

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1809 Session of 2003

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INTRODUCED BY EGOLF, HERSHEY, BASTIAN, CLYMER, COLEMAN,  
DENLINGER, FAIRCHILD, GABIG, GORDNER, HORSEY, JAMES, LEH,  
MAJOR, R. MILLER, S. MILLER, PICKETT, SAYLOR AND YOUNGBLOOD,  
JULY 3, 2003

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AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 9, 2003

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## AN ACT

1 Providing for a commercial manure hauler and broker  
2 certification program; and establishing requirements.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Commercial  
7 Manure Hauler and Broker Certification Act.

8 Section 2. Definitions.

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

12 "Agricultural operation" or "operation." Animals, facilities  
13 and land used for the production or management of crops,  
14 livestock or poultry. The term shall include all land owned or  
15 leased by the agricultural operator where manure from the  
16 facility may be applied.

1 "Agricultural operator." An individual, partnership,  
2 corporation or other entity that has management control of an <—  
3 ~~agricultural operation, including the animals and animal~~  
4 ~~facilities.~~, AND LEGAL RESPONSIBILITY FOR, AN AGRICULTURAL <—  
5 OPERATION.

6 ~~"Best management practice" or "BMP." A practice or <—~~  
7 ~~combination of practices determined by the State Conservation~~  
8 ~~Commission to be effective and practicable, given technological,~~  
9 ~~economic and institutional considerations, to manage nutrients~~  
10 ~~to protect surface and groundwater, taking into account~~  
11 ~~applicable nutrient requirements for crop utilization. Best~~  
12 ~~management practices include, but are not limited to:~~

- 13 ~~(1) Conservation tillage.~~
- 14 ~~(2) Crop rotation.~~
- 15 ~~(3) Soil testing.~~
- 16 ~~(4) Manure testing.~~
- 17 ~~(5) Diversions.~~
- 18 ~~(6) Manure storage facilities.~~
- 19 ~~(7) Storm water management practices.~~
- 20 ~~(8) Nutrient application.~~

21 "Board." The Nutrient Management Advisory Board created  
22 under section 8 of the act of May 20, 1993 (P.L.12, No.6), known  
23 as the Nutrient Management Act.

24 "Commercial manure broker." An individual or business  
25 entity, not working for or under the control of an agricultural  
26 operator, that assumes temporary control or ownership of manure  
27 from an agricultural operation and arranges for transport to and  
28 utilization at an importing operation OR OTHER LOCATION. <—

29 "Commercial manure hauler." An individual or business entity  
30 that transports or land-applies manure as a contract agent for

1 an agricultural operator or commercial manure broker under the  
2 direction of the operator or broker.

3 "Commission." The State Conservation Commission established  
4 under the act of May 15, 1945 (P.L.547, No.217), known as the  
5 Conservation District Law.

6 "Concentrated Animal Feeding Operation" or "CAFO." An  
7 agricultural operation that meets the criteria established for <—  
8 ~~designating certain animal feeding operations~~ BY THE DEPARTMENT <—  
9 OF ENVIRONMENTAL PROTECTION under the Federal Water Pollution  
10 Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et seq.) and the  
11 National Pollution Discharge Elimination System (NPDES) Program  
12 regulations 40 CFR 122.23 (relating to concentrated animal  
13 feeding operations (applicable to State NPDES programs)) and  
14 WHICH IS required to follow the DEP Final Strategy for <—  
15 Concentrated Animal Feeding Operations.

16 "Concentrated Animal Operation" or "CAO." An agricultural  
17 operation that meets the criteria established under the act of  
18 May 20, 1993 (P.L.12, No.6), known as the Nutrient Management  
19 Act.

20 "DEP." The Department of Environmental Protection of the  
21 Commonwealth.

22 "DEP Final Strategy for Concentrated Animal Feeding  
23 Operations." The document entitled "Final Strategy for Meeting  
24 Federal Requirements for Controlling the Water Quality Impacts  
25 of Concentrated Animal Feeding Operations" adopted by the  
26 Department of Environmental Protection and published in the  
27 Pennsylvania Bulletin on March 13, 1999, and all subsequent  
28 revisions thereto.

29 "Department" or "PDA." The Department of Agriculture of the  
30 Commonwealth.

1 "Importer" or "importing operation." An agricultural  
2 operation OR OTHER ENTITY that receives and utilizes or <—  
3 processes manure not produced by poultry or livestock that are  
4 part of that agricultural operation OR OTHER ENTITY. <—

5 "Manure Management Manual." The publication referenced by  
6 and authorized under the act of June 22, 1937 (P.L.1987,  
7 No.394), known as The Clean Streams Law and 25 Pa. Code Ch. 91  
8 (relating to environmental protection).

9 "Nutrient." A substance or recognized plant nutrient,  
10 element or compound that is used or sold for its plant nutritive  
11 content or its claimed nutritive value. The term includes, but  
12 is not limited to, livestock and poultry manures, compost used  
13 as fertilizer, commercially manufactured chemical fertilizers,  
14 sewage sludge or combinations thereof.

15 "Nutrient balance sheet" or "NBS." A ~~document~~ WRITTEN, SITE- <—  
16 SPECIFIC DOCUMENT, MEETING THE REQUIREMENTS ESTABLISHED BY THE  
17 STATE CONSERVATION COMMISSION used to determine appropriate  
18 manure, fertilizer and other nutrient source application rates  
19 ON IMPORTING OPERATIONS necessary to protect water resources <—  
20 from the misapplication of crop nutrients. The NBS:

21 (1) Documents the analysis the agricultural operator  
22 undertakes to determine the appropriate nutrient application  
23 rate for crops grown on an agricultural operation based on  
24 expected crop yields, residual soil nitrogen and nutrient  
25 content of the nutrient sources utilized.

26 (2) Accounts for all nutrients generated and/or used by  
27 the agricultural operation, including on-farm manure,  
28 imported manure, sewage sludge, commercially manufactured  
29 fertilizers and any other nutrient source intended to be  
30 utilized during the crop year under consideration.

(3) Includes a description of the planned application schedule and procedures to be used., ~~including soil incorporation.~~

(4) Utilizes nutrient application criteria that are consistent with those set forth in ~~the Manure Management Manual,~~ the regulations promulgated under the authority of the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act, and the criteria established for the DEP Final Strategy for Concentrated Animal Feeding Operations.

"Nutrient management plan." A written site-specific plan which incorporates best management practices to manage the use of manure and other plant nutrients for crop production and ~~water quality protection and~~ water quality protection consistent with the criteria established under the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act.

Section 3. Commercial manure hauler and broker certification program.

(a) Duty and responsibility of the department:

(1) The department shall establish, within one year of the effective date of this act, in consultation with the commission and the board, a commercial manure hauler and broker certification program for the purpose of certifying individuals as certified manure haulers or brokers. The department shall by regulation establish such terms, conditions and fees for certification as it deems appropriate.

(2) For purposes of the certification program, the department shall develop, in consultation with the commission and the board, such training and educational requirements, testing and other criteria as it deems necessary for

1 certification. Training shall at a minimum address the  
2 following topics:

3 (i) Laws and regulations pertaining to manure  
4 application.

5 (ii) Information necessary for understanding and  
6 following a nutrient management plan and nutrient balance  
7 sheet.

8 (iii) Best management practices with respect to  
9 manure hauling and application, transport safety  
10 procedures, calibration of application rates for various  
11 types of application equipment, setbacks from water  
12 sources and property lines, nutrient runoff concerns and  
13 incorporation techniques.

14 ~~(iv) Recordkeeping determined by the department to~~ <—  
15 ~~be necessary for both agricultural operations generating~~  
16 ~~excess manure and manure importing operations to meet all~~

17 (IV) RECORDKEEPING BY CERTIFIED MANURE HAULERS OR <—  
18 BROKERS NECESSARY TO MEET ALL regulatory requirements of  
19 the act of May 20, 1993 (P.L.12, No.6), known as the  
20 Nutrient Management Act, and the DEP Final Strategy for  
21 Concentrated Animal Feeding Operations.

22 (v) Certified manure broker training shall include  
23 procedures necessary for the development and filing of an  
24 NBS.

25 (b) Training program approval.--The department shall have  
26 the authority to approve, for the purposes of training and  
27 education, programs developed by The Pennsylvania State  
28 University and other educational institutions or entities that  
29 meet the requirements of this section.

30 Section 4. Requirements for commercial manure haulers and

1 brokers.

2 (a) General rule.--All commercial manure haulers and  
3 brokers, prior to engaging in transporting or land-applying  
4 manure on behalf of an agricultural operation, shall have  
5 successfully completed a manure hauler or broker certification  
6 program approved by the department and received the appropriate  
7 certification by the department.

8 (b) Land-applying of manure.--All certified manure haulers  
9 and certified manure brokers shall, when land-applying manure on  
10 behalf of an agricultural producer required under the provisions  
11 of section 5 to use a certified hauler or broker, do so only in  
12 accordance with the provisions of an approved nutrient  
13 management plan or nutrient balance sheet.

14 (c) Records.--All certified manure haulers and brokers shall  
15 maintain such records of all manure they broker, transport or  
16 land-apply as the department, in consultation with the  
17 commission and the board, determines to be necessary to meet the  
18 requirements of this act, the regulations promulgated under the  
19 act of May 20, 1993 (P.L.12, No.6), known as the Nutrient  
20 Management Act, and the DEP Final Strategy for Concentrated  
21 Animal Feeding Operations. ~~The records shall, at minimum,~~ <—  
22 ~~include the information necessary to document that the manure~~  
23 ~~was utilized in accordance with the Manure Management Manual.~~  
24 Section 5. Exporting requirements.

25 In order to export manure to other agricultural operations OR <—  
26 OTHER ENTITIES, all concentrated animal operations and  
27 concentrated animal feeding operations, ~~as required by their~~ <—  
28 ~~nutrient management plan,~~ shall:

29 (1) Prepare and have approved a nutrient balance sheet  
30 for all importing operations receiving manure from the

1 operation OR IN THE EVENT THAT THE OPERATOR ENTERS INTO A <—  
2 CONTRACT OR OTHER AGREEMENT WITH A COMMERCIAL MANURE BROKER,  
3 THE BROKER SHALL PREPARE AND HAVE APPROVED A NUTRIENT BALANCE  
4 SHEET FOR THE IMPORTING OPERATION.

5 (2) Utilize only certified manure haulers or certified  
6 manure brokers for the transport and LAND application of <—  
7 manure exported from the operation.

8 (3) Maintain records sufficient to:

9 (i) meet all regulatory requirements with respect to  
10 manure export, transport and land application or other  
11 use at an importing operation established by the  
12 commission, in consultation with the department and the  
13 board, under the authority of the act of May 20, 1993  
14 (P.L.12, No.6), known as the Nutrient Management Act; and

15 (ii) IN THE CASE OF AN AGRICULTURAL OPERATION <—  
16 DESIGNATED AS A CAFO, meet the requirements of the DEP  
17 Final Strategy for Concentrated Animal Feeding  
18 Operations.

19 Section 6. Effective date.

20 This act shall take effect in 60 days.