COPY OF THE OFFICIAL ANALYSIS SIGNED BY THE DEPARTMENT SHALL BE ACCEPTED AS PRIMA FACIE EVIDENCE OF THE COMPOSITION.

(E) DE MINIMIS VIOLATIONS.--NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS REQUIRING THE DEPARTMENT TO REPORT A VIOLATION AND TO INSTITUTE SEIZURE PROCEEDINGS AS A RESULT OF DE MINIMIS VIOLATIONS OF THIS CHAPTER WHEN THE DEPARTMENT CONCLUDES THAT THE PUBLIC INTEREST WILL BE BEST SERVED BY A SUITABLE NOTICE OF WARNING IN WRITING.

(F) DISTRICT ATTORNEY.--IT IS THE DUTY OF EACH DISTRICT ATTORNEY TO WHOM A CRIMINAL VIOLATION OF THIS CHAPTER IS REPORTED TO CAUSE APPROPRIATE PROCEEDINGS TO BE INSTITUTED AND PROSECUTED IN A COURT OF COMPETENT JURISDICTION WITHOUT DELAY.

§ 6880. APPEAL PROCESS.

ALL APPEALS SHALL BE TAKEN AND HEARINGS CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF 2 PA.C.S. CHS. 5 SUBCH. A (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES) AND 7 SUBCH. A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION). A PERSON SHALL HAVE 15 DAYS TO APPEAL AN ENFORCEMENT ACTION OF THE DEPARTMENT.

§ 6881. CIVIL REMEDY.

(A) OFFICE OF ATTORNEY GENERAL.--IN ADDITION TO OTHER REMEDIES PROVIDED FOR IN THIS CHAPTER, THE OFFICE OF ATTORNEY GENERAL, AT THE REQUEST OF THE DEPARTMENT, MAY INITIATE IN COMMONWEALTH COURT OR THE COURT OF COMMON PLEAS OF THE COUNTY IN WHICH THE DEFENDANT RESIDES OR HAS A PLACE OF BUSINESS AN ACTION
IN EQUITY FOR AN INJUNCTION TO RESTRAIN A VIOLATION OF THIS
CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER
ISSUED UNDER THE AUTHORITY OF THIS CHAPTER FROM WHICH NO TIMELY
APPEAL HAS BEEN TAKEN OR WHICH HAS BEEN SUSTAINED ON APPEAL.

(B) PRELIMINARY INJUNCTIONS.--IN A PROCEEDING UNDER
SUBSECTION (A), THE COURT SHALL, UPON MOTION OF THE
COMMONWEALTH, ISSUE A PRELIMINARY INJUNCTION IF THE COURT FINDS
THAT THE DEFENDANT IS ENGAGING IN CONDUCT THAT CAUSES IMMEDIATE
OR IRREPARABLE HARM TO THE PUBLIC OR HAS ENGAGED IN OTHER
CONDUCT WHICH THE COURT HAS DEVELOPED THROUGH CASE LAW.

(C) BONDS NOT REQUIRED.--THE COMMONWEALTH MAY NOT BE
REQUIRED TO FURNISH BOND OR OTHER SECURITY IN CONNECTION WITH
PROCEEDINGS UNDER THIS SECTION.

(D) CIVIL PENALTIES.--IN ADDITION TO AN INJUNCTION, THE
COURT MAY LEVY CIVIL PENALTIES AS PROVIDED BY THIS CHAPTER.
§ 6882.  COOPERATION WITH OTHER ENTITIES.
THE DEPARTMENT MAY COOPERATE WITH AND ENTER INTO AGREEMENT
WITH GOVERNMENTAL AGENCIES OF THE FEDERAL GOVERNMENT, AGENCIES
OF THIS COMMONWEALTH OR ANOTHER STATE TO CARRY OUT THE PURPOSE
AND PROVISIONS OF THIS CHAPTER.

§ 6883.  EXCHANGES BETWEEN MANUFACTURERS.
NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS RESTRICTING OR
AVOIDING SALES OR EXCHANGES OF FERTILIZERS TO EACH OTHER BY
IMPORTERS, MANUFACTURERS OR MANIPULATORS WHO MIX FERTILIZER
MATERIALS FOR SALE OR AS PREVENTING THE FREE AND UNRESTRICTED
SHIPMENTS OF FERTILIZER TO MANUFACTURERS OR MANIPULATORS WHO ARE
IN COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER.

§ 6884.  CONFIDENTIALITY.
ALL PROPRIETARY BUSINESS INFORMATION CONTAINED IN RECORDS,
DATA, FORMULATIONS AND OTHER INFORMATION FILED WITH OR COLLECTED
BY THE DEPARTMENT RELATING TO INSPECTIONS, TONNAGE REPORTS AND
TRADE SECRETS, SUCH AS PRODUCT FORMULATION, CUSTOMER LISTS OR
PRODUCTION METHODS, SHALL BE EXEMPT FROM ACT OF FEBRUARY 14,
2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW, OR ITS
SUCCESSOR STATUTE, AND SUBJECT TO INSPECTION ONLY UPON THE ORDER
OF A COURT OF COMPETENT JURISDICTION.

§ 6885. FEES, FINES AND CIVIL PENALTIES.
(A) INSUFFICIENT REVENUES.--IF THE REVENUES RAISED BY FEES,
FINES AND CIVIL PENALTIES IMPOSED UNDER THIS CHAPTER ARE NOT
SUFFICIENT TO MEET EXPENDITURES FOR THE ADMINISTRATION AND
ENFORCEMENT OF THIS CHAPTER OVER A TWO-YEAR PERIOD, THE
DEPARTMENT MAY INCREASE THOSE FEES SO THAT THE PROJECT REVENUES
WILL MEET OR EXCEED PROJECTED EXPENDITURES.
(B) NOTICE AND EFFECTIVE DATE.--THE DEPARTMENT SHALL
ANNOUNCE THE ADJUSTMENT OF FEES, FINES AND PENALTIES BY
PUBLISHING A NOTICE IN THE PENNSYLVANIA BULLETIN. PRIOR TO THE
ADJUSTED FEES, FINES AND PENALTIES BECOMING EFFECTIVE, THE
DEPARTMENT SHALL HOLD A PUBLIC MEETING TO RECEIVE INPUT FROM THE
REGULATED COMMUNITY. SUBSEQUENT TO THE PUBLIC MEETING, THE
DEPARTMENT SHALL REPUBLISH THE ADJUSTED FEES, FINES AND
PENALTIES IN THE PENNSYLVANIA BULLETIN. THE ADJUSTED FEES SHALL
TAKE EFFECT 60 DAYS AFTER PUBLICATION OF THE SUBSEQUENT NOTICE
IN THE PENNSYLVANIA BULLETIN.

§ 6886. DISPOSITION OF FUNDS.
MONEY RECEIVED FROM LICENSE FEES, REGISTRATION FEES,
APPLICATOR CERTIFICATION, INSPECTION FEES, FINES AND PENALTIES
SHALL BE PAID INTO A SPECIAL RESTRICTED ACCOUNT IN THE GENERAL
FUND KNOWN AS THE AGRONOMIC REGULATORY ACCOUNT. ALL MONEY IN THE
AGRONOMIC REGULATORY ACCOUNT IS APPROPRIATED TO THE DEPARTMENT
FOR THE PURPOSES OF THIS CHAPTER AND CHAPTERS 69 (RELATING TO
§ 6887. EXCLUSION OF LOCAL LAWS AND REGULATIONS.

(A) EFFECT OF CHAPTER.--THE PROVISIONS OF THIS CHAPTER ARE OF STATEWIDE CONCERN AND OCCUPY THE WHOLE FIELD OF REGULATION REGARDING THE REGISTRATION, PACKAGING, LABELING, SALE, TRANSPORTATION, DISTRIBUTION, USE AND APPLICATION OF FERTILIZERS AND CERTIFICATION OF FERTILIZER APPLICATORS TO THE EXCLUSION OF ALL LOCAL REGULATIONS.

(B) ENFORCEMENT.--NO ORDINANCE OR REGULATION OF A LOCAL AGENCY, POLITICAL SUBDIVISION OR HOME RULE MUNICIPALITY MAY PROHIBIT OR IN ANY WAY ATTEMPT TO REGULATE A MATTER RELATING TO THE REGISTRATION, PACKAGING, LABELING, SALE, TRANSPORTATION, DISTRIBUTION, USE OR APPLICATION OF FERTILIZERS, IF THE ORDINANCE OR REGULATION IS IN CONFLICT WITH THIS CHAPTER.

(C) STRICTER REQUIREMENTS.--NOTHING IN THIS CHAPTER SHALL PREVENT A POLITICAL SUBDIVISION OR HOME RULE MUNICIPALITY FROM ADOPTING AND ENFORCING AN ORDINANCE OR A REGULATION WHICH IS CONSISTENT WITH AND NO MORE STRINGENT THAN THE REQUIREMENTS OF THIS CHAPTER AND THE REGULATIONS OR GUIDELINES PROMULGATED UNDER THIS CHAPTER. NO PENALTY SHALL BE ASSESSED UNDER THE LOCAL ORDINANCE OR REGULATION UNDER THIS SUBSECTION FOR A VIOLATION FOR WHICH A PENALTY HAS BEEN ASSESSED UNDER THIS CHAPTER.

SECTION 4. SECTIONS 6921 AND 7122 OF TITLE 3 ARE AMENDED TO READ:

§ 6921. DISPOSITION OF FUNDS.

MONEYS RECEIVED FROM LICENSE FEES, REGISTRATION FEES, INSPECTION FEES, FINES AND PENALTIES SHALL BE PAID INTO THE AGRONOMIC REGULATORY ACCOUNT ESTABLISHED IN SECTION [6725] 6886 (RELATING TO DISPOSITION OF FUNDS). ALL MONEYS IN THE AGRONOMIC REGULATORY ACCOUNT ARE HEREBY APPROPRIATED TO THE DEPARTMENT FOR
§ 7122. DISPOSITION OF FUNDS.
MONEYS RECEIVED FROM LICENSE FEES, SEED TESTING FEES, CERTIFICATION FEES, FINES AND PENALTIES SHALL BE PAID INTO THE AGRONOMIC REGULATORY ACCOUNT ESTABLISHED IN SECTION [6725] 6886 (RELATING TO DISPOSITION OF FUNDS). ALL MONEYS IN THE AGRONOMIC REGULATORY ACCOUNT ARE HEREBY APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSES OF CHAPTERS [67] 68 (RELATING TO FERTILIZER) AND 69 (RELATING TO SOIL AND PLANT AMENDMENT) AND THIS CHAPTER.

SECTION 5. THE SUM OF $100,000 IS HEREBY APPROPRIATED TO THE DEPARTMENT TO BE DEPOSITED IN THE AGRONOMIC REGULATORY ACCOUNT, FOR USE BY THE DEPARTMENT OF AGRICULTURE TO DEVELOP THE CERTIFICATION AND RECERTIFICATION COURSES REQUIRED UNDER 3 PA.C.S. §§ 6832 AND 6833 AND ANY COMPUTER PROGRAMMING OR SOFTWARE NECESSARY FOR ADMINISTRATION AND ENFORCEMENT OF 3 PA.C.S. CH. 68.

SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:
(1) THE ADDITION OF 3 PA.C.S. § 6814 SHALL TAKE EFFECT IN 18 MONTHS.
(2) THE ADDITION OF 3 PA.C.S. § 6832(A), (B), (D), (E), (F), (G) AND (H) SHALL TAKE EFFECT UPON THE DEVELOPMENT OF THE CERTIFICATION COURSES SPECIFIED UNDER 3 PA.C.S. § 6832(C).
(3) THE ADDITION OF 3 PA.C.S. § 6833(B), (C), (D), (E), (F), (G), (H), (I), (J), (K) AND (L) SHALL TAKE EFFECT UPON THE DEVELOPMENT OF THE RECERTIFICATION COURSES SPECIFIED UNDER 3 PA.C.S. § 6833(A).
(4) THIS SECTION AND THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.