

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 792 Session of 2017

INTRODUCED BY ALLOWAY, BLAKE AND RAFFERTY, JUNE 22, 2017

AS AMENDED ON THIRD CONSIDERATION, MARCH 19, 2018

AN ACT

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

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

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10 Pennsylvania Consolidated Statutes is repealed:

11 [CHAPTER 67
12 FERTILIZER]

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 Chapter 67 of Title 3 is repealed:

14 [§ 6701. Short title of chapter.

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

17 § 6702. Definitions.

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

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

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

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

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

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

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

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

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

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

28 "Fertilizer material." A fertilizer which:  
29 (1) contains only one of the following primary plant  
30 nutrients: nitrogen, phosphate or potash;

1 (2) has 85% or more of its plant nutrient content  
2 present in the form of a single chemical compound; or  
3 (3) is derived from a plant or animal residue, by-  
4 product, coproduct as defined in regulation or natural  
5 material deposit which has been processed in such a way that  
6 its content of plant nutrients has not been materially  
7 changed except by purification and concentration.

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

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

16 Total nitrogen (N)	%
17 Available phosphate (P2O5)	%
18 Soluble potash (K2O)	%

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

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

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

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

1 of fertilizer.

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

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

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

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

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

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

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

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

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

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

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

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

28 § 6703. Licensing.

29 (a) General rule.--Every person engaged in the manufacture  
30 of fertilizer to be distributed in this Commonwealth and every

1 guarantor of fertilizer shall, on or before July 1 of each year  
2 or prior to manufacture or distribution, apply for and obtain an  
3 annual license for each guarantor and each facility located in  
4 this Commonwealth. The application for licensure must be on the  
5 form prescribed by the department and shall be accompanied by a  
6 \$25 application fee. All licenses shall expire on June 30 of  
7 each year.

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

14 § 6704. Registration of specialty fertilizers.

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

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

- 28 (1) The brand and grade.
- 29 (2) The guaranteed analysis.
- 30 (3) The name and address of the guarantor.

1 (4) The net weight.

2 (c) Exemption.--A distributor shall not be required to  
3 register a specialty fertilizer which is already registered  
4 under this chapter by another person, providing the label does  
5 not differ in any material respect.

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

16 § 6705. Labels and labeling.

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

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

23 (2) The guaranteed analysis.

24 (3) The name and address of the guarantor.

25 (4) The net weight.

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

30 (c) Other guarantees.--Guarantees for other nutrients shall

1 be expressed in the form of the element. The department may  
2 require by regulation that the source of such other nutrients be  
3 stated on the application for registration and may be required  
4 on the label. The department may require by regulation that  
5 other beneficial substances or compounds be guaranteed. When any  
6 plant nutrients or other substances or compounds are guaranteed,  
7 they shall be subject to inspection and analysis in accordance  
8 with the methods and regulations prescribed by the department.

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

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

18 (1) The net weight.

19 (2) The guaranteed analysis.

20 (3) The name and address of the guarantor.

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

25 § 6706. Inspection fees.

26 (a) Amounts.--

27 (1) The guarantor whose name appears on the label of a  
28 fertilizer distributed in this Commonwealth shall pay  
29 semiannually and not later than January 31 and July 31 of  
30 each year an inspection fee at the rate of 15¢ per ton. In no

1 case shall the inspection fee paid semiannually amount to  
2 less than \$25.

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

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

14 (b) Adjustment to fees by secretary.--

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

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

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

29 § 6707. Tonnage reports.

30 (a) General rule.--The guarantor whose name appears on the



1 label shall submit, along with the requisite inspection fee, a  
2 report in a manner prescribed by the department listing by  
3 county the net tons of each brand and grade of fertilizer  
4 distributed in this Commonwealth for the period covered by the  
5 inspection fee.

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

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

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

21 (e) Confidentiality of information.--

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

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

29 § 6708. Inspection, sampling and analysis.

30 (a) General rule.--The department shall inspect, sample,

1 make analyses of and test fertilizers distributed within this  
2 Commonwealth and shall inspect the storage of bulk fertilizer at  
3 any time and place and to such an extent as the department may  
4 deem necessary to determine whether such fertilizers are in  
5 compliance with the provisions of this chapter. The department  
6 or its agent may enter upon any public or private premises or  
7 carriers during regular business hours in order to have access  
8 to fertilizer subject to provisions of this chapter and the  
9 records relating to this chapter.

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

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

26 (d) Retention of official samples.--Official samples  
27 maintained by the department and that require imposition of a  
28 penalty for nutrient deficiency shall be retained for a minimum  
29 of 90 days from issuance of a deficiency report. Upon request,  
30 the department shall furnish to the guarantor a portion of any

1 sample that is subject to penalty or other legal action. Such  
2 requests must be made within 30 days of notification of sample  
3 violations.

4 § 6709. Plant food deficiency.

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

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

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

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

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

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

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

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

7 § 6710. Commercial value.

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

15 § 6711. Misbranding.

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

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

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

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

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

30 § 6712. Adulteration.

1 (a) General rule.--No person shall distribute an adulterated  
2 fertilizer product. A fertilizer shall be deemed to be  
3 adulterated if:

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

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

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

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

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

20 § 6713. Publications.

21 The department shall publish at least annually and in such  
22 form as it deems proper such information concerning the  
23 distribution of fertilizers and results of analyses based on  
24 official samples of fertilizer distributed within this  
25 Commonwealth as compared with analyses guaranteed under sections  
26 6704 (relating to registration of specialty fertilizers) and  
27 6705 (relating to labels and labeling).

28 § 6714. Short weight.

29 If any fertilizer in the possession of a consumer is found by  
30 the department to be short in weight, the guarantor of that

1 fertilizer shall, within 30 days after official notice from the  
2 department, submit to the consumer a penalty payment of two  
3 times the value of the actual shortage.

4 § 6715. Refusal, suspension or revocation of registration or  
5 license.

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

12 § 6716. Stop-sale orders.

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

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

27 § 6717. Seizure and condemnation.

28 A lot of fertilizer not in compliance with the provisions of  
29 this chapter shall be subject to seizure and condemnation by the  
30 department, provided that in no instance shall the disposition

1 of the fertilizer be ordered by the department without first  
2 giving the claimant an opportunity for a hearing as provided for  
3 in section 6718 (relating to appeal process) or for opportunity  
4 to apply for permission to process or relabel the fertilizer to  
5 bring it into compliance with this chapter.

6 § 6718. Appeal process.

7 All appeals shall be taken and hearings conducted in  
8 accordance with the provisions of 2 Pa.C.S. Chs. 5 Subch. A  
9 (relating to practice and procedure of Commonwealth agencies)  
10 and 7 Subch. A (relating to judicial review of Commonwealth  
11 agency action).

12 § 6719. Cooperation with other entities.

13 The department may cooperate with and enter into agreement  
14 with governmental agencies of the Federal Government, agencies  
15 of this Commonwealth and any other state in order to carry out  
16 the purpose and provisions of this chapter.

17 § 6720. Rules and regulations.

18 The department shall promulgate and enforce rules and  
19 regulations necessary for administration and implementation of  
20 this chapter.

21 § 6721. Unlawful conduct.

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

26 § 6722. Interference with officer or employee of department.

27 A person who willfully or intentionally interferes with an  
28 employee or officer of the department in the performance of that  
29 employee's or officer's duties or activities authorized under  
30 this chapter commits a misdemeanor of the third degree and

1 shall, upon conviction, be subject to a term of imprisonment of  
2 not more than one year or a fine of not more than \$2,500, or  
3 both.

4 § 6723. Enforcement and penalties.

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

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

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

21 (b) Trade secrets.--

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



1 than one year, or both.

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

7 (c) Civil penalties.--

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

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

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

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

1 warning in writing.

2 § 6724. Exchanges between manufacturers.

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

9 § 6725. Disposition of funds.

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

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

18 CHAPTER 67A <--

19 FERTILIZER

20 Subchapter

21 A. General Provisions

22 B. Fertilizer Manufacturers and Guarantors

23 C. Applicator Licensing and Certification

24 D. Recordkeeping for Applicators and Airports

25 E. Application Rates, Requirements and Prohibitions

26 F. Agricultural and Homeowner Education Program

27 G. Administrative and Penalty Provisions

28 SUBCHAPTER A

29 GENERAL PROVISIONS

30 Sec.

1 ~~67A01. Short title.~~

2 ~~67A02. Definitions.~~

3 ~~§ 67A01. Short title.~~

4 ~~This chapter shall be known and may be cited as the~~

5 ~~Fertilizer Act.~~

6 ~~§ 67A02. Definitions.~~

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

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

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

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

23 ~~"Bulk fertilizer." A fertilizer distributed in a nonpackaged~~  
24 ~~form.~~

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

30 ~~"Certified applicator." Any person who is certified under~~

1 ~~section 67A23 (relating to certification of applicators) as~~  
2 ~~competent to use or supervise the use of fertilizer or train~~  
3 ~~fertilizer technicians on the proper application of fertilizer.~~

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

8 ~~(1) A golf course.~~

9 ~~(2) A public or private park.~~

10 ~~(3) A public, nonpublic or licensed private elementary~~  
11 ~~or secondary school wherein a resident of this Commonwealth~~  
12 ~~may fulfill the compulsory school attendance requirements and~~  
13 ~~which meets the applicable requirements of Title IV of the~~  
14 ~~Civil Rights Act of 1964 (Public Law 88 352, 78 Stat. 241),~~  
15 ~~or its successor statute. This term does not include the~~  
16 ~~residence of a home schooled student.~~

17 ~~(4) a public or private college or university that~~  
18 ~~applies fertilizer to the campus grounds.~~

19 ~~(5) a public playground or an athletic field.~~

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

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

24 ~~(1) Field crops, including corn, wheat, oats, rye,~~  
25 ~~barley, hay, potatoes and dry beans.~~

26 ~~(2) Fruits, including apples, peaches, grapes, cherries~~  
27 ~~and berries.~~

28 ~~(3) Vegetables, including tomatoes, snap beans, cabbage,~~  
29 ~~carrots, beets, onions and mushrooms.~~

30 ~~(4) Horticultural specialties, including nursery stock~~

1 ~~ornamental shrubs, ornamental trees and flowers.~~

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

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

7 ~~(7) Aquatic plants and animals and their products.~~

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

11 ~~"Department." The Department of Agriculture of the~~  
12 ~~Commonwealth.~~

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

15 ~~"Distributor." A person who distributes fertilizer or~~  
16 ~~fertilizer material.~~

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

22 ~~"Facility." Each separate mill or plant that manufactures~~  
23 ~~fertilizer.~~

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

1 ~~department's regulations.~~

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

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

11 ~~"Fertilizer license." A licensed obtained under section~~  
12 ~~67A11 (relating to licensing).~~

13 ~~"Fertilizer material." A fertilizer which:~~

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

16 ~~(i) nitrogen;~~

17 ~~(ii) phosphate; or~~

18 ~~(iii) potash;~~

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

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

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

30 ~~"Fertilizer use category." The end use of the fertilizer,~~

1 ~~such as agricultural, nonagricultural or unknown.~~

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

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

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

17	<del>Total nitrogen (N)</del>	<del>⊗</del>
18	<del>Available phosphate (P<sub>2</sub>O<sub>5</sub>)</del>	<del>⊗</del>
19	<del>Soluble potash (K<sub>2</sub>O)</del>	<del>⊗</del>

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

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

27 ~~"Impervious surface." A structure, surface or improvement,~~  
28 ~~including, but not limited to, a roadway, sidewalk, parking lot,~~  
29 ~~driveway or patio constructed out of plastic, concrete, asphalt~~  
30 ~~or other material that reduces or prevents infiltration of water~~

1 ~~into the soil.~~

2 ~~"Intermittent stream." A body of water flowing in a channel~~  
3 ~~or bed composed primarily of substrates associated with flowing~~  
4 ~~water which, during periods of the year, is below the water~~  
5 ~~table and obtains its flow from both surface runoff and~~  
6 ~~groundwater discharges.~~

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

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

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

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

18 ~~"Micronutrient." Any of the following:~~

19 ~~(1) boron;~~

20 ~~(2) chlorine;~~

21 ~~(3) cobalt;~~

22 ~~(4) copper;~~

23 ~~(5) iron;~~

24 ~~(6) nickel;~~

25 ~~(7) manganese;~~

26 ~~(8) molybdenum;~~

27 ~~(9) sodium; or~~

28 ~~(10) zinc.~~

29 ~~"Mixed fertilizer." A fertilizer containing any combination~~  
30 ~~or mixture of fertilizer materials.~~



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

12 ~~"Net weight." The total weight of fertilizer as offered for~~  
13 ~~sale, excluding the weight of the container.~~

14 ~~"Official sample." A sample of fertilizer collected or~~  
15 ~~obtained by the department to effectuate the provisions of this~~  
16 ~~chapter and designated as official.~~

17 ~~"Organic base fertilizer." A mixed fertilizer where:~~

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

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

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

25 ~~"Park." Privately or publicly owned outdoor real estate~~  
26 ~~which includes a public recreational area, including an area~~  
27 ~~with restricted access.~~

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

29 ~~"Perennial stream." A body of water flowing in a channel or~~  
30 ~~bed composed primarily of substrates associated with flowing~~

~~1 waters and capable, in the absence of pollution or other manmade~~  
~~2 stream disturbances, of supporting bottom dwelling aquatic~~  
~~3 animals.~~

~~4 "Person." An individual, partnership, association, firm,~~  
~~5 corporation or any other legal entity.~~

~~6 "Plant nutrient." Any of the following:~~

- ~~7 (1) primary nutrient;~~
- ~~8 (2) secondary nutrient; or~~
- ~~9 (3) micro nutrient.~~

~~10 "Primary nutrient." Any of the following:~~

- ~~11 (1) nitrogen;~~
- ~~12 (2) phosphorus; or~~
- ~~13 (3) potassium.~~

~~14 "Public applicator." A person employed by a governmental or~~  
~~15 public entity who applies or supervises the application of~~  
~~16 fertilizer as part of the applicator's employment duties.~~

~~17 "Readily available nitrogen." Water soluble nitrogen in~~  
~~18 either ammoniacal, urea or nitrate form that does not have~~  
~~19 enhanced efficiency properties.~~

~~20 "Registrant." A person who registers fertilizer under this~~  
~~21 chapter.~~

~~22 "Repackage." The placement of fertilizer into a container or~~  
~~23 bulk bin other than what is supplied by the guarantor.~~

~~24 "Secondary nutrient." Any of the following:~~

- ~~25 (1) calcium;~~
- ~~26 (2) magnesium; or~~
- ~~27 (3) sulfur.~~

~~28 "Soil test." A chemical, physical or biological procedure~~  
~~29 that estimates the suitability of the soil to support plant~~  
~~30 growth.~~

1 ~~"Specialty fertilizer." A fertilizer distributed for nonfarm~~  
2 ~~use or a fertilizer primarily intended to supply plant nutrients~~  
3 ~~other than nitrogen, phosphate or potash.~~

4 ~~"Stream buffer zone." A permanent strip of dense perennial~~  
5 ~~vegetation established parallel and immediately adjacent to the~~  
6 ~~bank of a pond, wetland or flowing body of water that is used to~~  
7 ~~slow water runoff, enhancing water infiltration and minimizing~~  
8 ~~the risk of any potential nutrients reaching the waters.~~

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

11 ~~"Ton." A net weight of 2,000 pounds.~~

12 ~~"Turf." Land, including, but not limited to, residential~~  
13 ~~property, golf courses and privately or publicly owned land,~~  
14 ~~that is planted in closely mowed, managed grass, except for land~~  
15 ~~used for agricultural production.~~

16 SUBCHAPTER B

17 FERTILIZER MANUFACTURERS AND GUARANTORS

18 Sec.

19 67A11. Licensing.

20 67A12. Registration of specialty fertilizers.

21 67A13. Labels and labeling.

22 67A14. Fertilizer sold to consumers.

23 67A15. Inspection fees.

24 67A16. Tonnage reports.

25 67A17. Inspection, sampling and analysis.

26 67A18. Plant food deficiency.

27 67A19. Commercial value.

28 67A20. Misbranding.

29 67A21. Adulteration.

30 § 67A11. Licensing.

1 ~~(a) General rule. Every person engaged in the manufacture~~  
2 ~~of fertilizer to be distributed in this Commonwealth and each~~  
3 ~~guarantor of the fertilizer shall, on or before July 1 of each~~  
4 ~~year or prior to manufacture or distribution of the fertilizer,~~  
5 ~~obtain a fertilizer license for each manufacturing facility~~  
6 ~~located in this Commonwealth and for each guarantor by~~  
7 ~~completing a form furnished by the department and paying a \$50~~  
8 ~~application fee, or the fee as is later established in the~~  
9 ~~manner set forth under section 67A75 (relating to fees, fines,~~  
10 ~~and civil penalties). All licenses shall expire on June 30 of~~  
11 ~~each year.~~

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

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

30 ~~§ 67A12. Registration of specialty fertilizers.~~

1 ~~(a) Application. Each brand and grade of specialty~~  
2 ~~fertilizer shall be registered by the guarantor with the~~  
3 ~~department before being offered for sale, sold or distributed in~~  
4 ~~this Commonwealth. An application for each brand and grade of~~  
5 ~~specialty fertilizer shall be made on a form furnished by the~~  
6 ~~department and shall be accompanied by a fee of \$100 or the fee~~  
7 ~~later established in the manner set forth under section 67A75~~  
8 ~~(relating to fees, fines and civil penalties), per each grade of~~  
9 ~~each brand. Labels for each brand and grade shall accompany the~~  
10 ~~application. All registrations shall expire on June 30 of each~~  
11 ~~year.~~

12 ~~(b) Contents of application. An application for~~  
13 ~~registration shall include:~~

- 14 ~~(1) The brand and grade.~~  
15 ~~(2) The guaranteed analysis.~~  
16 ~~(3) Name and address of the guarantor.~~  
17 ~~(4) Net weight.~~

18 ~~(c) Exemption. A distributor shall not be required to~~  
19 ~~register:~~

20 ~~(1) A specialty fertilizer which is already registered~~  
21 ~~under this chapter by another person, provided the label does~~  
22 ~~not differ in any material respect.~~

23 ~~(2) A fertilizer formulated according to the~~  
24 ~~specifications which are furnished by the end user and are~~  
25 ~~not further distributed or offered for sale to the general~~  
26 ~~public.~~

27 ~~(d) Late fee. If the application for renewal of the~~  
28 ~~specialty fertilizer registration required under this section is~~  
29 ~~not filed prior to June 30 of each year, a penalty of \$25 or 10%~~  
30 ~~of the total registration fee for all products sought to be~~

~~1 registered, whichever is greater, or any fee as is later  
2 established in the manner set forth under section 67A75, may be  
3 assessed and added to the original fee and shall be paid by the  
4 applicant before the renewal of the specialty fertilizer  
5 registration. The penalty shall not apply if the applicant  
6 furnished an affidavit that the applicant has not distributed  
7 the specialty fertilizer subsequent to the expiration of the  
8 applicant's prior registration.~~

~~9 § 67A13. Labels and labeling.~~

~~10 (a) General rule. The guarantor of any fertilizer  
11 distributed in a container in this Commonwealth shall have  
12 placed on or affixed to the container a label setting forth in a  
13 legible and conspicuous form the following:~~

~~14 (1) The brand and grade of the fertilizer, provided that  
15 the grade shall not be required when no primary nutrients are  
16 claimed.~~

~~17 (2) The guaranteed analysis.~~

~~18 (3) A derived from statement.~~

~~19 (4) Directions for use for fertilizer distributed to the  
20 end user.~~

~~21 (5) The name and address of the guarantor.~~

~~22 (6) The net weight.~~

~~23 (b) Bulk fertilizer. In the case of bulk fertilizer  
24 distribution, the information required by subsection (a) shall  
25 accompany delivery and shall be provided in writing to the  
26 purchaser at time of delivery.~~

~~27 (c) Other guarantees. Guarantees for nutrients other than  
28 primary nutrients shall be expressed in the form of the element.  
29 The department may require by regulation that other beneficial  
30 substances or compounds be guaranteed. When any plant nutrients~~

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

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

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

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

19 ~~(g) Mandatory label. The following shall apply:~~

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

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

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

29 ~~(iii) The application of this product shall only be~~  
30 ~~to the intended application site.~~

1           ~~(iv) Any material that lands on an impervious~~  
2           ~~surface shall be swept back onto the lawn. This statement~~  
3           ~~shall not be required if the product is intended to be~~  
4           ~~applied in a liquid form.~~

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

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

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

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

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

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

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

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

30           ~~(iv) Panel size is between 100 and 400 square~~



~~inches, minimum statement type size one quarter inch.~~

~~(v) Panel size is greater than 400 square inches,  
minimum statement type size one half inch.~~

~~(h) 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.~~

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

~~§ 67A14. 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 purpose:~~

~~(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~~

1 ~~requirements.~~

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

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

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

19 ~~(e) Confidentiality of information.~~

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

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

29 ~~§ 67A17. Inspection, sampling and analysis.~~

30 ~~(a) General rule. The department shall inspect, sample,~~

1 ~~make analyses of and test fertilizers distributed within this~~  
2 ~~Commonwealth and shall inspect the storage of bulk fertilizer at~~  
3 ~~any time and place and to an extent the department may deem~~  
4 ~~necessary to determine whether the fertilizers are in compliance~~  
5 ~~with the provisions of this chapter. The department or its agent~~  
6 ~~may enter upon any public or private premises or carriers during~~  
7 ~~regular business hours in order to have access to fertilizer~~  
8 ~~subject to and the records relating to the provisions of this~~  
9 ~~chapter or the regulations promulgated thereunder.~~

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

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

25 ~~(d) Maintenance of official samples. Official samples~~  
26 ~~maintained by the department shall be retained for a minimum of~~  
27 ~~90 days from issuance of a fertilizer deficiency report or an~~  
28 ~~official report of analysis. Upon request, the department shall~~  
29 ~~furnish to the guarantor a portion of the official sample.~~  
30 ~~Requests must be made within 30 days of receipt of a fertilizer~~

1 ~~deficiency report or an official report of analysis.~~

2 ~~§ 67A18. Plant food deficiency.~~

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

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

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

10 ~~or~~

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

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

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

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

29 ~~(c) Deficiencies in fertilizers. A deficiency in an~~  
30 ~~official sample of mixed fertilizer resulting from nonuniformity~~

1 ~~shall not be deemed distinguishable from a deficiency due to~~  
2 ~~actual plant nutrient shortage and shall be deemed a violation~~  
3 ~~of this chapter for which the department may assess any penalty~~  
4 ~~as provided for under this chapter.~~

5 ~~§ 67A19. Commercial value.~~

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

14 ~~§ 67A20. Misbranding.~~

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

18 ~~(1) Its labeling is false or misleading in any~~  
19 ~~particular.~~

20 ~~(2) It is distributed under the name of another~~  
21 ~~fertilizer product.~~

22 ~~(3) It is not labeled as required under section 67A13~~  
23 ~~(relating to labels and labeling) and in accordance with~~  
24 ~~regulations prescribed under this chapter.~~

25 ~~(4) It purports to be or is represented as a fertilizer~~  
26 ~~or is represented as containing a plant nutrient or~~  
27 ~~fertilizer unless the plant nutrient or fertilizer conforms~~  
28 ~~to the definition of identity, if any, prescribed by~~  
29 ~~regulation.~~

30 ~~§ 67A21. Adulteration.~~

1 ~~No person shall distribute an adulterated fertilizer product.~~

2 ~~A fertilizer shall be deemed to be adulterated if any of the~~  
3 ~~following apply:~~

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

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

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

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

18 SUBCHAPTER C

19 APPLICATOR LICENSING AND CERTIFICATION

20 Sec.

21 ~~67A22. Licensing of fertilizer application businesses.~~

22 ~~67A23. Certification of applicators.~~

23 ~~67A24. Recertification of applicators.~~

24 ~~67A25. Reciprocal agreement.~~

25 ~~67A26. Training of fertilizer technicians.~~

26 ~~§ 67A22. Licensing of fertilizer application businesses.~~

27 ~~(a) Requirements. A fertilizer application business must be~~  
28 ~~licensed prior to applying any fertilizer and shall comply with~~  
29 ~~the provisions of this chapter and any regulation or order of~~  
30 ~~the department. A fertilizer application business with more than~~



~~1 one place of business or that is operating under more than one  
2 name in this Commonwealth shall license each location, place of  
3 business and business entity. For a governmental or public  
4 entity, each district or region will be considered a separate  
5 business and shall require a separate license.~~

~~6 (b) Operation, application and expiration. A fertilizer  
7 application business shall not be operated without first  
8 obtaining a fertilizer application business license. The  
9 application for licensure shall be on a form furnished by the  
10 department and shall be accompanied by a \$100 application fee or  
11 the fee later established in the manner set forth under section  
12 67A75 (relating to fees, fines and civil penalties). All  
13 business licenses shall expire on December 31 each year, except  
14 that the department may issue a license for the following year  
15 when an initial license application is filed during the last two  
16 months of a licensing year.~~

~~17 (c) Employer requirement. A fertilizer application business  
18 shall employ at all times and at each licensed business at least  
19 one person who holds a current valid commercial or public  
20 applicator certification. This person shall be responsible for  
21 training fertilizer technicians on the proper handling and  
22 application of fertilizer.~~

~~23 (d) Fertilizer technicians. A fertilizer application  
24 business shall ensure that fertilizer technicians do not apply  
25 fertilizer unless the persons have gone through a training  
26 program as described by section 67A26 (relating to training of  
27 fertilizer technicians).~~

~~28 (e) Record. A fertilizer application business shall  
29 maintain a record and provide to the department, upon request,  
30 the following:~~

1 ~~(1) a list of all certified applicators employed by the~~  
2 ~~business; and~~

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

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

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

20 ~~(h) Aerial application. If a fertilizer application~~  
21 ~~business, or an applicator of fertilizer engages in aerial~~  
22 ~~applications, the applicant shall, upon request by the~~  
23 ~~department, provide proof of compliance with the Federal~~  
24 ~~Aviation Administration regulations as described in 14 CFR Pt.~~  
25 ~~137 (relating to agricultural aircraft operations) or its~~  
26 ~~successor regulations.~~

27 ~~§ 67A23. Certification of applicators.~~

28 ~~(a) Condition. A commercial applicator or public applicator~~  
29 ~~for a fertilizer application business must be certified under~~  
30 ~~the requirements established under this chapter and the~~

1 ~~department's regulations prior to:~~

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

4 ~~(2) the fertilizer application business applying~~  
5 ~~fertilizer.~~

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

8 ~~(c) Certification examination. The following shall apply:~~

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

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

19 ~~(i) Safety and health.~~

20 ~~(ii) Labeling and label comprehension.~~

21 ~~(iii) Environmental protection.~~

22 ~~(iv) Equipment use, calibration and dosage~~  
23 ~~calculations.~~

24 ~~(v) Personal protective equipment.~~

25 ~~(vi) Cleaning and maintaining equipment.~~

26 ~~(vii) Transportation, storage, security and~~  
27 ~~disposal.~~

28 ~~(viii) Applicable Federal and State laws.~~

29 ~~(ix) Any subject matter deemed appropriate by the~~  
30 ~~department's regulations.~~

1       ~~(3) The department shall require a minimum examination~~  
2 ~~fee of \$10 or the fee as is later established in the manner~~  
3 ~~set forth under section 67A75 (relating to fees, fines and~~  
4 ~~civil penalties).~~

5 ~~(d) Commercial and public applicators.~~

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

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

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

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

30       ~~(g) Expiration. Certification shall expire as follows:~~

1 ~~(1) Commercial applicator certification shall expire on~~  
2 ~~September 30 of each year following the date of~~  
3 ~~certification.~~

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

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

11 ~~(h) Grandfathering. A person holding a valid pesticide~~  
12 ~~applicator certification in categories 1, 2, 3, 5, 6, 7, 18, 22,~~  
13 ~~23 and 25 under the act of March 1, 1974 (P.L.90, No.24), known~~  
14 ~~as the Pennsylvania Pesticide Control Act of 1973, at the time~~  
15 ~~this chapter is enacted shall be granted certification as a~~  
16 ~~certified fertilizer applicator under this chapter but shall~~  
17 ~~still comply with all other requirements of this chapter. The~~  
18 ~~certification shall be valid until each person's pesticide core~~  
19 ~~recertification is due, at which time that person shall be~~  
20 ~~required to meet all the recertification requirements as~~  
21 ~~required under section 67A24 (relating to recertification of~~  
22 ~~applicators).~~

23 ~~§ 67A24. Recertification of applicators.~~

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

29 ~~(1) Safety and health.~~

30 ~~(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~~

1 ~~established by regulation, of applicable instruction,~~  
2 ~~exclusive of coffee breaks, lunches, visits to exhibits and~~  
3 ~~other similar activities.~~

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

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

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

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

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

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

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

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

27 ~~(e) Oath or affirmation. A statement made in a request to~~  
28 ~~approve training shall be supported by oath or affirmation and~~  
29 ~~is subject to the penalties for a violation of 18 Pa.C.S. § 4904~~  
30 ~~(relating to unsworn falsification to authorities) or its~~

1 ~~successor statute.~~

2 ~~(f) Assignment of credits. Credits shall be assigned to~~  
3 ~~each training course based upon the subjects covered and the~~  
4 ~~amount of time expended on each subject.~~

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

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

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

24 ~~(j) Attendance falsification. A person may not falsify~~  
25 ~~attendance or that of another person's attendance at a~~  
26 ~~continuing education meeting. Falsification of attendance at a~~  
27 ~~continuing education course by a person shall be considered a~~  
28 ~~violation of this chapter for which the department may assess a~~  
29 ~~penalty as provided for under this chapter and revoke the~~  
30 ~~applicator's certification and require full renewal of~~



1 ~~certification as required under section 67A23 (relating to~~  
2 ~~certification of applicators).~~

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

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

18 ~~§ 67A25. Reciprocal agreement.~~

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

24 ~~§ 67A26. Training of fertilizer technicians.~~

25 ~~(a) Prohibition. Fertilizer technicians working for a~~  
26 ~~fertilizer application business may not apply fertilizer without~~  
27 ~~first going through a training program, as required by the~~  
28 ~~provisions of this chapter, an order of the department or the~~  
29 ~~department's regulations.~~

30 ~~(b) Requirements. Fertilizer technicians shall be an~~

1 ~~employee of the business and trained by a certified applicator~~  
2 ~~who is an employee of the same business.~~

3 ~~(c) Transferability. Training of fertilizer technicians~~  
4 ~~shall not be transferrable between businesses.~~

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

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

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

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

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

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

22 ~~(e) Noncertified employees. When there are noncertified~~  
23 ~~employees engaged in the application of fertilizer, they shall~~  
24 ~~be trained according to subsection (d) or work under the~~  
25 ~~supervision of a certified applicator who is physically present~~  
26 ~~on the job site.~~

27 ~~(f) Training and supervision prohibition. A fertilizer~~  
28 ~~technician may not train applicators or supervise the use or~~  
29 ~~application of fertilizers by other fertilizer technicians or~~  
30 ~~noncertified employees.~~

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

6 ~~(1) Name and certification number of the trainer.~~

7 ~~(2) Name of fertilizer technician trained.~~

8 ~~(3) Date of training.~~

9 ~~(4) Areas of training.~~

10 ~~(5) Business name and address of the fertilizer~~  
11 ~~application business employing the fertilizer technician.~~

12 ~~(6) Any other requirements as established by the~~  
13 ~~department through order or regulations.~~

14 ~~SUBCHAPTER D~~

15 ~~RECORDKEEPING FOR APPLICATORS AND AIRPORTS~~

16 ~~Sec.~~

17 ~~67A31. Records.~~

18 ~~§ 67A31. Records.~~

19 ~~(a) Required information. Applicators required to be~~  
20 ~~certified under section 67A23 (relating to certification of~~  
21 ~~applicators) and fertilizer technicians trained under section~~  
22 ~~67A26 (relating to training of fertilizer technicians) shall~~  
23 ~~keep for every application of fertilizer a record containing the~~  
24 ~~following information:~~

25 ~~(1) The name and address of the customer and the address~~  
26 ~~and location of the application site, if different from the~~  
27 ~~address of the customer.~~

28 ~~(2) A record of the date of each fertilizer application.~~  
29 ~~For continuous applications, such as hydroponics or drip~~  
30 ~~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~~

1 ~~following the application.~~

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

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

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

23 ~~(b) Fertilizer use and application rates for turf. Except~~  
24 ~~as provided under subsections (c), (d), (e) and (f), at least~~  
25 ~~20% of the total nitrogen applied to turf per 1,000 square feet~~  
26 ~~shall be enhanced efficiency nitrogen and application rates for~~  
27 ~~turf shall:~~

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

30 ~~(2) not exceed 0.9 pounds of total nitrogen per 1,000~~

1 ~~square feet per application; and~~

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

4 ~~(i) establishing vegetation for the first time;~~

5 ~~(ii) reestablishing or repairing a turf area; or~~

6 ~~(iii) as an enhanced efficiency phosphorus~~  
7 ~~fertilizer, natural organic fertilizer, organic base~~  
8 ~~fertilizer or fertilizer derived from a by product~~  
9 ~~applied at a rate not to exceed 0.25 pounds of phosphorus~~  
10 ~~per 1,000 square feet, with a maximum total annual~~  
11 ~~application of 0.5 pounds of phosphorus per 1,000 square~~  
12 ~~feet per year.~~

13 ~~(c) Application based on soil test and site specific plan.~~

14 ~~An applicator shall not be required to follow the application~~  
15 ~~rates under subsection (b) if a site specific plan is used based~~  
16 ~~on the following:~~

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

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

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

30 ~~(d) Golf courses. The use of enhanced efficiency fertilizer~~

1 ~~shall not be required on the tees, fairways or greens of a golf~~  
2 ~~course.~~

3 ~~(e) Additional restrictions. Where science indicates, the~~  
4 ~~department may establish additional restrictions.~~

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

8 ~~§ 67A42. Prohibited acts.~~

9 ~~(a) Prohibited acts by business, certified applicator or~~  
10 ~~fertilizer technician. A fertilizer application business,~~  
11 ~~certified applicator or fertilizer technician may not:~~

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

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

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

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

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

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



1       ~~(7) Refuse to display their license or certification~~  
2 ~~number in a manner as required by this chapter or the~~  
3 ~~regulations of the department.~~

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

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

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

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

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

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

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

28       ~~(6) Aid or abet another to evade the provisions of this~~  
29 ~~chapter, a regulation promulgated hereunder or an order~~  
30 ~~issued under the authority of this chapter, conspire with~~

1 ~~another for that purpose or allow a certification to be used~~  
2 ~~by another.~~

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

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

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

18 ~~SUBCHAPTER F~~

19 ~~AGRICULTURAL AND HOMEOWNER EDUCATION PROGRAM~~

20 ~~Sec.~~

21 ~~67A51. Agricultural and homeowner education.~~

22 ~~§ 67A51. Agricultural and homeowner education.~~

23 ~~The department, through guidelines established in~~  
24 ~~consultation with The Pennsylvania State University and~~  
25 ~~representatives of the agricultural and turf grass industries,~~  
26 ~~shall undertake a program of public outreach to educate the~~  
27 ~~public on proper use, application, handling and storage of~~  
28 ~~fertilizers.~~

29 ~~SUBCHAPTER G~~

30 ~~ADMINISTRATIVE AND PENALTY PROVISIONS~~

1 ~~Sec.~~  
2 ~~67A61. Publications.~~  
3 ~~67A62. Rules and regulations.~~  
4 ~~67A63. Short weight.~~  
5 ~~67A64. Refusal, suspension or revocation of registration,~~  
6 ~~license or certification.~~  
7 ~~67A65. Stop sale orders.~~  
8 ~~67A66. Seizure and condemnation.~~  
9 ~~67A67. Unlawful conduct.~~  
10 ~~67A68. Interference with officer or employee of department.~~  
11 ~~67A69. Enforcement and penalties.~~  
12 ~~67A70. Appeal process.~~  
13 ~~67A71. Civil remedy.~~  
14 ~~67A72. Cooperation with other entities.~~  
15 ~~67A73. Exchanges between manufacturers.~~  
16 ~~67A74. Confidentiality.~~  
17 ~~67A75. Fees, fines and civil penalties.~~  
18 ~~67A76. Disposition of funds.~~  
19 ~~67A77. Delegation of duties and exclusion of local laws and~~  
20 ~~regulations.~~

21 ~~§ 67A61. Publications.~~

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

30 ~~§ 67A62. Rules and regulations.~~

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

4 ~~§ 67A63. Short weight.~~

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

10 ~~§ 67A64. Refusal, suspension or revocation of registration,~~  
11 ~~license or certification.~~

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

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

24 ~~§ 67A65. Stop sale orders.~~

25 ~~(a) General rule. The department may issue and enforce a~~  
26 ~~written or printed stop sale, use or removal order to the owner~~  
27 ~~or custodian of any lot of fertilizer being offered or exposed~~  
28 ~~for sale in violation of any of the provisions of this chapter~~  
29 ~~or a regulation or order issued hereunder. Fertilizer placed~~  
30 ~~under the order shall be held at a designated place approved by~~

~~1 the department and not moved in any way without written approval  
2 by the department. The order shall remain in effect until the  
3 law has been complied with and the fertilizer is released in  
4 writing by the department or the fertilizer in violation has  
5 been disposed of in a manner authorized by the department. The  
6 authorization shall be set forth in writing.~~

~~7 (b) Release by department. The department shall release the  
8 fertilizer held under a stop sale order when the requirements of  
9 the provisions of this chapter or a regulation or order issued  
10 hereunder, have been complied with and all costs and expenses  
11 incurred in connection with the order have been paid by the  
12 person responsible for the violation.~~

~~13 § 67A66. Seizure and condemnation.~~

~~14 Fertilizer not in compliance with the provisions of this  
15 chapter, or a regulation or order issued hereunder, shall be  
16 subject to seizure and condemnation by the department, provided  
17 that in no instance shall the disposition of the fertilizer be  
18 ordered by the department without first giving the claimant an  
19 opportunity for a hearing as provided for under section 67A70  
20 (relating to appeal process) or for opportunity to apply for  
21 permission to process or relabel the fertilizer to bring it into  
22 compliance with this chapter.~~

~~23 § 67A67. Unlawful conduct.~~

~~24 It shall be unlawful for any person to fail to comply with or  
25 to cause to assist in the violation of any order or any of the  
26 provisions of this chapter or the rules and regulations adopted  
27 under this chapter.~~

~~28 § 67A68. Interface with officer or employee of department.~~

~~29 A person who willfully or intentionally interferes with an  
30 employee or officer of the department in the performance of that~~

~~1 employee's or officer's duties or activities authorized under  
2 this chapter commits a misdemeanor of the third degree and  
3 shall, upon conviction, be subject to a term of imprisonment for  
4 not more than one year or a fine of not more than \$2,500, or  
5 both.~~

~~6 § 67A69. Enforcement and penalties.~~

~~7 (a) Criminal penalties. Unless otherwise specified, a  
8 person who violates any of the provisions of this chapter or a  
9 rule or regulation adopted thereunder or any order issued  
10 pursuant thereto:~~

~~11 (1) For the first offense, commits a summary offense and  
12 may, upon conviction, be sentenced for each offense to pay a  
13 fine of not less than \$50 nor more than \$100 and costs of  
14 prosecution or to undergo imprisonment for a term which shall  
15 be fixed at not more than 90 days, or both.~~

~~16 (2) For a subsequent offense committed within three  
17 years of a prior conviction for any violation of this chapter  
18 or any rule, regulation or order made under this chapter,  
19 commits a misdemeanor of the second degree and shall, upon  
20 conviction, be sentenced to pay a fine of not less than \$500  
21 nor more than \$1,000 and costs of prosecution or to  
22 imprisonment for not more than two years, or both.~~

~~23 (b) Civil penalties. The following shall apply:~~

~~24 (1) In addition to any other remedy available at law or  
25 in equity for a violation of this chapter, the department may  
26 assess a civil penalty of not more than \$2,500 upon any  
27 person for each violation of this chapter. The civil penalty  
28 assessed shall be payable to the department and shall be  
29 collectible in any manner provided by law for the collection  
30 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.~~

1 ~~(f) District attorney. It is the duty of each district~~  
2 ~~attorney to whom any criminal violation of this chapter is~~  
3 ~~reported to cause appropriate proceedings to be instituted and~~  
4 ~~prosecuted in a court of competent jurisdiction without delay.~~

5 ~~§ 67A70. Appeal process.~~

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

12 ~~§ 67A71. Civil remedy.~~

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

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

29 ~~(c) Bonds not required. The Commonwealth may not be~~  
30 ~~required to furnish bond or other security in connection with~~



1 ~~proceedings under this section.~~

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

4 ~~§ 67A72. Cooperation with other entities.~~

5 ~~The department may cooperate with and enter into agreement~~  
6 ~~with governmental agencies of the Federal Government, agencies~~  
7 ~~of this Commonwealth and any other state in order to carry out~~  
8 ~~the purpose and provisions of this chapter.~~

9 ~~§ 67A73. Exchanges between manufacturers.~~

10 ~~Nothing in this chapter shall be construed as restricting or~~  
11 ~~avoiding sales or exchanges of fertilizers to each other by~~  
12 ~~importers, manufactures or manipulators who mix fertilizer~~  
13 ~~materials for sale or as preventing the free and unrestricted~~  
14 ~~shipments of fertilizer to manufacturers or manipulators who are~~  
15 ~~in compliance with the provisions of this chapter.~~

16 ~~§ 67A74. Confidentiality.~~

17 ~~All proprietary business information contained in records,~~  
18 ~~data, formulations and other information filed with or collected~~  
19 ~~by the department relating to inspections, tonnage reports and~~  
20 ~~trade secrets, such as product formulation, customer lists or~~  
21 ~~production methods, shall be exempt from the act of February 14,~~  
22 ~~2008 (P.L.6, No.3), known as the Right to Know Law, or its~~  
23 ~~successor statute and subject to inspection only upon the order~~  
24 ~~of a court of competent jurisdiction.~~

25 ~~§ 67A75. Fees, fines and civil penalties.~~

26 ~~(a) Insufficient revenues. If the revenues raised by fees,~~  
27 ~~fines and civil penalties imposed under this chapter are not~~  
28 ~~sufficient to meet expenditures for the administration and~~  
29 ~~enforcement of this chapter over a two year period, the~~  
30 ~~department may increase those fees so that the project revenues~~

1 ~~will meet or exceed projected expenditures.~~

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

7 ~~§ 67A76. Disposition of funds.~~

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

16 ~~§ 67A77. Delegation of duties and exclusion of local laws and~~  
17 ~~regulations.~~

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

24 ~~(b) Enforcement. No ordinance or regulation of any local~~  
25 ~~agency, political subdivision or home rule municipality may~~  
26 ~~prohibit or in any way attempt to regulate any matter relating~~  
27 ~~to the registration, packaging, labeling, sale, transportation,~~  
28 ~~distribution, use or application of fertilizer, if any of these~~  
29 ~~ordinances, laws or regulations are in conflict with this~~  
30 ~~chapter.~~

1 ~~(c) Stricter requirements. Nothing in this chapter shall~~  
2 ~~prevent a political subdivision or home rule municipality from~~  
3 ~~adopting and enforcing ordinances or regulations which are~~  
4 ~~consistent with and no more stringent than the requirements of~~  
5 ~~this chapter and the regulations or guidelines promulgated under~~  
6 ~~this chapter. No penalty shall be assessed under any local~~  
7 ~~ordinance or regulation under this subsection for any violation~~  
8 ~~for which a penalty has been assessed under this chapter.~~

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

11 ~~§ 6921. Disposition of funds.~~

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

19 ~~§ 7122. Disposition of funds.~~

20 ~~Moneys received from license fees, seed testing fees,~~  
21 ~~certification fees, fines and penalties shall be paid into the~~  
22 ~~Agronomic Regulatory Account established in section [6725] 67A76~~  
23 ~~(relating to disposition of funds). All moneys in the Agronomic~~  
24 ~~Regulatory Account are hereby appropriated to the department for~~  
25 ~~the purposes of Chapters [67] 67A (relating to fertilizer) and~~  
26 ~~69 (relating to soil and plant amendment) and this chapter.~~

27 Section 5. Specific appropriation. The sum of \$100,000 is  
28 hereby appropriated to the department to be deposited in the  
29 Agronomic Regulatory Account, for use by the Department of  
30 Agriculture to develop the certification and recertification

1 ~~courses required under 3 Pa.C.S. §§ 67A22 (relating to licensing~~  
2 ~~of fertilizer application businesses) and 67A23 (relating to~~  
3 ~~certification of applicators) and any computer programming or~~  
4 ~~software necessary for administration and enforcement of 3~~  
5 ~~Pa.C.S. Ch. 67A.~~

6 ~~Section 6. This act shall take effect as follows:~~

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

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

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

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

17 CHAPTER 68 <--

18 FERTILIZER

19 SUBCHAPTER

20 A. GENERAL PROVISIONS

21 B. FERTILIZER MANUFACTURERS AND GUARANTORS

22 C. APPLICATOR LICENSING AND CERTIFICATION

23 D. RECORDKEEPING FOR APPLICATORS

24 E. APPLICATION RATES, REQUIREMENTS AND PROHIBITIONS

25 F. AGRICULTURAL AND HOMEOWNER EDUCATION PROGRAM

26 G. ADMINISTRATION AND PENALTIES

27 SUBCHAPTER A

28 GENERAL PROVISIONS

29 SEC.

30 6801. SHORT TITLE OF CHAPTER.

1 6802. LEGISLATIVE INTENT.

2 6803. DEFINITIONS.

3 § 6801. SHORT TITLE OF CHAPTER.

4 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE  
5 FERTILIZER ACT.

6 § 6802. LEGISLATIVE INTENT.

7 THIS CHAPTER IS INTENDED TO:

8 (1) PROVIDE FOR THE LABELING, APPLICATION,  
9 RECORDKEEPING, PACKAGING, USE, SALE AND DISTRIBUTION OF  
10 AGRICULTURAL FERTILIZER AS WELL AS TURF OR OTHER SPECIALTY  
11 FERTILIZER.

12 (2) PROVIDE CONSUMER PROTECTION THROUGH LICENSING,  
13 LABELING AND SAMPLING.

14 (3) ESTABLISH PROFESSIONAL FERTILIZER APPLICATOR  
15 CERTIFICATION.

16 (4) PROVIDE A MEANS OF CONSUMER EDUCATION AND OUTREACH.

17 (5) ENSURE THAT APPLICATORS FOLLOW BEST PRACTICES WHEN  
18 APPLYING FERTILIZER.

19 § 6803. DEFINITIONS.

20 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
21 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
22 CONTEXT CLEARLY INDICATES OTHERWISE:

23 "BRAND." A TERM, DESIGN OR TRADEMARK USED IN CONNECTION WITH  
24 ONE OR SEVERAL GRADES OF FERTILIZER.

25 "BULK FERTILIZER." A FERTILIZER DISTRIBUTED IN A NONPACKAGED  
26 FORM.

27 "BY-PRODUCT." MUNICIPAL WASTE OR RESIDUAL WASTE AS DEFINED  
28 IN THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID  
29 WASTE MANAGEMENT ACT, OR ITS SUCCESSOR STATUTE, THAT CONTAINS A  
30 PLANT NUTRIENT AND MEETS ALL APPLICABLE REGULATIONS OF THE

1 DEPARTMENT OF ENVIRONMENTAL PROTECTION.

2 "CERTIFIED APPLICATOR." A PERSON WHO IS CERTIFIED UNDER  
3 SECTION 6832 (RELATING TO CERTIFICATION OF APPLICATORS) AS  
4 COMPETENT TO USE OR SUPERVISE THE USE OF FERTILIZER OR TRAIN  
5 FERTILIZER TECHNICIANS ON THE PROPER APPLICATION OF FERTILIZER.

6 "COMMERCIAL APPLICATOR." A PERSON WHO APPLIES OR SUPERVISES  
7 THE APPLICATION OF FERTILIZER TO THE PROPERTY OR PREMISES OF  
8 ANOTHER OR WHO APPLIES OR SUPERVISES APPLICATION OF FERTILIZER  
9 TO ANY OF THE FOLLOWING:

10 (1) A GOLF COURSE.

11 (2) THE PROPERTY OR PREMISES OF A PUBLIC OR PRIVATE  
12 PARK.

13 (3) THE PROPERTY OR PREMISES OF A PUBLIC, NONPUBLIC OR  
14 LICENSED PRIVATE ELEMENTARY OR SECONDARY SCHOOL WHEREIN A  
15 RESIDENT OF THIS COMMONWEALTH MAY FULFILL THE COMPULSORY  
16 SCHOOL ATTENDANCE REQUIREMENTS AND WHICH MEETS THE APPLICABLE  
17 REQUIREMENTS OF TITLE IV OF THE CIVIL RIGHTS ACT OF 1964 (42  
18 U.S.C.A. § 2000C) (PUBLIC LAW 88-352, 78 STAT. 241), OR ITS  
19 SUCCESSOR STATUTE. THIS TERM DOES NOT INCLUDE THE RESIDENCE  
20 OF A HOME SCHOOLED STUDENT.

21 (4) A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY THAT  
22 APPLIES FERTILIZER TO THE CAMPUS GROUNDS. A PERSON CONDUCTING  
23 RESEARCH AT A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY OR A  
24 STATE-RELATED UNIVERSITY THAT APPLIES FERTILIZER TO TEST  
25 PLOTS SHALL NOT BE DEEMED A COMMERCIAL APPLICATOR.

26 (5) A PUBLIC PLAYGROUND OR AN ATHLETIC FIELD.

27 "CONSUMER." A PERSON WHO PURCHASES FERTILIZER FOR THE END  
28 USE OF THE PRODUCT.

29 "DEFICIENCY." THE AMOUNT OF NUTRIENT FOUND BY ANALYSIS TO BE  
30 LESS THAN THAT GUARANTEED, WHICH MAY RESULT FROM A LACK OF

1 NUTRIENT INGREDIENTS OR UNIFORMITY.

2 "DEPARTMENT." THE DEPARTMENT OF AGRICULTURE OF THE  
3 COMMONWEALTH.

4 "DISTRIBUTE." TO IMPORT, CONSIGN, OFFER FOR SALE, SELL,  
5 BARTER OR OTHERWISE SUPPLY FERTILIZER IN THIS COMMONWEALTH.

6 "DISTRIBUTOR." A PERSON WHO DISTRIBUTES FERTILIZER OR  
7 FERTILIZER MATERIAL.

8 "ENHANCED EFFICIENCY." RELATING TO A FERTILIZER PRODUCT WITH  
9 CHARACTERISTICS THAT ALLOW INCREASED PLANT NUTRIENT UPTAKE AND  
10 REDUCED POTENTIAL OF NUTRIENT LOSSES TO THE ENVIRONMENT, SUCH AS  
11 GASEOUS LOSSES, LEACHING OR RUNOFF, WHEN COMPARED TO AN  
12 APPROPRIATE REFERENCE PRODUCT AS DETERMINED BY THE DEPARTMENT BY  
13 PUBLISHING A NOTICE IN THE PENNSYLVANIA BULLETIN.

14 "FACILITY." EACH SEPARATE MILL OR PLANT THAT MANUFACTURES  
15 FERTILIZER.

16 "FERTILIZER." A SUBSTANCE CONTAINING ONE OR MORE RECOGNIZED  
17 PLANT NUTRIENTS WHICH IS USED FOR ITS PLANT NUTRIENT CONTENT AND  
18 WHICH IS DESIGNED FOR USE OR CLAIMED TO HAVE VALUE IN PROMOTING  
19 PLANT GROWTH, EXCEPT UNMANIPULATED ANIMAL MANURE AND PLANT  
20 REMAINS, AGRICULTURAL LIMING MATERIALS, WOOD ASHES AND OTHER  
21 MATERIALS EXEMPTED BY THE DEPARTMENT'S REGULATIONS. THE TERM  
22 SHALL NOT APPLY TO ANIMAL MANURE WHICH IS REGULATED UNDER:

23 (1) 25 PA. CODE § 91.36(B) (RELATING TO POLLUTION  
24 CONTROL AND PREVENTION AT AGRICULTURAL OPERATIONS);

25 (2) CHAPTER 5 (RELATING TO NUTRIENT MANAGEMENT AND ODOR  
26 MANAGEMENT); OR

27 (3) THE ACT OF JUNE 28, 2004 (P.L.454, NO.49), KNOWN AS  
28 THE COMMERCIAL MANURE HAULER AND BROKER CERTIFICATION ACT.

29 "FERTILIZER APPLICATION BUSINESS." A GOVERNMENTAL OR PUBLIC  
30 ENTITY, COMMERCIAL APPLICATOR OR BUSINESS FOR PROFIT OR NOT FOR

1 PROFIT THAT APPLIES FERTILIZER:

2 (1) ON THE PROPERTY OR PREMISES OF ANOTHER;

3 (2) TO THE PROPERTY OR PREMISES OF A GOLF COURSE, PARK,  
4 SCHOOL, COLLEGE OR UNIVERSITY OR PUBLIC PLAYGROUND; OR

5 (3) TO AN ATHLETIC FIELD.

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

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

11 "FERTILIZER MATERIAL." A FERTILIZER WHICH:

12 (1) CONTAINS ONLY ONE OF THE FOLLOWING PRIMARY PLANT  
13 NUTRIENTS:

14 (I) NITROGEN;

15 (II) PHOSPHATE; OR

16 (III) POTASH;

17 (2) HAS 85% OR MORE OF ITS PLANT NUTRIENT CONTENT  
18 PRESENT IN THE FORM OF A SINGLE CHEMICAL COMPOUND; OR

19 (3) IS DERIVED FROM A PLANT OR ANIMAL RESIDUE, BY-  
20 PRODUCT, COPRODUCT AS DEFINED IN 25 PA. CODE § 287.1  
21 (RELATING TO DEFINITIONS) OR NATURAL MATERIAL DEPOSIT WHICH  
22 HAS BEEN PROCESSED IN A WAY THAT ITS CONTENT OF PLANT  
23 NUTRIENTS HAS NOT BEEN MATERIALLY CHANGED EXCEPT BY  
24 PURIFICATION AND CONCENTRATION.

25 "FERTILIZER TECHNICIAN." A PERSON WHO:

26 (1) IS NOT CERTIFIED UNDER THIS CHAPTER;

27 (2) WORKS FOR A FERTILIZER APPLICATION BUSINESS; AND

28 (3) WORKS UNDER THE DIRECTION OF A CERTIFIED APPLICATOR.

29 "GOVERNMENTAL OR PUBLIC ENTITY." AN EXECUTIVE OR INDEPENDENT  
30 AGENCY OR GOVERNMENTAL UNIT OF THE COMMONWEALTH OR LOCAL AGENCY,



1 INCLUDING A COUNTY, CITY, BOROUGH, TOWN, TOWNSHIP, SCHOOL  
2 DISTRICT, MUNICIPAL AUTHORITY OR POLITICAL SUBDIVISION OF THE  
3 COMMONWEALTH.

4 "GRADE." THE PERCENTAGE OF TOTAL NITROGEN, AVAILABLE  
5 PHOSPHATE AND SOLUBLE POTASH STATED IN WHOLE NUMBERS IN THE SAME  
6 TERMS, ORDER AND PERCENTAGES AS IN THE GUARANTEED ANALYSIS.  
7 SPECIALTY FERTILIZERS MAY BE GUARANTEED IN FRACTIONAL UNITS OF  
8 LESS THAN 1% OF TOTAL NITROGEN, AVAILABLE PHOSPHATE AND SOLUBLE  
9 POTASH, PROVIDED THAT FERTILIZER MATERIALS, BONE MEAL, MANURES  
10 AND SIMILAR MATERIALS MAY BE GUARANTEED IN FRACTIONAL UNITS.

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

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

15	<u>TOTAL NITROGEN (N)</u>	<u>%</u>
16	<u>AVAILABLE PHOSPHATE (P2O5)</u>	<u>%</u>
17	<u>SOLUBLE POTASH (K2O)</u>	<u>%</u>

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

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

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

30 "LABEL." THE DISPLAY OF ALL WRITTEN, PRINTED OR GRAPHIC

1 MATTER UPON THE IMMEDIATE CONTAINER OR A STATEMENT ACCOMPANYING  
2 A FERTILIZER.

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

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

9 "MANUFACTURE." TO PRODUCE, MIX, BLEND, REPACKAGE OR FURTHER  
10 PROCESS FERTILIZER OR FERTILIZER MATERIAL FOR DISTRIBUTION.

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

15 "MICRONUTRIENT." ANY OF THE FOLLOWING:

16 (1) BORON.

17 (2) CHLORINE.

18 (3) COBALT.

19 (4) COPPER.

20 (5) IRON.

21 (6) MANGANESE.

22 (7) MOLYBDENUM.

23 (8) NICKEL.

24 (9) SODIUM.

25 (10) ZINC.

26 "NATURAL ORGANIC FERTILIZER." MATERIALS DERIVED FROM EITHER  
27 PLANT OR ANIMAL PRODUCTS CONTAINING ONE OR MORE ELEMENTS, OTHER  
28 THAN CARBON, HYDROGEN AND OXYGEN, WHICH ARE ESSENTIAL FOR PLANT  
29 GROWTH. THESE MATERIALS MAY BE SUBJECTED TO BIOLOGICAL  
30 DEGRADATION PROCESSES UNDER NORMAL CONDITIONS OF AGING,

1 RAINFALL, SUN CURING, AIR DRYING, COMPOSTING, ROTTING, ENZYMATI  
2 OR ANAEROBIC OR AEROBIC BACTERIAL ACTION OR ANY COMBINATION OF  
3 THESE PROCESSES. THESE MATERIALS SHALL NOT BE MIXED WITH  
4 SYNTHETIC MATERIALS OR CHANGED IN ANY PHYSICAL OR CHEMICAL  
5 MANNER FROM THEIR INITIAL STATE EXCEPT BY MANIPULATIONS SUCH AS  
6 DRYING, COOKING, CHOPPING, GRINDING, SHREDDING, HYDROLYSIS OR  
7 PELLETING.

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

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

13 "ORGANIC BASED FERTILIZER." A MIXED FERTILIZER WHERE:

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

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

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

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

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

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

27 "PLANT NUTRIENT." ANY OF THE FOLLOWING:

28 (1) A PRIMARY NUTRIENT.

29 (2) A SECONDARY NUTRIENT.

30 (3) A MICRONUTRIENT.

1 "PRIMARY NUTRIENT." ANY OF THE FOLLOWING:

2 (1) NITROGEN.

3 (2) PHOSPHORUS.

4 (3) POTASSIUM.

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

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

10 "REPACKAGE." THE PLACEMENT OF FERTILIZER INTO A CONTAINER OR  
11 BULK BIN OTHER THAN WHAT IS SUPPLIED BY THE GUARANTOR.

12 "SECONDARY NUTRIENT." ANY OF THE FOLLOWING:

13 (1) CALCIUM.

14 (2) MAGNESIUM.

15 (3) SULFUR.

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

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

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

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

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

1 USED FOR AGRICULTURAL PRODUCTION.

2 SUBCHAPTER B

3 FERTILIZER MANUFACTURERS AND GUARANTORS

4 SEC.

5 6811. LICENSING.

6 6812. REGISTRATION OF SPECIALTY FERTILIZERS.

7 6813. TURF FERTILIZER COMPONENTS.

8 6814. LABELS AND LABELING.

9 6815. INSPECTION FEES.

10 6816. TONNAGE REPORTS.

11 6817. INSPECTION, SAMPLING AND ANALYSIS.

12 6818. PLANT FOOD DEFICIENCY.

13 6819. COMMERCIAL VALUE.

14 6820. MISBRANDING.

15 6821. ADULTERATION.

16 § 6811. LICENSING.

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

27 (B) LABELING AND TYPICAL ANALYSIS.--THE DEPARTMENT MAY  
28 REQUIRE AN APPLICANT FOR A FERTILIZER LICENSE OR A CURRENT  
29 FERTILIZER LICENSEE TO SUBMIT THE LABELING THAT THE PERSON IS  
30 USING OR INTENDS TO USE FOR THE FERTILIZER. THE DEPARTMENT MAY

1 ALSO REQUIRE AN APPLICANT OR FERTILIZER LICENSEE TO PROVIDE A  
2 TYPICAL ANALYSIS OF SELECTED COMPONENTS THAT MAY BE IN THE  
3 FERTILIZER.

4 § 6812. REGISTRATION OF SPECIALTY FERTILIZERS.

5 (A) APPLICATION.--EACH BRAND AND GRADE OF SPECIALTY  
6 FERTILIZER SHALL BE REGISTERED BY THE GUARANTOR WITH THE  
7 DEPARTMENT BEFORE BEING OFFERED FOR SALE, SOLD OR DISTRIBUTED IN  
8 THIS COMMONWEALTH. AN APPLICATION FOR EACH BRAND AND GRADE OF  
9 SPECIALTY FERTILIZER SHALL BE MADE ON A FORM FURNISHED BY THE  
10 DEPARTMENT AND SHALL BE ACCOMPANIED BY A FEE OF \$100 OR A FEE  
11 LATER ESTABLISHED IN THE MANNER UNDER SECTION 6885 (RELATING TO  
12 FEES, FINES AND CIVIL PENALTIES), PER EACH GRADE OF EACH BRAND.  
13 LABELS FOR EACH BRAND AND GRADE SHALL ACCOMPANY THE APPLICATION.  
14 ALL REGISTRATIONS SHALL EXPIRE ON JUNE 30 OF EACH YEAR.

15 (B) CONTENTS OF SPECIALTY FERTILIZER REGISTRATION  
16 APPLICATION.--AN APPLICATION FOR REGISTRATION SHALL INCLUDE:

- 17 (1) THE BRAND AND GRADE.  
18 (2) THE GUARANTEED ANALYSIS.  
19 (3) THE NAME AND ADDRESS OF THE GUARANTOR.  
20 (4) NET WEIGHT.

21 (C) EXEMPTION.--

22 (1) A DISTRIBUTOR SHALL NOT BE REQUIRED TO REGISTER A  
23 SPECIALTY FERTILIZER WHICH IS ALREADY REGISTERED UNDER THIS  
24 CHAPTER BY ANOTHER PERSON, IF THE LABEL DOES NOT DIFFER IN A  
25 MATERIAL RESPECT.

26 (2) REGISTRATION IS NOT REQUIRED WHEN A FERTILIZER IS  
27 FORMULATED ACCORDING TO THE SPECIFICATIONS WHICH ARE  
28 FURNISHED BY THE END USER AND IS NOT FURTHER DISTRIBUTED OR  
29 OFFERED FOR SALE TO THE GENERAL PUBLIC.

30 (D) LATE FEE.--IF THE APPLICATION FOR RENEWAL OF THE

1 SPECIALTY FERTILIZER REGISTRATION REQUIRED UNDER THIS SECTION IS  
2 NOT FILED PRIOR TO JUNE 30 OF EACH YEAR, A PENALTY OF \$25 OR 10%  
3 OF THE TOTAL REGISTRATION FEE FOR ALL PRODUCTS SOUGHT TO BE  
4 REGISTERED, WHICHEVER IS GREATER, OR A FEE LATER ESTABLISHED IN  
5 THE MANNER UNDER SECTION 6885, MAY BE ASSESSED AND ADDED TO THE  
6 ORIGINAL FEE AND SHALL BE PAID BY THE APPLICANT BEFORE THE  
7 RENEWAL OF THE SPECIALTY FERTILIZER REGISTRATION IS ISSUED. THE  
8 PENALTY SHALL NOT APPLY IF THE APPLICANT FURNISHED AN AFFIDAVIT  
9 THAT THE APPLICANT HAS NOT DISTRIBUTED THE SPECIALTY FERTILIZER  
10 SUBSEQUENT TO THE EXPIRATION OF THE APPLICANT'S PRIOR  
11 REGISTRATION.

12 § 6813. TURF FERTILIZER COMPONENTS.

13 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B),  
14 FERTILIZER LABELED FOR TURF THAT IS DISTRIBUTED TO END USERS IN  
15 THIS COMMONWEALTH SHALL:

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

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

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

24 (B) EXEMPTIONS.--

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

28 (2) SUBSECTION (A) (1) SHALL NOT APPLY TO LIQUID TURF  
29 FERTILIZERS OR READILY AVAILABLE NITROGEN FERTILIZERS LABELED  
30 FOR TURF, IF THE DIRECTIONS FOR USE ARE IN ACCORDANCE WITH

1 THE REQUIREMENTS OF SECTION 6852 (RELATING TO APPLICATION OF  
2 FERTILIZER TO TURF).

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

6 § 6814. LABELS AND LABELING.

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

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

13 (2) THE GUARANTEED ANALYSIS.

14 (3) A DERIVED FROM STATEMENT.

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

17 (5) THE NAME AND ADDRESS OF THE GUARANTOR.

18 (6) THE NET WEIGHT.

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

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

30 (D) PROOF OF LABELING CLAIMS.--THE DEPARTMENT MAY REQUIRE



1 PROOF OF LABELING CLAIMS MADE FOR FERTILIZER. RESEARCH IN  
2 SUPPORT OF THE CLAIMS SHALL BE PERFORMED BY AN INSTITUTION  
3 APPROVED BY THE DEPARTMENT UTILIZING ACCEPTABLE SCIENTIFIC  
4 METHODOLOGY.

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

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

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

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

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

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

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

29 (H) NONTURF FERTILIZER.--SUBJECT TO SUBSECTIONS (I) AND (K),  
30 FERTILIZER THAT IS NOT LABELED FOR TURF, IN BULK OR PACKAGES

1 THAT ARE 40 POUNDS OR GREATER, THAT IS DISTRIBUTED TO END USERS  
2 IN THIS COMMONWEALTH SHALL INCLUDE A STATEMENT, IN LEGIBLE AND  
3 CONSPICUOUS FORM THAT AT A MINIMUM SETS FORTH THE FOLLOWING  
4 REQUIREMENTS:

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

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

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

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

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

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

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

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

30 § 6815. INSPECTION FEES.

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

10 (B) ADJUSTMENT OF FEES BY DEPARTMENT.--

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

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

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

24 § 6816. TONNAGE REPORTS.

25 (A) REQUIREMENTS.--THE GUARANTOR WHOSE NAME APPEARS ON THE  
26 LABEL SHALL SUBMIT, ALONG WITH THE REQUISITE INSPECTION FEE, A  
27 REPORT IN A MANNER PRESCRIBED BY THE DEPARTMENT LISTING BY  
28 COUNTY THE INTENDED USE AND NET TONS OF EACH BRAND AND GRADE OF  
29 FERTILIZER DISTRIBUTED IN THIS COMMONWEALTH FOR THE PERIOD  
30 COVERED BY THE INSPECTION FEE. THE DEPARTMENT MAY PROMULGATE

1 REGULATIONS TO ESTABLISH ADDITIONAL TONNAGE REPORTING  
2 REQUIREMENTS.

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

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

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

20 (E) CONFIDENTIALITY OF INFORMATION.--

21 (1) NOTWITHSTANDING THE ACT OF FEBRUARY 14, 2008 (P.L.6,  
22 NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW, OR ITS SUCCESSOR  
23 STATUTE, NO PROPRIETARY INFORMATION FURNISHED TO THE  
24 DEPARTMENT UNDER THIS SECTION SHALL BE DISCLOSED IN A WAY AS  
25 TO KNOWINGLY OR INTENTIONALLY DIVULGE A TRADE SECRET OF ANY  
26 PERSON SUBJECT TO THE PROVISIONS OF THIS CHAPTER.

27 (2) THIS SUBSECTION SHALL NOT APPLY TO INFORMATION  
28 FURNISHED TO A COURT OR ADMINISTRATIVE TRIBUNAL IN ACCORDANCE  
29 WITH LAW.

30 § 6817. INSPECTION, SAMPLING AND ANALYSIS.

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

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

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

26       (D) MAINTENANCE OF OFFICIAL SAMPLES.--OFFICIAL SAMPLES  
27 MAINTAINED BY THE DEPARTMENT AND THAT REQUIRE IMPOSITION OF A  
28 PENALTY FOR NUTRIENT DEFICIENCY SHALL BE RETAINED FOR A MINIMUM  
29 OF 90 DAYS FROM ISSUANCE OF A FERTILIZER DEFICIENCY REPORT OR AN  
30 OFFICIAL REPORT OF ANALYSIS. UPON REQUEST, THE DEPARTMENT SHALL

1 FURNISH TO THE GUARANTOR A PORTION OF THE OFFICIAL SAMPLE.  
2 REQUESTS MUST BE MADE WITHIN 30 DAYS OF RECEIPT OF A FERTILIZER  
3 DEFICIENCY REPORT OR AN OFFICIAL REPORT OF ANALYSIS.

4 § 6818. PLANT FOOD DEFICIENCY.

5 (A) PENALTIES.--THE FOLLOWING PENALTIES SHALL BE ASSESSED  
6 FOR DEFICIENCIES FROM THE GUARANTEED ANALYSIS:

7 (1) A PENALTY PAYMENT OF FIVE TIMES THE COMMERCIAL VALUE  
8 OF EACH DEFICIENCY SHALL BE ASSESSED WHEN THE ANALYSIS SHOWS  
9 THAT A FERTILIZER IS DEFICIENT:

10 (I) IN ONE OR MORE OF ITS GUARANTEED PRIMARY PLANT  
11 NUTRIENTS BEYOND A TOLERANCE OF 10% (TWO UNIT MAXIMUM);

12 OR

13 (II) WHEN THE OVERALL INDEX VALUE OF THE PRIMARY  
14 NUTRIENTS IN THE FERTILIZER IS BELOW 97.

15 (2) WHEN A FERTILIZER IS SUBJECT TO A PENALTY PAYMENT  
16 UNDER PARAGRAPH (1) (I) AND (II), THE LARGER PENALTY PAYMENT  
17 SHALL APPLY. ANY PENALTIES ASSESSED SHALL NOT EXCEED THE  
18 RETAIL PRICE OF THE LOT OF FERTILIZER REPRESENTED BY THE  
19 OFFICIAL SAMPLE.

20 (3) DEFICIENCIES BEYOND THE TOLERANCE AS ESTABLISHED BY  
21 REGULATION IN A COMPONENT OTHER THAN A PRIMARY NUTRIENT SHALL  
22 BE EVALUATED BY THE DEPARTMENT AND SHALL BE SUBJECT TO A  
23 PENALTY UNDER THIS CHAPTER.

24 (B) PAYMENT OF PENALTIES.--WITHIN 90 DAYS FOLLOWING RECEIPT  
25 OF THE OFFICIAL REPORT OF ANALYSIS, THE GUARANTOR SHALL PAY TO  
26 THE CONSUMER A DEFICIENCY PENALTY IN THE AMOUNT PRESCRIBED ON  
27 THE REPORT OF ANALYSIS. RECEIPTS OF PAYMENT SHALL BE PROMPTLY  
28 FORWARDED BY THE GUARANTOR TO THE DEPARTMENT. IF THE CONSUMER  
29 CANNOT BE FOUND, THE PENALTIES SHALL BE PAID TO THE DEPARTMENT.

30 (C) DEFICIENCIES IN FERTILIZERS.--A DEFICIENCY IN AN

1 OFFICIAL SAMPLE OF FERTILIZER RESULTING FROM NONUNIFORMITY SHALL  
2 NOT BE DEEMED DISTINGUISHABLE FROM A DEFICIENCY DUE TO ACTUAL  
3 PLANT NUTRIENT SHORTAGE AND SHALL BE DEEMED A VIOLATION OF THIS  
4 CHAPTER FOR WHICH THE DEPARTMENT MAY ASSESS A PENALTY AS  
5 PROVIDED FOR IN THIS CHAPTER.

6 § 6819. COMMERCIAL VALUE.

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

15 § 6820. MISBRANDING.

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

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

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

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

26 (4) IT PURPORTS TO BE OR IS REPRESENTED AS A FERTILIZER  
27 OR IS REPRESENTED AS CONTAINING A PLANT NUTRIENT OR  
28 FERTILIZER UNLESS SUCH PLANT NUTRIENT OR FERTILIZER CONFORMS  
29 TO THE DEFINITION OF IDENTITY, IF ANY, PRESCRIBED BY  
30 REGULATION.

1 § 6821. ADULTERATION.

2 NO PERSON SHALL DISTRIBUTE AN ADULTERATED FERTILIZER PRODUCT.  
3 A FERTILIZER SHALL BE DEEMED TO BE ADULTERATED IF ANY OF THE  
4 FOLLOWING APPLY:

5 (1) IT CONTAINS ANY DELETERIOUS OR HARMFUL SUBSTANCE IN  
6 SUFFICIENT AMOUNT TO RENDER IT INJURIOUS TO BENEFICIAL PLANT  
7 LIFE, ANIMALS, HUMANS, AQUATIC LIFE, SOIL OR WATER WHEN  
8 APPLIED IN ACCORDANCE WITH ITS INTENDED USE OR DIRECTIONS FOR  
9 USE ON THE LABEL.

10 (2) ADEQUATE WARNING STATEMENTS OR DIRECTIONS FOR USE  
11 WHICH MAY BE NECESSARY TO PROTECT PLANT LIFE, ANIMALS,  
12 HUMANS, AQUATIC LIFE, SOIL OR WATER ARE NOT SHOWN UPON THE  
13 LABEL.

14 (3) ITS COMPOSITION FALLS BELOW OR DIFFERS FROM THAT  
15 WHICH IT IS PURPORTED TO POSSESS BY ITS LABELING.

16 (4) IT CONTAINS VIABLE WEED SEED OR UNWANTED CROP SEED  
17 IN AMOUNTS EXCEEDING THE LIMIT WHICH THE DEPARTMENT  
18 ESTABLISHES BY REGULATION.

19 SUBCHAPTER C

20 APPLICATOR LICENSING AND CERTIFICATION

21 SEC.

22 6831. LICENSING OF FERTILIZER APPLICATION BUSINESSES.

23 6832. CERTIFICATION OF APPLICATORS.

24 6833. RECERTIFICATION OF APPLICATORS.

25 6834. RECIPROCAL AGREEMENT.

26 6835. TRAINING OF FERTILIZER TECHNICIANS.

27 § 6831. LICENSING OF FERTILIZER APPLICATION BUSINESSES.

28 (A) REQUIREMENTS.--A FERTILIZER APPLICATION BUSINESS MUST BE  
29 LICENSED PRIOR TO APPLYING FERTILIZER AND SHALL COMPLY WITH THE  
30 PROVISIONS OF THIS CHAPTER AND ANY REGULATION OR ORDER OF THE



1 DEPARTMENT. A FERTILIZER APPLICATION BUSINESS WITH MORE THAN ONE  
2 LOCATION OR PLACE OF BUSINESS OR OPERATING UNDER MORE THAN ONE  
3 NAME IN THIS COMMONWEALTH SHALL LICENSE EACH LOCATION, PLACE OF  
4 BUSINESS AND BUSINESS ENTITY. FOR A GOVERNMENTAL OR PUBLIC  
5 ENTITY, EACH DISTRICT OR REGION SHALL BE CONSIDERED A SEPARATE  
6 BUSINESS AND SHALL REQUIRE A SEPARATE LICENSE.

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

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

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

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

1 THE FOLLOWING:

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

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

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

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

21 (H) AERIAL APPLICATION.--IF A FERTILIZER APPLICATION  
22 BUSINESS OR AN APPLICATOR OF FERTILIZER ENGAGES IN AERIAL  
23 APPLICATIONS, THE APPLICANT SHALL, UPON REQUEST BY THE  
24 DEPARTMENT, PROVIDE PROOF OF COMPLIANCE WITH THE FEDERAL  
25 AVIATION ADMINISTRATION REGULATIONS AS DESCRIBED IN 14 CFR PT.  
26 137 (RELATING TO AGRICULTURAL AIRCRAFT OPERATIONS) OR ITS  
27 SUCCESSOR REGULATIONS.

28 § 6832. CERTIFICATION OF APPLICATORS.

29 (A) CONDITION.--A COMMERCIAL APPLICATOR OR PUBLIC APPLICATOR  
30 FOR A FERTILIZER APPLICATION BUSINESS MUST BE CERTIFIED UNDER

1 THE REQUIREMENTS ESTABLISHED IN THIS CHAPTER AND THE  
2 DEPARTMENT'S REGULATIONS PRIOR TO:

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

5 (2) THE FERTILIZER APPLICATION BUSINESS APPLYING  
6 FERTILIZER.

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

9 (C) CERTIFICATION EXAMINATION.--

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

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

21 (I) SAFETY AND HEALTH.

22 (II) LABELING AND LABEL COMPREHENSION.

23 (III) ENVIRONMENTAL PROTECTION.

24 (IV) EQUIPMENT USE, CALIBRATION AND DOSAGE  
25 CALCULATIONS.

26 (V) PERSONAL PROTECTIVE EQUIPMENT.

27 (VI) CLEANING AND MAINTAINING EQUIPMENT.

28 (VII) TRANSPORTATION, STORAGE, SECURITY AND  
29 DISPOSAL.

30 (VIII) APPLICABLE FEDERAL AND STATE LAWS.

1           (IX) ANY SUBJECT MATTER DEEMED APPROPRIATE BY THE  
2           DEPARTMENT'S REGULATIONS.

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

6           (D) COMMERCIAL AND PUBLIC APPLICATORS.--

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

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

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

23           (F) ACTIVATION.--UPON RECEIVING NOTICE OF PASSING ALL  
24           CERTIFICATION REQUIREMENTS, THE APPLICANT SHALL, WITHIN 12  
25           MONTHS OF BECOMING ELIGIBLE TO BE CERTIFIED AS A COMMERCIAL OR  
26           PUBLIC APPLICATOR, FILE WITH THE DEPARTMENT A REQUEST TO  
27           ACTIVATE CERTIFICATION. A PERSON WHO FAILS TO REQUEST ACTIVATION  
28           WITHIN THIS 12-MONTH PERIOD SHALL LOSE CERTIFICATION ELIGIBILITY  
29           AND SHALL AGAIN ESTABLISH ELIGIBILITY IN ACCORDANCE WITH THIS  
30           SECTION.

1 (G) EXPIRATION.--CERTIFICATION SHALL EXPIRE AS FOLLOWS:

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

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

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

12 (H) GRANDFATHERING.--

13 (1) A PERSON HOLDING A VALID PESTICIDE APPLICATOR  
14 CERTIFICATION IN THE FOLLOWING CATEGORIES UNDER 7 PA. CODE §  
15 128.42 (RELATING TO CATEGORIES OF COMMERCIAL AND PUBLIC  
16 APPLICATORS) UPON THE EFFECTIVE DATE OF THIS SUBSECTION SHALL  
17 BE GRANTED CERTIFICATION AS A CERTIFIED FERTILIZER APPLICATOR  
18 UNDER THIS CHAPTER BUT SHALL STILL COMPLY WITH ALL OTHER  
19 REQUIREMENTS OF THIS CHAPTER:

20 (I) CATEGORY 1, AGRONOMIC CROPS.

21 (II) CATEGORY 2, FRUITS AND NUTS.

22 (III) CATEGORY 3, VEGETABLE CROPS.

23 (IV) CATEGORY 5, FOREST PEST CONTROL.

24 (V) CATEGORY 6, ORNAMENTAL AND SHADE TREES.

25 (VI) CATEGORY 7, LAWN AND TURF.

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

28 (VIII) CATEGORY 22, INTERIOR PLANTSCAPE.

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

30 (X) CATEGORY 25, AERIAL APPLICATOR.

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

6   § 6833. RECERTIFICATION OF APPLICATORS.

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

12           (1) SAFETY AND HEALTH.

13           (2) LABELING AND LABEL COMPREHENSION.

14           (3) ENVIRONMENTAL PROTECTION.

15           (4) EQUIPMENT USE, CALIBRATION AND DOSAGE CALCULATIONS.

16           (5) PERSONAL PROTECTIVE EQUIPMENT.

17           (6) CLEANING AND MAINTAINING EQUIPMENT.

18           (7) TRANSPORTATION, STORAGE, SECURITY AND DISPOSAL.

19           (8) APPLICABLE FEDERAL AND STATE LAWS.

20           (9) ANY SUBJECT MATTER DEEMED APPROPRIATE BY THE  
21           DEPARTMENT'S REGULATIONS.

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

29           (C) TRAINING.--TRAINING SHALL BE APPROVED BASED ON THE  
30           FOLLOWING:

1           (1) TRAINING SHALL BE CONDUCTED OR SPONSORED BY THE  
2 DEPARTMENT OR A DEPARTMENT-APPROVED INSTITUTION, ASSOCIATION,  
3 BUSINESS ENTITY OR GOVERNMENTAL AGENCY. THE DEPARTMENT-  
4 APPROVED TRAINER SHALL SUBMIT COURSE MATERIALS FOR APPROVAL  
5 BY THE DEPARTMENT AND SHALL ESTABLISH THAT COURSES WILL BE  
6 CONDUCTED BY A PERSON OR PERSONS THAT ARE CERTIFIED  
7 APPLICATORS IN GOOD STANDING UNDER THIS CHAPTER AND WITH AT  
8 LEAST THREE YEARS' EXPERIENCE AS A CERTIFIED FERTILIZER  
9 APPLICATOR OR BY AN APPROVED ENTITY WITH OTHER DOCUMENTED  
10 QUALIFICATIONS TO SERVE AS A TRAINER, SUCH AS AN APPROPRIATE  
11 EDUCATIONAL BACKGROUND.

12           (2) TRAINING SHALL BE APPROVED FOR CONTINUING EDUCATION  
13 CREDITS AT THE RATE OF ONE CREDIT PER 30 MINUTES, OR AS LATER  
14 ESTABLISHED BY REGULATION, OF APPLICABLE INSTRUCTION,  
15 EXCLUSIVE OF COFFEE BREAKS, LUNCHESES, VISITS TO EXHIBITS AND  
16 OTHER SIMILAR ACTIVITIES.

17           (3) AN APPROVED ENTITY WISHING TO CONDUCT OR SPONSOR  
18 CONTINUING EDUCATION TRAINING SHALL SUBMIT A WRITTEN REQUEST  
19 FOR COURSE AND TRAINER APPROVAL TO THE DEPARTMENT'S REGIONAL  
20 OFFICE FOR THE REGION IN WHICH THE MEETING WILL BE HELD. A  
21 REQUEST TO APPROVE OUT-OF-STATE TRAINING MUST BE SUBMITTED TO  
22 THE DEPARTMENT'S HEADQUARTERS. THE REQUEST SHALL INCLUDE  
23 EVIDENCE OF COMPLIANCE WITH THE STANDARDS ESTABLISHED BY  
24 PARAGRAPH (1).

25           (D) INFORMATION REQUEST.--A REQUEST FOR TRAINING APPROVAL  
26 SHALL INCLUDE THE FOLLOWING INFORMATION:

27           (1) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE  
28 CONTACT PERSON WHO IS COORDINATING THE TRAINING.

29           (2) THE SPECIFIC LOCATION WHERE THE TRAINING COURSE WILL  
30 BE OFFERED.

1           (3) THE DATE AND TIME OF THE TRAINING COURSE.

2           (4) A LISTING OF THE TRAINERS, TRAINER QUALIFICATIONS,  
3           SUBJECT MATTER AND TIME ALLOTTED TO EACH SUBJECT.

4           (5) A STATEMENT OF WHETHER THE TRAINING IS OPEN TO THE  
5           PUBLIC AND WHERE APPLICABLE THE CHARGE TO ATTEND.

6           (6) A DETAILED COURSE SYLLABUS SETTING FORTH THE SUBJECT  
7           MATTER TO BE COVERED AND A DESCRIPTION OF THE CONTENT, THE  
8           TIME PERIOD ALLOTTED FOR EACH SUBJECT MATTER AND TRAINER NAME  
9           AND CERTIFICATION.

10          (E) OATH OR AFFIRMATION.--A STATEMENT MADE IN A REQUEST TO  
11          APPROVE TRAINING SHALL BE SUPPORTED BY OATH OR AFFIRMATION AND  
12          IS SUBJECT TO THE PENALTIES FOR A VIOLATION OF 18 PA.C.S. § 4904  
13          (RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES) OR ITS  
14          SUCCESSOR STATUTE.

15          (F) ASSIGNMENT OF CREDITS.--CREDITS SHALL BE ASSIGNED TO  
16          EACH TRAINING COURSE BASED UPON THE SUBJECTS COVERED AND THE  
17          AMOUNT OF TIME EXPENDED ON EACH SUBJECT.

18          (G) MONITORING OF TRAINING.--ALL TRAINING SHALL BE MONITORED  
19          BY AN EMPLOYEE OF THE DEPARTMENT. IF AN EMPLOYEE OF THE  
20          DEPARTMENT IS UNABLE TO MONITOR THE TRAINING, THE TRAINING  
21          COURSE COORDINATOR SHALL BE RESPONSIBLE FOR AUTHENTICATING  
22          ATTENDANCE AND SHALL COMPILE AN APPROVED LIST OF PENNSYLVANIA  
23          CERTIFIED APPLICATORS IN ATTENDANCE. THIS LIST SHALL BE RETURNED  
24          TO THE DEPARTMENT WITHIN 10 WORKING DAYS FOLLOWING THE MEETING  
25          DATE AND SHALL INCLUDE THE NAME OF EACH INDIVIDUAL ATTENDING AND  
26          THE INDIVIDUAL'S APPLICATOR CERTIFICATION NUMBER.

27          (H) MODIFICATION OF CREDITS.--CREDITS ASSIGNED MAY BE  
28          MODIFIED IF THE CONTENT, APPROVED TRAINER OR TIME OF THE ACTUAL  
29          TRAINING COURSE DIFFERS FROM THE ORIGINAL TRAINING COURSE  
30          APPROVED BY THE DEPARTMENT.



1 (I) VIOLATION.--FALSIFICATION BY A DEPARTMENT-APPROVED  
2 COURSE TRAINER OR SPONSOR OF INFORMATION REQUIRED UNDER THIS  
3 SECTION SHALL BE CONSIDERED A VIOLATION OF THIS CHAPTER FOR  
4 WHICH THE DEPARTMENT MAY ASSESS A PENALTY AS PROVIDED FOR UNDER  
5 THIS CHAPTER AND WITHDRAW APPROVAL OF THE COURSE AS SPECIFIED  
6 UNDER THIS SECTION.

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

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

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

1 § 6834. RECIPROCAL AGREEMENT.

2 THE DEPARTMENT MAY ISSUE A LICENSE OR CERTIFICATION ON A  
3 RECIPROCAL BASIS WITH OTHER STATES WITHOUT EXAMINATION TO A  
4 NONRESIDENT WHO IS LICENSED OR CERTIFIED IN ANOTHER STATE THAT  
5 ADMINISTERS A FERTILIZER LICENSING OR CERTIFICATION COURSE  
6 SUBSTANTIALLY IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER.

7 § 6835. TRAINING OF FERTILIZER TECHNICIANS.

8 (A) PROHIBITION.--FERTILIZER TECHNICIANS WORKING FOR A  
9 FERTILIZER APPLICATION BUSINESS MAY NOT APPLY FERTILIZER WITHOUT  
10 FIRST GOING THROUGH A TRAINING PROGRAM, AS REQUIRED BY THE  
11 PROVISIONS OF THIS CHAPTER, AN ORDER OF THE DEPARTMENT OR THE  
12 DEPARTMENT'S REGULATIONS.

13 (B) REQUIREMENTS.--FERTILIZER TECHNICIANS SHALL BE AN  
14 EMPLOYEE OF THE BUSINESS AND TRAINED BY A CERTIFIED APPLICATOR  
15 WHO IS AN EMPLOYEE OF THE SAME BUSINESS.

16 (C) TRANSFERABILITY.--TRAINING OF FERTILIZER TECHNICIANS  
17 SHALL NOT BE TRANSFERRABLE BETWEEN BUSINESSES.

18 (D) PROGRAM ADMINISTRATION.--THE TRAINING PROGRAM FOR  
19 FERTILIZER TECHNICIANS SHALL BE ADMINISTERED BY A CERTIFIED  
20 APPLICATOR, EMPLOYED BY THE FERTILIZER APPLICATION BUSINESS  
21 EMPLOYING THE FERTILIZER TECHNICIAN, IN SUBJECT MATTER INVOLVING  
22 THE ASSIGNED TASKS OF THE FERTILIZER TECHNICIAN. THE TRAINING  
23 PROGRAM SHALL INCLUDE, BUT NOT BE LIMITED TO:

24 (1) PROPER USE OF FERTILIZERS AND USE OF APPLICATION  
25 EQUIPMENT, INCLUDING CALIBRATION AND MAINTENANCE EQUIPMENT  
26 USED ON THE JOB.

27 (2) PROTECTIVE CLOTHING REQUIRED DURING THE APPLICATION  
28 AND HANDLING OF FERTILIZERS.

29 (3) TRANSPORTATION AND DISPOSAL OF FERTILIZERS USED IN  
30 AND AROUND THE WORKPLACE.

1           (4) APPLICABLE FEDERAL AND STATE REGULATIONS AS THEY  
2           AFFECT THE WORK ASSIGNMENTS.

3           (5) COMPETENCE IN READING AND FOLLOWING LABEL AND  
4           APPLICATION REQUIREMENTS.

5           (E) NONCERTIFIED EMPLOYEES.--WHEN THERE ARE NONCERTIFIED  
6           EMPLOYEES ENGAGED IN THE APPLICATION OF FERTILIZER, THEY SHALL  
7           BE TRAINED IN ACCORDANCE WITH SUBSECTION (D) OR WORK UNDER THE  
8           SUPERVISION OF A CERTIFIED APPLICATOR WHO IS PHYSICALLY PRESENT  
9           ON THE JOB SITE.

10          (F) TRAINING AND SUPERVISION PROHIBITION.--A FERTILIZER  
11          TECHNICIAN MAY NOT TRAIN APPLICATORS OR SUPERVISE THE USE OR  
12          APPLICATION OF FERTILIZERS BY OTHER FERTILIZER TECHNICIANS OR  
13          NONCERTIFIED EMPLOYEES.

14          (G) RECORD.--AT THE COMPLETION OF TRAINING, THE CERTIFIED  
15          APPLICATOR CONDUCTING THE TRAINING SHALL COMPLETE A RECORD OF  
16          TRAINING. TRAINING RECORDS SHALL BE MAINTAINED BY THE FIRM FOR  
17          ONE YEAR FOLLOWING SEPARATION OF THE FERTILIZER TECHNICIAN'S  
18          EMPLOYMENT AND AT A MINIMUM, SHALL INCLUDE:

19               (1) THE NAME AND CERTIFICATION NUMBER OF THE TRAINER.

20               (2) THE NAME OF FERTILIZER TECHNICIAN TRAINED.

21               (3) THE DATE OF TRAINING.

22               (4) THE AREAS OF TRAINING.

23               (5) THE BUSINESS NAME AND ADDRESS OF THE FERTILIZER  
24               APPLICATION BUSINESS EMPLOYING THE FERTILIZER TECHNICIAN.

25               (6) ANY OTHER REQUIREMENTS AS ESTABLISHED BY THE  
26               DEPARTMENT THROUGH ORDER OR REGULATION.

27                               SUBCHAPTER D

28                               RECORDKEEPING FOR APPLICATORS

29           SEC.

30           6841. RECORDS.

1 § 6841. RECORDS.

2 (A) REQUIRED INFORMATION.--APPLICATORS REQUIRED TO BE  
3 CERTIFIED UNDER SECTION 6832 (RELATING TO CERTIFICATION OF  
4 APPLICATORS) AND FERTILIZER TECHNICIANS TRAINED UNDER SECTION  
5 6835 (RELATING TO TRAINING OF FERTILIZER TECHNICIANS) SHALL KEEP  
6 FOR EVERY APPLICATION OF FERTILIZER A RECORD CONTAINING THE  
7 FOLLOWING INFORMATION:

8 (1) THE NAME AND ADDRESS OF THE CUSTOMER AND THE ADDRESS  
9 AND LOCATION OF THE APPLICATION SITE, IF DIFFERENT FROM THE  
10 ADDRESS OF THE CUSTOMER.

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

17 (3) THE WEATHER CONDITIONS, INCLUDING APPROXIMATE  
18 TEMPERATURE.

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

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

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

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

27 (8) THE NAME AND CERTIFICATION NUMBER OF EACH PERSON  
28 INVOLVED WITH THE APPLICATION AND THE NAME OF EACH FERTILIZER  
29 TECHNICIAN AND NONCERTIFIED EMPLOYEE INVOLVED IN THE  
30 APPLICATION.



1 OR STATE LAW, RULE OR REGULATION.

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

4 § 6852. APPLICATION OF FERTILIZER TO TURF.

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

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

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

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

13 (I) ESTABLISHING VEGETATION FOR THE FIRST TIME;

14 (II) REESTABLISHING OR REPAIRING A TURF AREA; OR

15 (III) AS AN ENHANCED-EFFICIENCY PHOSPHORUS

16 FERTILIZER, NATURAL ORGANIC FERTILIZER OR ORGANIC-BASED  
17 FERTILIZER, IF THE APPLICATION RATE DOES NOT EXCEED 0.25  
18 POUNDS OF PHOSPHORUS PER 1,000 SQUARE FEET PER  
19 APPLICATION, WITH A MAXIMUM TOTAL ANNUAL APPLICATION OF  
20 0.5 POUNDS OF PHOSPHORUS PER 1,000 SQUARE FEET.

21 (B) RESTRICTIONS.--NO PERSON MAY:

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

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

29 (3) APPLY FERTILIZER CONTAINING NITROGEN OR PHOSPHORUS  
30 TO TURF BEFORE MARCH 1 OR AFTER DECEMBER 15 IN A CALENDAR

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

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

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

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

29 (2) CURRENT SOIL, PLANT SPECIES, CLIMATE, USE,  
30 TOPOGRAPHY OR OTHER APPROPRIATE MANAGEMENT FACTORS.

1           (3) RATES RECOMMENDED BY THE PENNSYLVANIA STATE  
2           UNIVERSITY OR OTHER PENNSYLVANIA UNIVERSITY OR COLLEGE  
3           RECOGNIZED BY THE DEPARTMENT.

4           (E) CERTIFIED APPLICATORS OR FERTILIZER TECHNICIANS.--IN  
5           ADDITION TO THE REQUIREMENTS OF SECTION 6841 (RELATING TO  
6           RECORDS), WHEN A CERTIFIED APPLICATOR OR FERTILIZER TECHNICIAN  
7           APPLIES FERTILIZER IN ACCORDANCE WITH SUBSECTION (D), THE  
8           CERTIFIED APPLICATOR OR FERTILIZER TECHNICIAN SHALL RETAIN A  
9           COPY OF THE SOIL TEST AND RECOMMENDATIONS RECEIVED FOR THE SITE-  
10          SPECIFIC PLAN AS PART OF THE RECORD-KEEPING REQUIREMENTS.

11          (F) ADDITIONAL REQUIREMENTS.--THE DEPARTMENT MAY ESTABLISH  
12          ADDITIONAL REQUIREMENTS THROUGH REGULATION.

13          (G) EXEMPTION.--THE REQUIREMENTS OF THIS SECTION SHALL NOT  
14          APPLY TO FERTILIZER APPLIED FOR AGRICULTURAL PRODUCTION OR BY A  
15          PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY FOR RESEARCH PURPOSES.

16          § 6853. PROHIBITED ACTS.

17          (A) PROHIBITED ACTS BY BUSINESS, CERTIFIED APPLICATOR OR  
18          FERTILIZER TECHNICIAN.--A FERTILIZER APPLICATION BUSINESS,  
19          CERTIFIED APPLICATOR OR FERTILIZER TECHNICIAN MAY NOT:

20               (1) APPLY FERTILIZER WITHOUT A LICENSE, CERTIFICATION OR  
21               THE TRAINING AS REQUIRED BY THIS CHAPTER.

22               (2) APPLY FERTILIZER THAT IS MISBRANDED OR ADULTERATED.

23               (3) MAKE FALSE OR FRAUDULENT RECORDS, INVOICES OR  
24               REPORTS CONCERNING THE APPLICATION, STORAGE OR DISPOSAL OF  
25               FERTILIZER.

26               (4) MAKE A FALSE STATEMENT OR MISREPRESENTATION OF  
27               MATERIAL FACT ON AN APPLICATION FOR ISSUANCE OR RENEWAL OF A  
28               LICENSE OR CERTIFICATION REQUIRED UNDER THIS CHAPTER, A  
29               REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED  
30               UNDER THE AUTHORITY OF THIS CHAPTER.



1           (5) REFUSE OR NEGLECT TO COMPLY WITH A CONDITION OR  
2 LIMITATION IMPOSED UPON A LICENSE OR CERTIFICATION ISSUED  
3 UNDER THIS CHAPTER, A REGULATION PROMULGATED UNDER THIS  
4 CHAPTER OR AN ORDER ISSUED UNDER THE AUTHORITY OF THIS  
5 CHAPTER.

6           (6) REFUSE TO PRESENT EVIDENCE OF PROPER LICENSURE OR  
7 CERTIFICATION TO AN EMPLOYEE OR AGENT OF THE DEPARTMENT UPON  
8 REQUEST.

9           (7) REFUSE TO DISPLAY THE FERTILIZER APPLICATION  
10 BUSINESS'S, CERTIFIED APPLICATOR'S OR FERTILIZER TECHNICIAN'S  
11 LICENSE OR CERTIFICATION NUMBER IN A MANNER REQUIRED BY THIS  
12 CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN  
13 ORDER ISSUED UNDER THE AUTHORITY OF THIS CHAPTER.

14           (8) REFUSE OR NEGLECT TO KEEP AND MAINTAIN THE RECORDS,  
15 OR MAKE REPORTS WHEN AND AS REQUIRED, BY THIS CHAPTER, A  
16 REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED  
17 UNDER THE AUTHORITY OF THIS CHAPTER.

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

21 (B) PROHIBITED ACTS BY PERSON.--A PERSON MAY NOT:

22           (1) APPLY FERTILIZER WITH A DEVICE THAT IS NOT INTENDED  
23 FOR THE APPLICATION OF FERTILIZER OR THAT HAS NOT BEEN  
24 PROPERLY CALIBRATED.

25           (2) OPERATE FERTILIZER APPLICATION EQUIPMENT OR DEVICES  
26 IN A FAULTY, CARELESS OR NEGLIGENT MANNER.

27           (3) DISPOSE OF, DISCARD OR STORE A FERTILIZER PRODUCT IN  
28 A MANNER THAT WOULD BE INCONSISTENT WITH ITS LABEL, WOULD  
29 CAUSE OVER-APPLICATION OF FERTILIZER, WOULD RESULT IN DIRECT  
30 DISCHARGE TO A STORM DRAIN OR WATERS OF THIS COMMONWEALTH OR

1 WOULD BE INCONSISTENT WITH THIS CHAPTER, A REGULATION  
2 PROMULGATED UNDER THIS CHAPTER OR AN ORDER ISSUED UNDER THE  
3 AUTHORITY OF THIS CHAPTER.

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

9 (5) HINDER, MISLEAD, MAKE FALSE STATEMENTS TO OR REFUSE  
10 TO COOPERATE WITH AN EMPLOYEE OR AGENT OF THE DEPARTMENT IN  
11 ANY INVESTIGATION OR INSPECTION UNDERTAKEN BY THE AUTHORITY  
12 DELEGATED TO THE DEPARTMENT UNDER THE PROVISIONS OF THIS  
13 CHAPTER.

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

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

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

24 SUBCHAPTER F

25 AGRICULTURAL AND HOMEOWNER EDUCATION PROGRAM

26 SEC.

27 6861. AGRICULTURAL AND HOMEOWNER EDUCATION.

28 § 6861. AGRICULTURAL AND HOMEOWNER EDUCATION.

29 THE DEPARTMENT, THROUGH GUIDELINES ESTABLISHED IN  
30 CONSULTATION WITH THE PENNSYLVANIA STATE UNIVERSITY AND

1 REPRESENTATIVES OF THE AGRICULTURAL AND TURF GRASS INDUSTRIES,  
2 SHALL UNDERTAKE A PROGRAM OF PUBLIC OUTREACH TO EDUCATE THE  
3 PUBLIC ON PROPER USE, APPLICATION, HANDLING AND STORAGE OF  
4 FERTILIZERS.

5 SUBCHAPTER G

6 ADMINISTRATION AND PENALTIES

7 SEC.

8 6871. PUBLICATIONS.

9 6872. RULES AND REGULATIONS.

10 6873. SHORT WEIGHT.

11 6874. REFUSAL, SUSPENSION OR REVOCATION OF REGISTRATION,  
12 LICENSE OR CERTIFICATION.

13 6875. STOP-SALE ORDERS.

14 6876. SEIZURE AND CONDEMNATION.

15 6877. UNLAWFUL CONDUCT.

16 6878. INTERFERENCE WITH OFFICER OR EMPLOYEE OF DEPARTMENT.

17 6879. ENFORCEMENT AND PENALTIES.

18 6880. APPEAL PROCESS.

19 6881. CIVIL REMEDY.

20 6882. COOPERATION WITH OTHER ENTITIES.

21 6883. EXCHANGES BETWEEN MANUFACTURERS.

22 6884. CONFIDENTIALITY.

23 6885. FEES, FINES AND CIVIL PENALTIES.

24 6886. DISPOSITION OF FUNDS.

25 6887. EXCLUSION OF LOCAL LAWS AND REGULATIONS.

26 § 6871. PUBLICATIONS.

27 THE DEPARTMENT MAY PUBLISH ON AN ANNUAL BASIS, AND IN A FORM  
28 AS IT DEEMS PROPER, INFORMATION CONCERNING THE DISTRIBUTION OF  
29 FERTILIZERS FOR BOTH AGRICULTURAL AND NONAGRICULTURAL USES AND  
30 RESULTS OF ANALYSES BASED ON OFFICIAL SAMPLES OF FERTILIZER

1 DISTRIBUTED WITHIN THIS COMMONWEALTH AS COMPARED WITH ANALYSES  
2 GUARANTEED UNDER SECTIONS 6812 (RELATING TO REGISTRATION OF  
3 SPECIALTY FERTILIZERS) AND 6814 (RELATING TO LABELS AND  
4 LABELING).

5 § 6872. RULES AND REGULATIONS.

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

9 § 6873. SHORT WEIGHT.

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

15 § 6874. REFUSAL, SUSPENSION OR REVOCATION OF REGISTRATION,  
16 LICENSE OR CERTIFICATION.

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

19 (1) THE REGISTRATION OF A FERTILIZER;

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

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

29 (B) HEARING.--THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY  
30 FOR A HEARING, AS SPECIFIED IN SECTION 6880 (RELATING TO APPEAL

1 PROCESS), TO A PERSON APPEALING AN ACTION OF THE DEPARTMENT  
2 UNDER THIS SECTION.

3 § 6875. STOP-SALE ORDERS.

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

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

24 § 6876. SEIZURE AND CONDEMNATION.

25 FERTILIZER NOT IN COMPLIANCE WITH THE PROVISIONS OF THIS  
26 CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER  
27 ISSUED UNDER THE AUTHORITY OF THIS CHAPTER SHALL BE SUBJECT TO  
28 SEIZURE AND CONDEMNATION BY THE DEPARTMENT, PROVIDED THAT IN NO  
29 INSTANCE SHALL THE DISPOSITION OF THE FERTILIZER BE ORDERED BY  
30 THE DEPARTMENT WITHOUT FIRST GIVING THE CLAIMANT AN OPPORTUNITY

1 FOR A HEARING AS PROVIDED FOR IN SECTION 6880 (RELATING TO  
2 APPEAL PROCESS) OR FOR OPPORTUNITY TO APPLY FOR PERMISSION TO  
3 PROCESS OR RELABEL THE FERTILIZER TO BRING IT INTO COMPLIANCE  
4 WITH THIS CHAPTER.

5 § 6877. UNLAWFUL CONDUCT.

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

10 § 6878. INTERFERENCE WITH OFFICER OR EMPLOYEE OF DEPARTMENT.

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

18 § 6879. ENFORCEMENT AND PENALTIES.

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

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

28 (2) FOR A SUBSEQUENT OFFENSE COMMITTED WITHIN THREE  
29 YEARS OF A PRIOR CONVICTION FOR A VIOLATION OF THIS CHAPTER,  
30 A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER

1 ISSUED UNDER THE AUTHORITY OF THIS CHAPTER COMMITS A  
2 MISDEMEANOR OF THE SECOND DEGREE AND SHALL, UPON CONVICTION,  
3 BE SENTENCED TO PAY A FINE OF NOT LESS THAN \$500 NOR MORE  
4 THAN \$1,000 AND COSTS OF PROSECUTION OR TO IMPRISONMENT FOR  
5 NOT MORE THAN TWO YEARS, OR BOTH.

6 (B) CIVIL PENALTIES.--

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

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

20 (C) TRADE SECRETS.--

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

29 (2) THIS SUBSECTION SHALL NOT BE CONSTRUED TO PROHIBIT  
30 THE DEPARTMENT FROM EXCHANGING INFORMATION OF A REGULATORY

1 NATURE WITH GOVERNMENTAL AGENCIES OF THE FEDERAL GOVERNMENT,  
2 AGENCIES OF THIS COMMONWEALTH OR ANY OTHER STATE.

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

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

14 (F) DISTRICT ATTORNEY.--IT IS THE DUTY OF EACH DISTRICT  
15 ATTORNEY TO WHOM A CRIMINAL VIOLATION OF THIS CHAPTER IS  
16 REPORTED TO CAUSE APPROPRIATE PROCEEDINGS TO BE INSTITUTED AND  
17 PROSECUTED IN A COURT OF COMPETENT JURISDICTION WITHOUT DELAY.  
18 § 6880. APPEAL PROCESS.

19 ALL APPEALS SHALL BE TAKEN AND HEARINGS CONDUCTED IN  
20 ACCORDANCE WITH THE PROVISIONS OF 2 PA.C.S. CHS. 5 SUBCH. A  
21 (RELATING TO PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES)  
22 AND 7 SUBCH. A (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH  
23 AGENCY ACTION). A PERSON SHALL HAVE 15 DAYS TO APPEAL AN  
24 ENFORCEMENT ACTION OF THE DEPARTMENT.  
25 § 6881. CIVIL REMEDY.

26 (A) OFFICE OF ATTORNEY GENERAL.--IN ADDITION TO OTHER  
27 REMEDIES PROVIDED FOR IN THIS CHAPTER, THE OFFICE OF ATTORNEY  
28 GENERAL, AT THE REQUEST OF THE DEPARTMENT, MAY INITIATE IN  
29 COMMONWEALTH COURT OR THE COURT OF COMMON PLEAS OF THE COUNTY IN  
30 WHICH THE DEFENDANT RESIDES OR HAS A PLACE OF BUSINESS AN ACTION



1 IN EQUITY FOR AN INJUNCTION TO RESTRAIN A VIOLATION OF THIS  
2 CHAPTER, A REGULATION PROMULGATED UNDER THIS CHAPTER OR AN ORDER  
3 ISSUED UNDER THE AUTHORITY OF THIS CHAPTER FROM WHICH NO TIMELY  
4 APPEAL HAS BEEN TAKEN OR WHICH HAS BEEN SUSTAINED ON APPEAL.

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

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

14 (D) CIVIL PENALTIES.--IN ADDITION TO AN INJUNCTION, THE  
15 COURT MAY LEVY CIVIL PENALTIES AS PROVIDED BY THIS CHAPTER.  
16 § 6882. COOPERATION WITH OTHER ENTITIES.

17 THE DEPARTMENT MAY COOPERATE WITH AND ENTER INTO AGREEMENT  
18 WITH GOVERNMENTAL AGENCIES OF THE FEDERAL GOVERNMENT, AGENCIES  
19 OF THIS COMMONWEALTH OR ANOTHER STATE TO CARRY OUT THE PURPOSE  
20 AND PROVISIONS OF THIS CHAPTER.

21 § 6883. EXCHANGES BETWEEN MANUFACTURERS.

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

28 § 6884. CONFIDENTIALITY.

29 ALL PROPRIETARY BUSINESS INFORMATION CONTAINED IN RECORDS,  
30 DATA, FORMULATIONS AND OTHER INFORMATION FILED WITH OR COLLECTED

1 BY THE DEPARTMENT RELATING TO INSPECTIONS, TONNAGE REPORTS AND  
2 TRADE SECRETS, SUCH AS PRODUCT FORMULATION, CUSTOMER LISTS OR  
3 PRODUCTION METHODS, SHALL BE EXEMPT FROM ACT OF FEBRUARY 14,  
4 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW, OR ITS  
5 SUCCESSOR STATUTE, AND SUBJECT TO INSPECTION ONLY UPON THE ORDER  
6 OF A COURT OF COMPETENT JURISDICTION.

7 § 6885. FEES, FINES AND CIVIL PENALTIES.

8 (A) INSUFFICIENT REVENUES.--IF THE REVENUES RAISED BY FEES,  
9 FINES AND CIVIL PENALTIES IMPOSED UNDER THIS CHAPTER ARE NOT  
10 SUFFICIENT TO MEET EXPENDITURES FOR THE ADMINISTRATION AND  
11 ENFORCEMENT OF THIS CHAPTER OVER A TWO-YEAR PERIOD, THE  
12 DEPARTMENT MAY INCREASE THOSE FEES SO THAT THE PROJECT REVENUES  
13 WILL MEET OR EXCEED PROJECTED EXPENDITURES.

14 (B) NOTICE AND EFFECTIVE DATE.--THE DEPARTMENT SHALL  
15 ANNOUNCE THE ADJUSTMENT OF FEES, FINES AND PENALTIES BY  
16 PUBLISHING A NOTICE IN THE PENNSYLVANIA BULLETIN. PRIOR TO THE  
17 ADJUSTED FEES, FINES AND PENALTIES BECOMING EFFECTIVE, THE  
18 DEPARTMENT SHALL HOLD A PUBLIC MEETING TO RECEIVE INPUT FROM THE  
19 REGULATED COMMUNITY. SUBSEQUENT TO THE PUBLIC MEETING, THE  
20 DEPARTMENT SHALL REPUBLISH THE ADJUSTED FEES, FINES AND  
21 PENALTIES IN THE PENNSYLVANIA BULLETIN. THE ADJUSTED FEES SHALL  
22 TAKE EFFECT 60 DAYS AFTER PUBLICATION OF THE SUBSEQUENT NOTICE  
23 IN THE PENNSYLVANIA BULLETIN.

24 § 6886. DISPOSITION OF FUNDS.

25 MONEY RECEIVED FROM LICENSE FEES, REGISTRATION FEES,  
26 APPLICATOR CERTIFICATION, INSPECTION FEES, FINES AND PENALTIES  
27 SHALL BE PAID INTO A SPECIAL RESTRICTED ACCOUNT IN THE GENERAL  
28 FUND KNOWN AS THE AGRONOMIC REGULATORY ACCOUNT. ALL MONEY IN THE  
29 AGRONOMIC REGULATORY ACCOUNT IS APPROPRIATED TO THE DEPARTMENT  
30 FOR THE PURPOSES OF THIS CHAPTER AND CHAPTERS 69 (RELATING TO

1 SOIL AND PLANT AMENDMENT) AND 71 (RELATING TO SEED).

2 § 6887. EXCLUSION OF LOCAL LAWS AND REGULATIONS.

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

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

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

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

25 § 6921. DISPOSITION OF FUNDS.

26 MONEYS RECEIVED FROM LICENSE FEES, REGISTRATION FEES,  
27 INSPECTION FEES, FINES AND PENALTIES SHALL BE PAID INTO THE  
28 AGRONOMIC REGULATORY ACCOUNT ESTABLISHED IN SECTION [6725] 6886  
29 (RELATING TO DISPOSITION OF FUNDS). ALL MONEYS IN THE AGRONOMIC  
30 REGULATORY ACCOUNT ARE HEREBY APPROPRIATED TO THE DEPARTMENT FOR

1 THE PURPOSES OF THIS CHAPTER AND CHAPTER [67] 68 (RELATING TO  
2 FERTILIZER).

3 § 7122. DISPOSITION OF FUNDS.

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

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

18 SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

19 (1) THE ADDITION OF 3 PA.C.S. § 6814 SHALL TAKE EFFECT  
20 IN 18 MONTHS.

21 (2) THE ADDITION OF 3 PA.C.S. § 6832(A), (B), (D), (E),  
22 (F), (G) AND (H) SHALL TAKE EFFECT UPON THE DEVELOPMENT OF  
23 THE CERTIFICATION COURSES SPECIFIED UNDER 3 PA.C.S. §  
24 6832(C).

25 (3) THE ADDITION OF 3 PA.C.S. § 6833(B), (C), (D), (E),  
26 (F), (G), (H), (I), (J), (K) AND (L) SHALL TAKE EFFECT UPON  
27 THE DEVELOPMENT OF THE RECERTIFICATION COURSES SPECIFIED  
28 UNDER 3 PA.C.S. § 6833(A).

29 (4) THIS SECTION AND THE REMAINDER OF THIS ACT SHALL  
30 TAKE EFFECT IMMEDIATELY.