

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**No. **251** Session of  
2021

INTRODUCED BY YAW, MARTIN, GORDNER, BAKER, TARTAGLIONE, STEFANO,  
SCHWANK, COMITTA AND STREET, FEBRUARY 26, 2021

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 27, 2021

## 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; in seed, further  
5 providing for disposition of funds; establishing the  
6 Agronomic Regulatory Account within the General Fund;  
7 imposing duties on the Department of Agriculture; and making  
8 conforming amendments.

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

11 Section 1. Chapter 67 of Title 3 of the Pennsylvania  
12 Consolidated Statutes is repealed:

13 [CHAPTER 67

14 FERTILIZER

15 § 6701. Short title of chapter.

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

18 § 6702. Definitions.

19 The following words and phrases when used in this chapter  
20 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

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

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

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

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

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

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

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

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

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

29 "Fertilizer material." A fertilizer which:

30 (1) contains only one of the following primary plant

1 nutrients: nitrogen, phosphate or potash;

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

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

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

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

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

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

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

29 "Labeling." All written, printed or graphic matter upon or  
30 accompanying any fertilizer or advertisements, brochures,

1 posters or electronic media used in promoting the distribution  
2 of fertilizer.

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

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

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

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

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

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

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

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

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

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

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

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

29 § 6703. Licensing.

30 (a) General rule.--Every person engaged in the manufacture

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

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

15 § 6704. Registration of specialty fertilizers.

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

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

- 29 (1) The brand and grade.
- 30 (2) The guaranteed analysis.

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

2 (4) The net weight.

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

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

17 § 6705. Labels and labeling.

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

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

24 (2) The guaranteed analysis.

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

26 (4) The net weight.

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

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

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

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

19 (1) The net weight.

20 (2) The guaranteed analysis.

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

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

26 § 6706. Inspection fees.

27 (a) Amounts.--

28 (1) The guarantor whose name appears on the label of a  
29 fertilizer distributed in this Commonwealth shall pay  
30 semiannually and not later than January 31 and July 31 of

1 each year an inspection fee at the rate of 15¢ per ton. In no  
2 case shall the inspection fee paid semiannually amount to  
3 less than \$25.

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

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

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

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

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

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

30 § 6707. Tonnage reports.



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

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

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

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

22 (e) Confidentiality of information.--

23 (1) No proprietary information furnished to the  
24 department under this section shall be disclosed in such a  
25 way as to knowingly or intentionally divulge a trade secret  
26 of any 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 § 6708. Inspection, sampling and analysis.

1 (a) General rule.--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 such an extent as the department may  
5 deem necessary to determine whether such fertilizers are in  
6 compliance with the provisions of this chapter. The department  
7 or its agent may enter upon any public or private premises or  
8 carriers during regular business hours in order to have access  
9 to fertilizer subject to provisions of this chapter and the  
10 records relating to this chapter.

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

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

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

1 the department shall furnish to the guarantor a portion of any  
2 sample that is subject to penalty or other legal action. Such  
3 requests must be made within 30 days of notification of sample  
4 violations.

5 § 6709. Plant food deficiency.

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

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

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

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

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

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

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

1 found, the penalties shall be paid to the department.

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

8 § 6710. Commercial value.

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

16 § 6711. Misbranding.

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

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 6705  
24 (relating to labels and labeling) and in accordance with  
25 regulations prescribed under this chapter; or

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 § 6712. Adulteration.

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

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; or

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

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

21 § 6713. Publications.

22 The department shall publish at least annually and in such  
23 form as it deems proper such information concerning the  
24 distribution of fertilizers and results of analyses based on  
25 official samples of fertilizer distributed within this  
26 Commonwealth as compared with analyses guaranteed under sections  
27 6704 (relating to registration of specialty fertilizers) and  
28 6705 (relating to labels and labeling).

29 § 6714. Short weight.

30 If any fertilizer in the possession of a consumer is found by

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

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

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

13 § 6716. Stop-sale orders.

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

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

28 § 6717. Seizure and condemnation.

29 A lot of fertilizer not in compliance with the provisions of  
30 this chapter shall be subject to seizure and condemnation by the

1 department, provided that in no instance shall the disposition  
2 of the fertilizer be ordered by the department without first  
3 giving the claimant an opportunity for a hearing as provided for  
4 in section 6718 (relating to appeal process) or for opportunity  
5 to apply for permission to process or relabel the fertilizer to  
6 bring it into compliance with this chapter.

7 § 6718. Appeal process.

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

13 § 6719. Cooperation with other entities.

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

18 § 6720. Rules and regulations.

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

22 § 6721. Unlawful conduct.

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

27 § 6722. Interference with officer or employee of department.

28 A person who willfully or intentionally interferes with an  
29 employee or officer of the department in the performance of that  
30 employee's or officer's duties or activities authorized under

1 this chapter commits a misdemeanor of the third degree and  
2 shall, upon conviction, be subject to a term of imprisonment of  
3 not more than one year or a fine of not more than \$2,500, or  
4 both.

5 § 6723. Enforcement and penalties.

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

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

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

22 (b) Trade secrets.--

23 (1) Any person who uses to that person's own advantage  
24 or reveals to anyone other than the department,  
25 administrative tribunal or the courts when relevant in any  
26 judicial proceeding any information acquired under the  
27 authority of this chapter concerning any method, records,  
28 formulations or processes which as a trade secret is entitled  
29 to protection under the law commits a misdemeanor of the  
30 third degree and shall, upon conviction, be sentenced to pay



1 a fine of not less than \$500 or to imprisonment for not less  
2 than one year, or both.

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

8 (c) Civil penalties.--

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

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

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

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

1 the public interest will be best served by a suitable notice of  
2 warning in writing.

3 § 6724. Exchanges between manufacturers.

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

10 § 6725. Disposition of funds.

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

18 Section 2. Title 3 is amended by adding a chapter to read:

19 CHAPTER 68

20 FERTILIZER

21 Subchapter

22 A. General Provisions

23 B. Fertilizer Manufacturers and Guarantors

24 C. Applicator Licensing and Certification

25 D. Recordkeeping

26 E. Application Rates, Requirements and Prohibitions

27 F. Agricultural and Homeowner Education Program

28 G. Administration and Penalties

29 SUBCHAPTER A

30 GENERAL PROVISIONS

1 Sec.

2 6801. Short title of chapter.

3 ~~6802. Legislative intent.~~ <--

4 ~~6803. Definitions.~~

5 § 6801. Short title of chapter.

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

8 ~~§ 6802. Legislative intent.~~ <--

9 ~~This chapter is intended to:~~

10 ~~(1) Provide for the labeling, application,~~  
11 ~~recordkeeping, packaging, use, sale and distribution of~~  
12 ~~agricultural fertilizer as well as turf or other specialty~~  
13 ~~fertilizer.~~

14 ~~(2) Provide consumer protection through licensing,~~  
15 ~~labeling and sampling.~~

16 ~~(3) Establish professional fertilizer applicator~~  
17 ~~certification.~~

18 ~~(4) Provide a means of consumer education and outreach.~~

19 ~~(5) Ensure that applicators follow best practices when~~  
20 ~~applying fertilizer.~~

21 § ~~6803~~ 6802. Definitions. <--

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

25 "AGRICULTURAL OPERATION." THE MANAGEMENT AND USE OF FARMING <--  
26 RESOURCES FOR THE PRODUCTION OF CROPS, LIVESTOCK OR POULTRY.

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

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

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

6 "Certified applicator." ~~A person~~ AN INDIVIDUAL who is <--  
7 certified under section 6832 (relating to certification of  
8 applicators) as competent to use or supervise the use of  
9 fertilizer or ~~train~~ TO TRAIN A fertilizer ~~technicians~~ TECHNICIAN <--  
10 on the proper application of fertilizer.

11 "Commercial applicator." ~~A person~~ CERTIFIED APPLICATOR <--  
12 EMPLOYED BY A FERTILIZER APPLICATION BUSINESS who applies or  
13 supervises the application of fertilizer. ~~to the property or~~ <--  
14 ~~premises of another or who applies or supervises application of~~  
15 fertilizer to any of the following:

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

17 ~~(2) The property or premises of a public or private~~  
18 ~~park.~~

19 ~~(3) The property or premises of a public, nonpublic or~~  
20 ~~licensed private elementary or secondary school where a~~  
21 ~~resident of this Commonwealth may fulfill the compulsory~~  
22 ~~school attendance requirements and that meets the applicable~~  
23 ~~requirements of Title IV of the Civil Rights Act of 1964~~  
24 ~~(Public Law 88 352, 78 Stat. 241). This term does not include~~  
25 ~~the residence of a home schooled student.~~

26 ~~(4) A public or private college or university that~~  
27 ~~applies fertilizer to the campus grounds, excluding a person~~  
28 ~~who conducts research at a public or private college or~~  
29 ~~university or a State related university that applies~~  
30 ~~fertilizer to test plots.~~

1 ~~(5) A public playground or an athletic field.~~

2 "Consumer." A person who purchases fertilizer for the ITS <--  
3 end use of a product. <--

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

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

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

11 "Distributor." A person that distributes fertilizer or  
12 fertilizer material.

13 "Enhanced efficiency." Relating to a fertilizer product with <--  
14 characteristics that allow increased plant nutrient uptake and  
15 reduced potential of nutrient losses to the environment, such as  
16 gaseous losses, leaching or runoff.

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

19 "Fertilizer." A substance containing one or more recognized  
20 plant nutrients that is used for its plant nutrient content and  
21 is designed for use or claimed to have value in promoting plant  
22 growth, except unmanipulated animal manure and plant remains,  
23 SPENT MUSHROOM SUBSTRATE, agricultural liming materials, wood <--  
24 ashes and other materials exempted by the department's  
25 regulations. The term shall not apply to animal manure that is  
26 regulated under:

27 (1) Chapter 5 (relating to nutrient management and odor  
28 management);

29 (2) the act of June 28, 2004 (P.L.454, No.49), known as  
30 the Commercial Manure Hauler and Broker Certification Act; or

1           (3) 25 Pa. Code § 91.36(b) (relating to pollution  
2           control and prevention at agricultural operations).  
3           "Fertilizer application business." A PERSON, OTHER THAN A <--  
4           governmental or public entity, ~~commercial applicator or business~~ <--  
5           for profit or not for profit that applies fertilizer to or on:  
6           (1) the property or premises of another;  
7           ~~(2) the property or premises of a golf course, park,~~ <--  
8           ~~school, college or university or public playground; or~~  
9           ~~(3) an athletic field.~~  
10           (2) A GOLF COURSE; <--  
11           (3) THE PROPERTY OR PREMISES IN A RECREATIONAL AREA OF A  
12           PUBLIC PARK OR PRIVATE PARK;  
13           (4) THE PROPERTY OR PREMISES OF A PUBLIC, NONPUBLIC OR  
14           LICENSED PRIVATE ELEMENTARY OR SECONDARY SCHOOL WHERE A  
15           RESIDENT OF THIS COMMONWEALTH MAY FULFILL THE COMPULSORY  
16           SCHOOL ATTENDANCE REQUIREMENTS AND THAT MEETS THE APPLICABLE  
17           REQUIREMENTS OF TITLE IV OF THE CIVIL RIGHTS ACT OF 1964  
18           (PUBLIC LAW 88-352, 78 STAT. 241). THIS PARAGRAPH DOES NOT  
19           INCLUDE THE RESIDENCE OF A HOME SCHOOLED STUDENT;  
20           (5) A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY THAT  
21           APPLIES FERTILIZER TO THE CAMPUS GROUNDS, EXCLUDING A PERSON  
22           WHO CONDUCTS RESEARCH AT A PUBLIC OR PRIVATE COLLEGE OR  
23           UNIVERSITY OR A STATE-RELATED UNIVERSITY THAT APPLIES  
24           FERTILIZER TO TEST PLOTS; OR  
25           (6) A PUBLIC PLAYGROUND OR AN ATHLETIC FIELD.  
26           "Fertilizer application ~~business~~ license." A license <--  
27           ~~obtained~~ ISSUED under section 6831 (relating to licensing of <--  
28           fertilizer application businesses) OR 6831.1 (RELATING TO <--  
29           LICENSING OF GOVERNMENTAL OR PUBLIC ENTITIES).  
30           "Fertilizer license." A license obtained under section 6811

1 (relating to licensing).

2 "Fertilizer material." A fertilizer that:

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

5 (i) nitrogen;

6 (ii) phosphate; or

7 (iii) potash;

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

10 (3) is derived from a plant or animal residue, by-  
11 product, coproduct as defined in 25 Pa. Code § 287.1  
12 (relating to definitions) or natural material deposit that  
13 has been processed in a way that the fertilizer's content of  
14 plant nutrients has not been materially changed except by  
15 purification and concentration.

16 "Fertilizer technician." A ~~person~~ AN INDIVIDUAL who: <--

17 (1) Is not ~~certified~~ A CERTIFIED APPLICATOR under this <--  
18 chapter.

19 (2) ~~Works for~~ IS EMPLOYED BY a fertilizer application <--  
20 business OR A GOVERNMENTAL OR PUBLIC ENTITY. <--

21 (3) ~~Works~~ IS TRAINED BY A CERTIFIED APPLICATOR AND WORKS <--  
22 under the direction of a certified applicator TO APPLY <--  
23 FERTILIZER.

24 "Governmental or public entity." An executive or independent  
25 agency or governmental unit of the Federal Government, <--  
26 ~~Commonwealth or its instrumentalities,~~ OR THE COMMONWEALTH OR a <--  
27 local agency, ~~municipal authority or political subdivision.~~ <--

28 "Grade." The percentage of total nitrogen, available  
29 phosphate and soluble potash stated in whole numbers in the same  
30 terms, order and percentages as in the guaranteed analysis,

1 except that, with respect to specialty fertilizers, fertilizer  
2 materials, bone meal, manures and similar materials may be  
3 stated in fractional units.

4 "Growing media." Material in which plants are grown, such as  
5 garden soil, potting soil or commercial soil-less mixes.

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

8 Total Nitrogen (N) %

9 Available Phosphate (P2O5) %

10 Soluble Potash (K2O) %

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

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

18 "Impervious surface." A structure, surface or improvement  
19 that reduces or prevents infiltration of water into soil,  
20 including, but not limited to, concrete, asphalt, roadways,  
21 sidewalks, parking lots, driveways and patios.

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

25 "Labeling." All written, printed or graphic matter, on or  
26 accompanying fertilizer or advertisements, brochures, posters or  
27 electronic media used in promoting the distribution of  
28 fertilizer.

29 "LOCAL AGENCY." A GOVERNMENTAL UNIT OTHER THAN THE  
30 COMMONWEALTH. THE TERM SHALL INCLUDE, BUT NOT BE LIMITED TO, A

<--



1 COUNTY, CITY, BOROUGH, TOWN, TOWNSHIP, SCHOOL DISTRICT OR  
2 MUNICIPAL AUTHORITY.

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

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

7 "Manure." Animal excrement, with or without the bedding,  
8 litter, straw, washwater and other refuse materials, dirt and  
9 waste ordinarily mixed or commingled with that excrement, that  
10 is produced at an agricultural operation.

11 "Micronutrient." Any of the following:

12 (1) Boron.

13 (2) Chlorine.

14 (3) Cobalt.

15 (4) Copper.

16 (5) Iron.

17 (6) Manganese.

18 (7) Molybdenum.

19 (8) Nickel.

20 (9) Sodium.

21 (10) Zinc.

22 "Natural organic fertilizer." Materials that are:

23 (1) Derived from either plant or animal products  
24 containing one or more elements, other than carbon, hydrogen  
25 and oxygen.

26 (2) Essential for plant growth and subjected to  
27 biological degradation processes under normal conditions of  
28 aging, rainfall, sun curing, air drying, composting, rotting,  
29 enzymatic or anaerobic or aerobic bacterial action or any  
30 combination of these processes.

1           (3) Not mixed with synthetic materials or changed in any  
2 physical or chemical manner from their initial state except  
3 by manipulations WHEN MANIPULATED BY METHODS such as drying, <--  
4 cooking, chopping, grinding, shredding, hydrolysis or  
5 pelleting.

6           "Net weight." The total weight of fertilizer as offered for  
7 sale, excluding the weight of the container.

8           "Official sample." A sample of fertilizer collected or  
9 obtained by the department or its agent to effectuate the  
10 provisions of this chapter and designated as official.

11           "Organic-based fertilizer." A mixed fertilizer in which:

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

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

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

19           ~~"Park." Privately or publicly owned outdoor real estate, <--~~  
20 ~~including a public recreational area and an area with restricted~~  
21 ~~access.~~

22           "Percentage." A percentage by weight.

23           "Person." An individual, a partnership, an association, a  
24 firm, a corporation or another legal entity.

25           "PESTICIDE APPLICATOR." A COMMERCIAL APPLICATOR OR A PUBLIC <--  
26 APPLICATOR AS DEFINED IN SECTION 4 OF THE ACT OF MARCH 1, 1974  
27 (P.L.90, NO.24), KNOWN AS THE PENNSYLVANIA PESTICIDE CONTROL ACT  
28 OF 1973.

29           "Plant nutrient." Any of the following:

30                 (1) A primary nutrient.

1       (2) A secondary nutrient.

2       (3) A micronutrient.

3       "Primary nutrient." Any of the following:

4           (1) Nitrogen.

5           (2) Phosphorus.

6           (3) Potassium.

7       "PRIVATE PARK." PRIVATELY OWNED OUTDOOR REAL ESTATE WHICH <--  
8       INCLUDES A RECREATIONAL AREA FOR USE BY THE PUBLIC, INCLUDING AN  
9       AREA WITH RESTRICTED ACCESS.

10       "Public applicator." A certified applicator who applies <--  
11       fertilizer as an employee of the Federal or State government or  
12       a public entity. EMPLOYED BY A GOVERNMENTAL OR PUBLIC ENTITY WHO <--  
13       APPLIES OR SUPERVISES THE APPLICATION OF FERTILIZER.

14       "PUBLIC PARK." PUBLICLY OWNED OUTDOOR REAL ESTATE WHICH  
15       INCLUDES A RECREATIONAL AREA FOR USE BY THE PUBLIC, INCLUDING AN  
16       AREA WITH RESTRICTED ACCESS.

17       "RECREATIONAL AREA." AN OUTDOOR PLACE OF RELAXATION, PLAY OR  
18       EXERCISE.

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

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

23       "Secondary nutrient." Any of the following:

24           (1) Calcium.

25           (2) Magnesium.

26           (3) Sulfur.

27       "Specialty fertilizer." A fertilizer distributed for nonfarm <--  
28       use or FERTILIZER: <--

29           (1) DISTRIBUTED FOR USE NOT ASSOCIATED WITH AN  
30       AGRICULTURAL OPERATION; OR

1           (2) a fertilizer primarily intended to supply plant           <--  
2           nutrients other than nitrogen, phosphate or potash.  
3           "Stream buffer zone." A permanent strip of dense perennial  
4 vegetation established parallel and immediately adjacent to the  
5 bank of a pond, wetland or flowing body of water, such as a  
6 stream, river or creek, that is used to slow water runoff,  
7 enhance water infiltration and minimize the risk of potential  
8 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, a golf course and privately or publicly owned land,  
14 that is planted in closely mowed, managed grass, except for land  
15 used for AN agricultural ~~production~~ OPERATION.           <--  
16    SUBCHAPTER B  
17    FERTILIZER MANUFACTURERS AND GUARANTORS  
18           Sec.  
19           6811. Licensing.  
20           6812. Registration of specialty fertilizers.  
21           6813. ~~Turf fertilizer components.~~ COMPONENTS OF FERTILIZER           <--  
22    LABELED FOR TURF.  
23           6814. Labels and labeling.  
24           6815. Inspection fees.  
25           6816. Tonnage reports.  
26           6817. Plant ~~food~~ NUTRIENT deficiency.           <--  
27           6818. Commercial value.  
28           6819. Misbranding.  
29           6820. Adulteration.  
30           § 6811. Licensing.

1 (a) Requirements.--Each person engaged in the manufacture of  
2 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 a fee established in the manner provided <--  
9 under section 6886 (relating to fees, fines and civil penalties)  
10 FOR EACH FACILITY AND FOR EACH GUARANTOR. All licenses shall <--  
11 expire on June 30 of 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 § 6812. Registration of specialty fertilizers.

20 (a) Application.--Each brand and grade of specialty  
21 fertilizer shall be registered by the guarantor with the  
22 department before being offered for sale, sold or distributed in  
23 this Commonwealth. An application for each brand and grade of  
24 specialty fertilizer shall be made on a form furnished by the  
25 department and shall be accompanied by a fee of \$100 or a fee <--  
26 established in the manner provided under section 6886 (relating  
27 to fees, fines and civil penalties), per each grade of each  
28 brand. Labels for each brand and grade shall accompany the  
29 application. All registrations shall expire on June 30 of each  
30 year.

1 (b) Contents of specialty fertilizer registration  
2 application.--An application for registration shall include:

- 3 (1) The brand and grade.  
4 (2) The guaranteed analysis.  
5 (3) The name and address of the guarantor.  
6 (4) Net weight.

7 (c) Exemption.--

8 (1) A distributor shall not be required to register a  
9 specialty fertilizer that is already registered under this  
10 chapter by another person, if the label does not differ in a  
11 material respect.

12 (2) Registration shall not be required when a fertilizer  
13 is formulated according to the specifications that are  
14 furnished by the ~~end user~~ CONSUMER and is not further <--  
15 distributed or offered for sale to the general public.

16 (d) Late fee.--

17 (1) If the application for renewal of the specialty  
18 fertilizer registration required under this section is not  
19 filed prior to June 30 of each year, a penalty of \$25 or 10%  
20 of the total registration fee for all products sought to be  
21 registered, whichever is greater, ~~or a fee established in the~~ <--  
22 manner provided under section 6886 may be assessed and added  
23 to the original fee and shall be paid by the applicant before  
24 the renewal of the specialty fertilizer registration is  
25 issued.

26 (2) The penalty shall not apply if the applicant  
27 furnished an affidavit that the applicant has not distributed  
28 the specialty fertilizer subsequent to the expiration of the  
29 applicant's prior registration.

30 § 6813. ~~Turf fertilizer components.~~ COMPONENTS OF FERTILIZER <--

1           LABELED FOR TURF.

2       (a) General rule.--Except as provided in subsection (b),  
3 fertilizer labeled for turf that is distributed to end users <--  
4 CONSUMERS in this Commonwealth shall: <--

5           (1) Consist of at least 20% enhanced efficiency nitrogen  
6 of the total nitrogen or as otherwise determined by the  
7 department, which determination shall be transmitted to the  
8 Legislative Reference Bureau for publication in the  
9 Pennsylvania Bulletin.

10          (2) Contain no phosphorus, unless the fertilizer is a  
11 natural organic or organic-based fertilizer.

12       (b) Exemptions.--

13           (1) Subsection (a) shall not apply when turf fertilizer <--  
14 is labeled for repairing a turf area or establishing a turf  
15 area for the first time.

16           (2) Subsection (a)(1) shall not apply to liquid turf <--  
17 fertilizers or readily available nitrogen fertilizers labeled  
18 for turf, if the directions for use are in accordance with  
19 the requirements of section 6852 (relating to application of  
20 fertilizer to turf).

21       (c) Additional requirements.--The department, through  
22 regulation, may establish additional requirements for turf <--  
23 fertilizer APPLIED TO TURF. <--

24       § 6814. Labels and labeling.

25       (a) Contents of label.--The guarantor of a fertilizer  
26 distributed in a container in this Commonwealth shall place on  
27 or affix to the container a label stating in legible and  
28 conspicuous form the following:

29           (1) The brand and grade of the fertilizer. The grade  
30 shall not be required if no primary nutrients are claimed.

1           (2) The guaranteed analysis.  
2           (3) A statement of FROM where the material was derived <--  
3           from. <--  
4           (4) Directions for use for fertilizer distributed to the  
5           end user CONSUMER. <--  
6           (5) The name and address of the guarantor.  
7           (6) The net weight.  
8           (b) Bulk fertilizer.--In the case of bulk fertilizer  
9           distribution, the information required under subsection (a)  
10           shall accompany delivery and shall be provided in writing to the  
11           purchaser at time of delivery.  
12           (c) Other guarantees.--Guarantees for nutrients other than  
13           primary nutrients, shall be expressed in the form of the  
14           element. The department may require by regulation that other  
15           beneficial substances or compounds be guaranteed. When plant  
16           nutrients or other substances or compounds are guaranteed, they  
17           shall be subject to inspection and analysis in accordance with  
18           the methods and regulation prescribed by the department.  
19           (d) Proof of labeling claims.--The department may require  
20           proof of labeling claims made for fertilizer. Research in  
21           support of the claims must be performed by an institution  
22           approved by the department utilizing acceptable scientific  
23           methodology.  
24           (e) Consumer-specified fertilizer formulations.--In lieu of  
25           the requirements under subsection (a), a fertilizer formulated  
26           according to specifications that are furnished by the end user <--  
27           CONSUMER prior to mixing shall be labeled in a clearly legible <--  
28           and conspicuous form to show the grade, net weight, guaranteed  
29           analysis and name and address of the guarantor.  
30           (f) Bulk fertilizer storage.--Bulk fertilizer in bulk



1 fertilizer storage that is intended for distribution shall be  
2 identified with a label attached to the storage bin or container  
3 giving the name and grade of the product.

4 (g) Turf fertilizer.--Subject to subsection (i), fertilizer  
5 intended for use on turf that is distributed to ~~end users~~ <--  
6 CONSUMERS in this Commonwealth, in bulk or packages that are one <--  
7 pound or greater, shall include a statement in legible and  
8 conspicuous form that at a minimum sets forth the following  
9 requirements:

10 (1) The product may not be applied near water, storm  
11 drains or drainage ditches.

12 (2) The product may not be applied if heavy rain is  
13 expected.

14 (3) The product may only be applied to the intended  
15 application site.

16 (4) Material that lands on an impervious surface must be  
17 swept back onto the turf. This requirement shall not apply if  
18 the product is applied in a liquid form.

19 (h) Nonturf fertilizer.--Subject to subsections (i) and (k),  
20 fertilizer that is not labeled for turf, in bulk or packages  
21 that are 40 pounds or greater, that is distributed to ~~end users~~ <--  
22 CONSUMERS in this Commonwealth, shall include a statement in <--  
23 legible and conspicuous form that at a minimum sets forth the  
24 following requirements:

25 (1) The product may not be applied near water, storm  
26 drains or drainage ditches or to any impervious surface.

27 (2) The product may not be applied if heavy rain is  
28 expected.

29 (3) The product may only be applied to the intended  
30 application site.

1 (i) Fertilizers containing pesticides.--In lieu of the  
2 statements required under subsections (g) and (h), the label for  
3 fertilizer products containing pesticides shall contain the  
4 environmental hazard statement recommended by the Environmental  
5 Protection Agency for that product.

6 (j) Minimum font size.--Statements required under  
7 subsections (g) and (h) shall be printed in a legible and  
8 conspicuous manner and may not be smaller than the height of the  
9 font used for the directions for use on the product labeling.

10 (k) Exemption.--The requirements of subsections (g), (h) and  
11 (j) shall not apply to fertilizer labeled for aquatic settings,  
12 growing media, indoor use or potted plants.

13 (l) Prohibition.--The label OR LABELING for fertilizer ~~or~~ <--  
14 nitrogen based material shall not be labeled for the purposes  
15 SHALL NOT INCLUDE THE PURPOSE of melting snow or ice, unless the <--  
16 product is distributed to an airport to be used on aircraft or  
17 areas an aircraft accesses.

18 (m) Other label information.--The department may, by  
19 regulation, require additional information to be present on the  
20 label or labeling of fertilizers.

21 § 6815. Inspection fees.

22 ~~(a) Amounts.--The guarantor whose name appears on the label <--~~  
23 of a fertilizer distributed in this Commonwealth shall pay  
24 semiannually and not later than January 31 and July 31 of each  
25 year an inspection fee at the rate of 17¢ per ton of fertilizer  
26 distributed in this Commonwealth ~~or a fee established in the <--~~  
27 manner provided under section 6886 (relating to fees, fines and  
28 civil penalties). In no case shall the inspection fee paid  
29 semiannually amount to less than \$25. ~~or a fee established in <--~~  
30 the manner provided under section 6886.

1 ~~(b) Adjustment of fees by department.~~

2 ~~(1) Notwithstanding subsection (a), following notice to~~  
3 ~~registrants and licensees, if the department determines that~~  
4 ~~the money derived from the registration and inspection fees~~  
5 ~~are either greater or less than that required to administer~~  
6 ~~this chapter, the department may reduce or increase the~~  
7 ~~registration or inspection fee, or both, so as to maintain~~  
8 ~~revenues sufficient to administer this chapter.~~

9 ~~(2) An inspection fee established under this subsection~~  
10 ~~may not be changed by more than 5¢ in one year.~~

11 ~~(3) The department shall announce the adjustment of fees~~  
12 ~~by transmitting notice to the Legislative Reference Bureau~~  
13 ~~for publication in the Pennsylvania Bulletin. The adjusted~~  
14 ~~fees shall take effect 60 days after publication of the~~  
15 ~~notice in the Pennsylvania Bulletin.~~

16 § 6816. Tonnage reports.

17 (a) Requirements.--The guarantor whose name appears on a  
18 label shall submit, along with the requisite inspection fee, a  
19 report in a manner prescribed by the department listing by  
20 county the intended use and net tons of each brand and grade of  
21 fertilizer distributed in this Commonwealth for the period  
22 covered by the inspection fee. The department may promulgate  
23 regulations to establish additional tonnage reporting  
24 requirements.

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

30 (c) Late fee.--A penalty of \$25 or 10% of the total

1 inspection fee, whichever is greater, or a fee established in <--  
2 the manner provided under section 6886 (relating to fees, fines  
3 and civil penalties), shall be imposed for a fee or report not  
4 submitted at the required time.

5 (d) Examination permitted.--

6 (1) The department or its authorized representative may  
7 examine the records of the guarantor to verify the  
8 information contained in the reports filed with the  
9 department.

10 (2) Reports containing fraudulent or incorrect  
11 information shall be considered a violation of this chapter  
12 for which the department may assess a penalty as provided for  
13 in this chapter.

14 (e) Confidentiality of information.--

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

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

24 § 6817. Plant ~~feed~~ NUTRIENT deficiency. <--

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

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

30 (i) one or more of its guaranteed primary plant

1 nutrients is beyond a tolerance of 10% (two unit  
2 maximum); or

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

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

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

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

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

26 § 6818. Commercial value.

27 For the purpose of determining the commercial value to be  
28 applied under section 6817 (relating to plant ~~food~~ NUTRIENT <--  
29 deficiency), the department shall determine and publish annually  
30 a notice transmitted to the Legislative Reference Bureau for

1 publication in the Pennsylvania Bulletin stating the values per  
2 pound of total nitrogen, available phosphate and soluble potash  
3 in fertilizers in this Commonwealth. The values published in the  
4 Pennsylvania Bulletin shall take effect July 1 of each year and  
5 be used in determining and assessing penalty payments.

6 § 6819. Misbranding.

7 No person may distribute a FERTILIZER THAT IS misbranded <--  
8 fertilizer. A fertilizer shall be deemed to be misbranded if any <--  
9 of the following apply:

10 (1) Its labeling is false or misleading in any <--  
11 particular.

12 (2) It is distributed under the name of another  
13 fertilizer product. <--

14 (3) It is not labeled as required in section 6814  
15 (relating to labels and labeling) and in accordance with  
16 regulations prescribed under this chapter.

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

22 (5) The label or labeling are in conflict with section  
23 6852 (relating to application of fertilizer to turf).

24 § 6820. Adulteration.

25 (A) PROHIBITION.--No person may distribute an adulterated <--  
26 fertilizer product A FERTILIZER THAT IS ADULTERATED. A <--  
27 fertilizer shall be deemed to be adulterated if any of the  
28 following apply:

29 (1) It contains a deleterious or harmful substance in  
30 sufficient ANY amount to render it injurious to beneficial <--

1 plant life, animals, humans, aquatic life, soil or water when  
2 applied in accordance with its intended use or directions for  
3 use on the label.

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

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

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

12 (B) EXCEPTION.--A FERTILIZER SHALL NOT BE CONSIDERED <--  
13 ADULTERATED UNDER THIS SECTION IF THE QUANTITY OF THE SUBSTANCE  
14 IN THE FERTILIZER DOES NOT ORDINARILY RENDER IT INJURIOUS.

15 SUBCHAPTER C

16 APPLICATOR LICENSING AND CERTIFICATION

17 Sec.

18 6831. Licensing of fertilizer application businesses.

19 6831.1. LICENSING OF GOVERNMENTAL OR PUBLIC ENTITIES. <--

20 6832. Certification of applicators.

21 6833. Recertification of applicators.

22 6834. ~~Reciprocal agreement.~~ LICENSING AND CERTIFICATION OF OUT- <--  
23 OF-STATE ENTITIES.

24 6835. Training of fertilizer technicians.

25 6836. Process.

26 § 6831. Licensing of fertilizer application businesses.

27 (a) Requirements.--

28 (1) ~~A fertilizer application business must be licensed~~ <--  
29 ~~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 SHALL BE <--  
2 LICENSED AND MAY NOT OPERATE OR APPLY FERTILIZER WITHOUT  
3 FIRST OBTAINING A FERTILIZER APPLICATION LICENSE FROM THE  
4 DEPARTMENT.

5 (2) A fertilizer application business with more than one  
6 location ~~or place of business~~ or operating under more than <--  
7 one name in this Commonwealth shall license each location, <--  
8 ~~place of business~~ and business entity.

9 ~~(3) For a governmental or public entity, each district <--  
10 or region shall be considered a separate business and shall  
11 require a separate license.~~

12 ~~(b) Operation, application and expiration.~~

13 ~~(1) A fertilizer application business may not be  
14 operated without first obtaining a fertilizer application  
15 business license.~~

16 ~~(2)~~ (3) The application for licensure shall be on a form <--  
17 furnished by the department and shall be accompanied by a  
18 \$100 application fee. ~~or a fee later established in the <--  
19 manner under section 6886 (relating to fees, fines and civil  
20 penalties).~~

21 ~~(3) All business licenses~~ (4) A FERTILIZER APPLICATION <--  
22 LICENSE shall expire on December 31 each year, except that  
23 the department may issue a license for the following year  
24 when an initial license application is filed during the last  
25 two months of a licensing year.

26 (5) A FERTILIZER APPLICATION BUSINESS LICENSE RENEWAL <--  
27 SHALL BE SUBMITTED IN A MANNER PRESCRIBED BY THE DEPARTMENT  
28 AND ACCOMPANIED BY A FEE OF \$100.

29 ~~(c)~~ (B) Employer requirement.--A fertilizer application <--  
30 business shall employ at all times and at each licensed business



1 LOCATION at least one person who holds a current valid <--  
2 commercial applicator or public applicator certification. This  
3 person shall CERTIFIED APPLICATOR, WHO SHALL ALSO be responsible <--  
4 for training fertilizer technicians on the proper handling and  
5 application of fertilizer.

6 (d) (C) Fertilizer technicians.--A fertilizer application <--  
7 business shall ensure fertilizer technicians do not apply <--  
8 fertilizer unless the persons have NOT PERMIT A FERTILIZER <--  
9 TECHNICIAN TO APPLY FERTILIZER UNTIL THE FERTILIZER TECHNICIAN  
10 HAS SUCCESSFULLY completed a training program as described by <--  
11 UNDER section 6835 (relating to training of fertilizer <--  
12 technicians).

13 (e) (D) Record.--A fertilizer application business shall <--  
14 maintain a record and provide to the department, upon request,  
15 the following:

16 (1) A list of all certified applicators employed by the <--  
17 business THE BUSINESS EMPLOYS. <--

18 (2) A list of all fertilizer technicians employed by the <--  
19 business THE BUSINESS EMPLOYS and an attestation that each <--  
20 has SUCCESSFULLY completed a training program meeting the <--  
21 requirements of section 6835. The attestation shall be  
22 subject to the penalties for a violation of 18 Pa.C.S. § 4904  
23 (relating to unsworn falsification to authorities).

24 (3) A RECORD OF EACH APPLICATION OF FERTILIZER MADE BY A <--  
25 CERTIFIED APPLICATOR OR FERTILIZER TECHNICIAN THE BUSINESS  
26 EMPLOYS.

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

1 ~~(e)~~ (F) License number display.--A fertilizer application <--  
2 business shall prominently display on every vehicle involved in  
3 ~~the fertilizer application phase of its business the license~~ <--  
4 number assigned by the department. The number shall appear in  
5 figures at least three inches high and be located on both sides  
6 of the vehicle at a readily visible location in a contrasting  
7 color.

8 ~~(h)~~ (G) Aerial application.--If a fertilizer application <--  
9 business ~~or an applicator of fertilizer~~ engages in aerial <--  
10 applications OF FERTILIZER, the ~~applicant~~ FERTILIZER APPLICATION <--  
11 BUSINESS shall, upon request by the department, provide proof of  
12 compliance with the Federal Aviation Administration regulations  
13 as described in 14 CFR Pt. 137 (relating to agricultural  
14 aircraft operations) or its successor regulations.

15 § 6831.1. LICENSING OF GOVERNMENTAL OR PUBLIC ENTITIES. <--

16 (A) REQUIREMENTS.--

17 (1) A GOVERNMENTAL OR PUBLIC ENTITY THAT DOES NOT USE  
18 THE SERVICES OF A FERTILIZER APPLICATION BUSINESS MAY NOT  
19 ENGAGE IN THE APPLICATION OF FERTILIZER WITHOUT FIRST  
20 OBTAINING A FERTILIZER APPLICATION LICENSE FROM THE  
21 DEPARTMENT.

22 (2) EACH SCHOOL DISTRICT AND EACH DISTRICT OR REGION OF  
23 A GOVERNMENTAL OR PUBLIC ENTITY SHALL BE CONSIDERED A  
24 SEPARATE LOCATION AND SHALL REQUIRE A SEPARATE LICENSE.

25 (3) THE APPLICATION FOR LICENSURE SHALL BE ON A FORM  
26 FURNISHED BY THE DEPARTMENT AND SHALL BE ACCOMPANIED BY A FEE  
27 OF \$100.

28 (4) A GOVERNMENTAL OR PUBLIC ENTITY LICENSE SHALL EXPIRE  
29 ON DECEMBER 31 EVERY THREE YEARS FOLLOWING THE INITIAL  
30 LICENSE YEAR.

1           (5) A LICENSE RENEWAL FOR A GOVERNMENTAL OR PUBLIC  
2           ENTITY SHALL BE SUBMITTED IN A MANNER PRESCRIBED BY THE  
3           DEPARTMENT AND SHALL BE ACCOMPANIED BY A FEE OF \$100.

4           (B) EMPLOYER REQUIREMENT.--A GOVERNMENTAL OR PUBLIC ENTITY  
5           SHALL EITHER:

6           (1) EMPLOY AT LEAST ONE PUBLIC APPLICATOR, WHO SHALL BE  
7           RESPONSIBLE FOR APPLYING FERTILIZER TO PROPERTY OR PREMISES  
8           BELONGING TO OR UNDER THE MANAGEMENT OF THE GOVERNMENTAL OR  
9           PUBLIC ENTITY AND FOR TRAINING FERTILIZER TECHNICIANS ON THE  
10           PROPER HANDLING AND APPLICATION OF FERTILIZER; OR

11           (2) USE A LICENSED FERTILIZER APPLICATION BUSINESS FOR  
12           ALL APPLICATIONS OF FERTILIZER.

13           (C) FERTILIZER TECHNICIANS.--A GOVERNMENTAL OR PUBLIC ENTITY  
14           SHALL NOT PERMIT A FERTILIZER TECHNICIAN EMPLOYED BY THE ENTITY  
15           TO APPLY FERTILIZER TO TURF UNTIL THE FERTILIZER TECHNICIAN HAS  
16           SUCCESSFULLY COMPLETED A TRAINING PROGRAM UNDER SECTION 6835  
17           (RELATING TO TRAINING OF FERTILIZER TECHNICIANS).

18           (D) RECORD.--A GOVERNMENTAL OR PUBLIC ENTITY SHALL MAINTAIN  
19           A RECORD AND PROVIDE TO THE DEPARTMENT, UPON REQUEST, THE  
20           FOLLOWING:

21           (1) A LIST OF EACH PUBLIC APPLICATOR THE GOVERNMENTAL OR  
22           PUBLIC ENTITY EMPLOYS.

23           (2) A LIST OF EACH FERTILIZER TECHNICIAN THE  
24           GOVERNMENTAL OR PUBLIC ENTITY EMPLOYS AND AN ATTESTATION THAT  
25           EACH HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM MEETING  
26           THE REQUIREMENTS OF SECTION 6835. THE ATTESTATION SHALL BE  
27           SUBJECT TO THE PENALTIES FOR A VIOLATION OF 18 PA.C.S. § 4904  
28           (RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES).

29           (3) A RECORD OF EACH APPLICATION OF FERTILIZER MADE BY A  
30           CERTIFIED APPLICATOR OR FERTILIZER TECHNICIAN THE

1 GOVERNMENTAL OR PUBLIC ENTITY EMPLOYS.

2 (4) THE NAME AND LICENSE NUMBER OF A FERTILIZER  
3 APPLICATION BUSINESS USED TO APPLY FERTILIZER.

4 (E) AERIAL APPLICATION.--IF A GOVERNMENTAL OR PUBLIC ENTITY  
5 ENGAGES IN AERIAL APPLICATIONS OF FERTILIZER, THE GOVERNMENTAL  
6 OR PUBLIC ENTITY SHALL, UPON REQUEST BY THE DEPARTMENT, PROVIDE  
7 PROOF OF COMPLIANCE WITH THE FEDERAL AVIATION ADMINISTRATION  
8 REGULATIONS AS DESCRIBED IN 14 CFR PT. 137 (RELATING TO  
9 AGRICULTURAL AIRCRAFT OPERATIONS) OR ITS SUCCESSOR REGULATIONS.  
10 § 6832. Certification of applicators.

11 (a) Certification examination.--

12 (1) ~~Any person required to be certified under this~~ <--  
13 ~~chapter must take and pass a written examination developed or~~  
14 ~~approved by the department and administered by the department~~  
15 ~~or an agent of the department.~~ AN INDIVIDUAL SEEKING TO <--  
16 BECOME A CERTIFIED APPLICATOR SHALL TAKE AND PASS A WRITTEN  
17 EXAMINATION DEVELOPED OR APPROVED BY THE DEPARTMENT AND  
18 ADMINISTERED IN ENGLISH AND SPANISH UNDER THE SUPERVISION OF  
19 THE DEPARTMENT OR ITS DESIGNATED AGENT AT A TEST SITE  
20 APPROVED BY THE DEPARTMENT. The department may also establish  
21 field testing requirements. All tests and examinations shall  
22 be subject to examination fees established by the department.  
23 ~~Any person seeking certification shall demonstrate minimum~~ <--  
24 ~~standard proficiency on the basis of a written examination~~  
25 ~~conducted at an approved test site under direction of the~~  
26 ~~department or its designated agent.~~ ANY STUDY MATERIALS <--  
27 PROVIDED FOR THE EXAMINATION SHALL BE PUBLISHED IN ENGLISH  
28 AND SPANISH.

29 (2) Each applicant for certification shall demonstrate  
30 knowledge and competence OF FERTILIZER APPLICATION as to: <--

1           (i) Safety and health.

2           (ii) Labeling and label comprehension.

3           (iii) Environmental protection.

4           (iv) Equipment use, calibration and dosage  
5 calculations.

6           (v) Personal protective equipment.

7           (vi) Cleaning and maintaining equipment.

8           (vii) Transportation, storage, security and  
9 disposal.

10          (viii) Applicable Federal and State laws.

11          (ix) Any subject matter deemed appropriate by the  
12 department through regulation.

13          (3) The department shall require a minimum examination  
14 fee of \$10 or a fee established in the manner specified under <--  
15 section 6886 (relating to fees, fines and civil penalties).

16          (b) Commercial and public applicators.--

17           (1) A commercial or public applicator certification <--  
18 shall not be valid until the applicator is associated with a  
19 fertilizer application business that is licensed according to  
20 the requirements of section 6831 (relating to licensing of  
21 fertilizer application businesses).

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

27           (3) A PUBLIC APPLICATOR CERTIFICATION SHALL NOT BE VALID <--  
28 UNTIL THE APPLICATOR IS ASSOCIATED WITH A GOVERNMENTAL OR  
29 PUBLIC ENTITY THAT IS LICENSED ACCORDING TO THE REQUIREMENTS  
30 OF SECTION 6831.1 (RELATING TO LICENSING OF GOVERNMENTAL OR

1 PUBLIC ENTITIES).

2 (4) IF A PUBLIC APPLICATOR SEPARATES EMPLOYMENT FROM A  
3 GOVERNMENTAL OR PUBLIC ENTITY, THE ELIGIBILITY FOR  
4 CERTIFICATION SHALL REMAIN WITH THE APPLICATOR AND MAY BE  
5 TRANSFERRED TO ANOTHER GOVERNMENTAL OR PUBLIC ENTITY OR A  
6 LICENSED FERTILIZER APPLICATION BUSINESS.

7 (c) Issuance of certification.--Certification shall be  
8 issued to ~~a person~~ AN INDIVIDUAL upon: <--

9 (1) successful completion of all classroom, examination,  
10 testing and any other certification requirements established  
11 by this chapter; and

12 (2) ~~payment of all fees.~~ ACTIVATION UNDER SUBSECTION <--  
13 (D).

14 (d) Activation.--

15 (1) Upon receiving notice of passing all certification  
16 requirements, the applicant shall, within 12 months of  
17 becoming eligible to be certified as a commercial or public  
18 applicator, file with the department a request to activate  
19 certification.

20 (2) A person who fails to request activation within this  
21 12-month period shall lose certification eligibility and must  
22 again establish eligibility in accordance with this section.

23 (e) Expiration.--Certification shall expire as follows:

24 (1) Commercial applicator certification shall expire on  
25 September 30 of each year following the date of  
26 certification.

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

30 (3) With regard to an initial application for

1 certification, the department may issue a certificate for an  
2 additional year when a ~~person~~ AN INDIVIDUAL becomes fully <--  
3 certified within the last two months of the certification  
4 year.

5 (f) Existing applicator certifications.--

6 (1) ~~A person~~ AN INDIVIDUAL who holds a valid pesticide <--  
7 applicator certification in the following categories under 7 <--  
8 Pa. Code § 128.42 (relating to categories of commercial and  
9 public applicators) AS LISTED IN SUBPARAGRAPHS (I), (II), <--  
10 (III), (IV), (V), (VI), (VII), (VIII), (IX), (X) AND (XI) on  
11 the effective date of this section shall be granted  
12 certification as a certified ~~fertilizer~~ applicator under this <--  
13 chapter and shall comply with all other requirements of this  
14 chapter:

15 (i) Category 1, Agronomic crops.

16 (ii) Category 2, Fruits and nuts.

17 (iii) Category 3, Vegetable crops.

18 (iv) Category 5, Forest pest control.

19 (v) Category 6, Ornamental and shade trees.

20 (vi) Category 7, Lawn and turf.

21 (vii) Category 10, Right-of-way and weeds.

22 (viii) Category 18, Demonstration and research pest  
23 control.

24 (ix) Category 22, Interior plantscape.

25 (x) Category 23, Park or school pest control.

26 (xi) Category 25, Aerial applicator.

27 (2) The certification under this subsection shall be  
28 valid until each ~~person's~~ INDIVIDUAL'S pesticide ~~core~~ <--  
29 recertification APPLICATOR CERTIFICATION RENEWAL is due, at <--  
30 which time the ~~person~~ INDIVIDUAL shall be required to meet <--

1 all OF the recertification requirements as required by this <--  
2 chapter, AN ORDER ISSUED UNDER THE AUTHORITY OF THIS CHAPTER <--  
3 or regulations promulgated under this chapter.

4 (g) Renewal.--A certified applicator, in good standing and  
5 IN full compliance with the provisions of this chapter, <--  
6 regulations promulgated under this chapter and any order issued  
7 under the authority of this chapter, may renew certification by  
8 submitting a renewal application on a form provided by the  
9 department. The renewal shall be filed with the department by  
10 September 30 of the year the certification expires.

11 (h) Failure to renew.--A person AN INDIVIDUAL who fails to <--  
12 timely renew the person's certification shall, after 12 months <--  
13 of expiration, be required to establish certification in  
14 accordance with the full certification provisions of this  
15 chapter.

16 § 6833. Recertification of applicators.

17 (a) Continuing education.--At intervals of three years, a  
18 certified applicator shall provide evidence of having received  
19 continuing education credits in practices relating to fertilizer  
20 applications. Recertification training shall be in the same  
21 field as required for initial certification under section  
22 6832(a)(2) (relating to certification of applicators).

23 (b) Credits.--Continuing education credits shall be given <--  
24 GRANTED on the basis of attendance at courses or other <--  
25 appropriate training approved by the department. At a minimum,  
26 certified applicators A CERTIFIED APPLICATOR shall obtain four <--  
27 credits every three years or the total amount of credits  
28 established by notice published in the 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 who are certified <--  
7 applicators AN INDIVIDUAL WHO IS A CERTIFIED APPLICATOR in <--  
8 good standing under this chapter and with at least three  
9 years' experience as a certified fertilizer applicator or by <--  
10 a department-approved entity with other documented  
11 qualifications to serve as a trainer, such as an appropriate  
12 educational background.

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

21           ~~(2)~~ (3) Training shall be approved for continuing <--  
22 education credits at the rate of one credit per 30 minutes or <--  
23 as later established by regulation of applicable instruction,  
24 OR A RATE AS LATER ESTABLISHED BY REGULATIONS PROMULGATED <--  
25 UNDER THIS CHAPTER, exclusive of coffee breaks, lunches,  
26 visits to exhibits and other similar activities.

27           ~~(3) An approved entity wishing to conduct or sponsor~~ <--  
28 ~~continuing education training must submit a written request~~  
29 ~~for course and trainer approval to the department's regional~~  
30 ~~office for the region in which the training will be held. A~~

~~request to approve out of State training must be submitted to the department's headquarters. The request shall include evidence of compliance with the standards established by paragraph (1).~~

(d) Information request.--A request for training approval shall be submitted on an application form supplied by the department. The department shall return an incomplete application to the applicant without approval.

(e) Assignment of credits.--Credits shall be assigned to each training course based upon the subjects covered and the amount of time expended on each subject.

(f) Training course sponsors.--The A training course sponsor shall authenticate attendance and compile an approved A list of Pennsylvania certified applicators in attendance. The list shall be returned to the department within 10 working days following the meeting date and shall include the name of each individual attending and the individual's applicator certification number.

(g) Monitoring of training.--The department may monitor recertification training to verify the accuracy the accuracy of the course approval and attendance of participants.

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

(i) Violation.--

(1) Falsification by a department-approved course trainer or sponsor of information required under this section shall be considered a violation of this chapter.

(2) A person may not falsify attendance or that of another person's attendance at a continuing education

1 meeting.

2 (3) Falsification of attendance at a continuing  
3 education course by a person shall be considered a violation  
4 of this chapter.

5 (j) Failure to obtain required credits.--If a person AN <--  
6 INDIVIDUAL does not obtain the required number of  
7 recertification credits in the triennial year in which  
8 continuing education credits are due, the person's INDIVIDUAL'S <--  
9 certification shall be invalid and the person INDIVIDUAL shall <--  
10 cease and desist from all fertilizer application and, in order <--  
11 to renew recertification, the person must complete delinquent  
12 continuing education credits as established under this section.  
13 AND TRAINING OF FERTILIZER TECHNICIANS UNTIL THE REQUIRED NUMBER <--  
14 OF CREDITS HAS BEEN OBTAINED.

15 (k) Failure to complete delinquent credits.--If a person AN <--  
16 INDIVIDUAL fails to complete delinquent THE REQUIRED NUMBER OF <--  
17 continuing education credits within one year from the triennial  
18 expiration date THE CREDITS ARE DUE or fails to renew the <--  
19 certification for any reason during that time period, the person <--  
20 shall cease and desist from all fertilizer application and shall  
21 INDIVIDUAL SHALL COMPLY WITH THE PROHIBITIONS UNDER SUBSECTION <--  
22 (J) AND SHALL be required to reestablish eligibility FOR <--  
23 CERTIFICATION by meeting the requirements in section 6832.

24 § 6834. Reciprocal agreement. <--

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

1 § 6834. LICENSING AND CERTIFICATION OF OUT-OF-STATE ENTITIES. <--

2 (A) OUT-OF-STATE FERTILIZER APPLICATION BUSINESS.--AN OUT-  
3 OF-STATE FERTILIZER APPLICATION BUSINESS THAT APPLIES FERTILIZER  
4 IN THIS COMMONWEALTH SHALL, BEFORE APPLYING FERTILIZER, OBTAIN A  
5 FERTILIZER APPLICATION LICENSE IN ACCORDANCE WITH THIS CHAPTER  
6 AND COMPLY WITH ALL OTHER APPLICABLE PROVISIONS OF THIS CHAPTER.

7 (B) OUT-OF-STATE CERTIFIED APPLICATOR.--THE DEPARTMENT MAY  
8 ISSUE A CERTIFICATION TO AN OUT-OF-STATE INDIVIDUAL WITHOUT  
9 EXAMINATION WHERE ALL THE FOLLOWING STANDARDS ARE MET:

10 (1) THERE IS RECIPROCITY WITH THE STATE IN WHICH THE  
11 INDIVIDUAL RESIDES.

12 (2) THE STATE IN WHICH THE INDIVIDUAL RESIDES SHALL HAVE  
13 A FERTILIZER APPLICATION CERTIFICATION PROGRAM THAT PROVIDES  
14 FOR TESTING AND CERTIFICATION STANDARDS THAT ARE AT LEAST AS  
15 STRINGENT AS THOSE ESTABLISHED IN THIS CHAPTER.

16 (3) THE INDIVIDUAL APPLYING FOR CERTIFICATION IS  
17 CERTIFIED AND IN GOOD STANDING WITH THE CERTIFICATION AND  
18 PROGRAM REQUIREMENTS OF THE STATE IN WHICH THE INDIVIDUAL  
19 RESIDES.

20 (4) ONCE CERTIFICATION IS GRANTED BY THE DEPARTMENT, THE  
21 INDIVIDUAL SHALL MEET ALL THE RECERTIFICATION, APPLICATION  
22 AND OTHER STANDARDS ESTABLISHED IN THIS CHAPTER.

23 § 6835. Training of fertilizer technicians.

24 (a) Prohibition.--Fertilizer technicians working for a <--  
25 fertilizer application business A FERTILIZER TECHNICIAN may not <--  
26 apply fertilizer without completing a training program, as  
27 required by the provisions of this chapter, an order of the  
28 department or the department's regulations ISSUED UNDER THE <--  
29 AUTHORITY OF THIS CHAPTER OR REGULATIONS PROMULGATED UNDER THIS  
30 CHAPTER.

1 (b) Requirements.--A fertilizer technician shall be an <--  
2 employee of the business and trained by a certified applicator  
3 who is an employee of the same business UNDER SUBSECTION (D). <--

4 (c) Transferability.--Training of fertilizer technicians  
5 shall not be transferrable between businesses. FERTILIZER <--  
6 APPLICATION BUSINESSES OR GOVERNMENTAL OR PUBLIC ENTITIES.

7 (d) Program administration.--The training program for a  
8 fertilizer technician shall be administered by a certified  
9 applicator, employed by the fertilizer application business OR <--  
10 GOVERNMENTAL OR PUBLIC ENTITY employing the fertilizer  
11 technician, in subject matter involving the assigned tasks of  
12 the fertilizer technician. The training program shall include,  
13 but not be limited to:

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

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

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

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

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

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

30 (f) Training and supervision prohibition.--A fertilizer

1 technician may not train applicators INDIVIDUALS or supervise <--  
2 the use or application of fertilizers by other fertilizer  
3 technicians or noncertified employees NOT CERTIFIED TO APPLY <--  
4 FERTILIZER.

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

10 (1) The name and certification number of the trainer.

11 (2) The name of fertilizer technician trained.

12 (3) The date of training.

13 (4) The areas of training.

14 (5) The business name and address of the fertilizer  
15 application business employing the fertilizer technician.

16 (6) Any other requirements as established by the  
17 department through ~~order or regulation.~~ AN ORDER ISSUED UNDER <--  
18 THE AUTHORITY OF THIS CHAPTER OR REGULATIONS PROMULGATED  
19 UNDER THIS CHAPTER.

20 § 6836. Process.

21 The department shall, to the extent legally and fiscally  
22 possible, attempt to streamline the testing and educational  
23 aspects of fertilizer and pesticide applicator certification and  
24 recertification process to ensure availability at the same time  
25 and location.

26 SUBCHAPTER D

27 RECORDKEEPING

28 Sec.

29 6841. Records.

30 § 6841. Records.

1 (a) Condition.--A person required to be licensed, certified <--  
2 or permitted OR CERTIFIED and a person issued a license, <--  
3 certificate or permit OR CERTIFICATE under the provisions of <--  
4 this chapter shall keep accurate records of the information  
5 specified in this section and such relevant information as the  
6 department may deem necessary through order ISSUED UNDER THE <--  
7 AUTHORITY OF THIS CHAPTER or by regulation PROMULGATED UNDER <--  
8 THIS CHAPTER. The person shall make the records available to the  
9 department upon request.

10 (b) Fertilizer application.--~~Applicators~~ AN INDIVIDUAL <--  
11 required to be certified under section 6832 (relating to  
12 certification of applicators) and A fertilizer technicians <--  
13 trained under section 6835 (relating to training of fertilizer  
14 technicians) TECHNICIAN shall keep for every application of <--  
15 fertilizer a record containing the following information:

16 (1) The name and address of the customer and the address <--  
17 and location of the application site, if different from the  
18 address of the customer. ADDRESS OF THE LOCATION WHERE <--  
19 FERTILIZER IS APPLIED AND THE NAME AND ADDRESS OF THE PERSON  
20 ASSOCIATED WITH THE LOCATION, IF DIFFERENT THAN THE  
21 APPLICATION SITE.

22 (2) A record of the date of each fertilizer application.  
23 For continuous applications, such as hydroponics or drip  
24 lines, the record shall include start and finish dates and  
25 the total amount of fertilizer products used during that time <--  
26 period. Each addition of a fertilizer to the system shall be  
27 entered in the record.

28 (3) The weather conditions, including approximate  
29 temperature.

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

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

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

5       (7) Identification of the application site, including  
6 the specific field or land area and the crop.

7       (8) The total area treated in acres, square feet or  
8 other applicable units of measure.

9       (9) The name and certification number of each ~~person~~ <--  
10 ~~involved with the application~~ CERTIFIED APPLICATOR and the <--  
11 name of each fertilizer technician and noncertified employee  
12 involved in the application.

13       (10) Additional information as the department may  
14 require through ~~order or~~ A regulation PROMULGATED UNDER THIS <--  
15 CHAPTER.

16       (c) Fertilizer application record.--A fertilizer application  
17 record INCLUSIVE OF THE INFORMATION UNDER SUBSECTION (B) shall <--  
18 be completed in written or printable form no later than 24 hours  
19 after the application date and made immediately available to the  
20 FERTILIZER APPLICATION BUSINESS OR GOVERNMENTAL OR PUBLIC ENTITY <--  
21 AS REQUIRED BY SECTIONS 6831(D) (RELATING TO LICENSING OF  
22 FERTILIZER APPLICATION BUSINESSES) AND 6831.1(D) (RELATING TO  
23 LICENSING OF GOVERNMENTAL OR PUBLIC ENTITIES), AND TO THE  
24 department upon request.

25       (d) Maintenance requirements.--A record required under this  
26 section shall be maintained BY THE FERTILIZER APPLICATION <--  
27 BUSINESS OR GOVERNMENTAL OR PUBLIC ENTITY for at least three  
28 years.

29       (e) Annual report.--All ~~businesses~~ PERSONS required to be <--  
30 licensed under ~~section 6831~~ (relating to licensing of fertilizer <--



1 application businesses) SECTIONS 6831 AND 6831.1 shall submit TO <--  
2 THE DEPARTMENT an annual report in a manner prescribed by the  
3 department listing, by county and use WITHIN EACH COUNTY, <--  
4 aggregated data compiled from the records required under  
5 subsection (b). At a minimum, aggregated data shall contain:  
6 (1) The total acreage to which fertilizer was applied.  
7 (2) The total amount of nitrogen, available phosphate  
8 and soluble potash applied.  
9 (3) Any other aggregated data, within the scope of this  
10 chapter, the department may determine is necessary.

11 SUBCHAPTER E

12 APPLICATION RATES, REQUIREMENTS AND PROHIBITIONS

13 Sec.

14 6851. Application of fertilizer.

15 6852. Application of fertilizer to turf.

16 6853. Prohibited acts.

17 § 6851. Application of fertilizer.

18 (a) Restrictions.--

19 (1) No person may apply nonaquatic fertilizer within 15  
20 feet of the top of a bank of a lake, pond, wetlands or  
21 flowing body of water, such as a stream, river or creek,  
22 except that fertilizer may be applied to the top of the bank  
23 of the waterways if applied using a drop spreader, rotary  
24 spreader with deflector, targeted spray liquid or other  
25 available targeted application technology when establishing  
26 and maintaining a stream buffer zone.

27 (2) The establishment of setbacks for fertilizer  
28 application under this subsection shall not be construed to  
29 preclude the establishment or applicability of or required  
30 compliance with any other environmental standard established

1 under other Federal or State law, rule or regulation.

2 (b) Regulation.--The department may establish additional  
3 restrictions through regulation.

4 (c) Construction.--Nothing in this section shall be  
5 construed to prohibit the lawful use of fertilizer in blasting  
6 as regulated by the Department of Environmental Protection.  
7 § 6852. Application of fertilizer to turf.

8 (a) Application rates.--Except as provided in subsections  
9 (c) and (d), fertilizer application rates to turf:

10 (1) Shall not exceed 0.7 pounds of readily available  
11 nitrogen per 1,000 square feet per application.

12 (2) Shall not exceed 0.9 pounds of total nitrogen per  
13 1,000 square feet per application except, when labeled as an  
14 enhanced-efficiency nitrogen fertilizer, the amount of  
15 nitrogen released at any given time shall not exceed 0.7  
16 pounds of nitrogen per 1,000 square feet.

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

19 (i) establishing vegetation for the first time;

20 (ii) reestablishing or repairing a turf area; or

21 (iii) as an enhanced-efficiency phosphorus

22 fertilizer, natural organic fertilizer or organic-based  
23 fertilizer, if the application rate does not exceed 0.25  
24 pounds of phosphorus per 1,000 square feet per  
25 application, with a maximum total annual application of  
26 0.5 pounds of phosphorus per 1,000 square feet.

27 (b) Restrictions.--No person may:

28 (1) Apply ~~turf~~ fertilizer LABELED FOR USE ON TURF to an <--  
29 impervious surface. ~~Turf fertilizer~~ FERTILIZER LABELED FOR <--  
30 USE ON TURF that is inadvertently applied to an impervious

1 surface shall be removed from the impervious surface  
2 immediately following the application.

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

6 (3) Except as provided in paragraph (4), apply  
7 fertilizer containing nitrogen or phosphorus to turf after  
8 December 15 and before March 1 or dates as established in  
9 regulations promulgated by the department.

10 (4) Fertilizer containing no more than 0.5 pounds of  
11 total nitrogen per 1,000 square feet, or at a rate  
12 established in regulations promulgated by the department, may  
13 be applied by a certified applicator or fertilizer technician  
14 to turf after December 15 and before March 1 or dates as  
15 established in regulations promulgated by the department.

16 (c) Fertilizer use and application rates for turf.--

17 (1) The department may establish use and application  
18 rates for fertilizer that is applied to turf.

19 (2) The current rates or source of established  
20 fertilizer use and application rates shall be published at  
21 least once every two years by the department transmitting a  
22 notice to the Legislative Reference Bureau for publication in  
23 the Pennsylvania Bulletin.

24 (3) New application rates or changes to established  
25 fertilizer use and application rates shall:

26 (i) Be based on appropriately peer-reviewed  
27 scientific research representing conditions of this  
28 Commonwealth and recommended by The Pennsylvania State  
29 University or other institution of higher education in  
30 this Commonwealth.

1 (ii) Be as protective or more protective of water  
2 quality as those rates specified in subsection (a).

3 (iii) Be published as a notice of public comment in  
4 the Pennsylvania Bulletin and allow for a 30-day public  
5 comment period. The department shall respond to all  
6 comments received and make a copy of the comments  
7 publicly available. The new rates or changes shall be  
8 published as final rates in the Pennsylvania Bulletin and  
9 take effect upon publication.

10 (d) Application based on soil test and site-specific plan.--

11 ~~An applicator~~ A CERTIFIED APPLICATOR, FERTILIZER TECHNICIAN OR <--  
12 OTHER PERSON shall not be required to follow application rates  
13 established under subsection (a) or (c) if a site-specific plan  
14 is used based on all the following:

15 (1) A soil test was conducted within the previous three  
16 years and in accordance with procedures recommended by the <--  
17 THE Pennsylvania State University. <--

18 (2) Current soil, plant species, climate, use,  
19 topography or other appropriate management factors.

20 (3) Rates recommended by The Pennsylvania State  
21 University or other institution of higher education in this  
22 Commonwealth ~~recognized~~ APPROVED by the department. <--

23 (e) Certified applicators or fertilizer technicians.--In  
24 addition to the requirements of section 6841 (relating to  
25 records), when a certified applicator or fertilizer technician  
26 applies fertilizer in accordance with subsection (d), the  
27 certified applicator or fertilizer technician shall retain a  
28 copy of the soil test and recommendations received for the site-  
29 specific plan as part of the recordkeeping requirements.

30 (f) Additional requirements.--The department may establish

1 additional requirements through regulation.

2 (g) Exemption.--This section shall not apply to fertilizer  
3 applied for agricultural production TO LAND USED FOR AN <--  
4 AGRICULTURAL OPERATION or by a public or private institution of  
5 higher education for research purposes.

6 § 6853. Prohibited acts.

7 (a) Prohibited acts by business, ENTITY, certified <--  
8 applicator or fertilizer technician.--A fertilizer application  
9 business, GOVERNMENTAL OR PUBLIC ENTITY, certified applicator or <--  
10 fertilizer technician may not:

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

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

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

17 (4) Make a false statement or misrepresentation of  
18 material fact on an application for issuance or renewal of a  
19 license or certification required under this chapter, a  
20 regulation promulgated under this chapter or an order issued  
21 under the authority of this chapter.

22 (5) Refuse or neglect to comply with a condition or  
23 limitation imposed upon a license or certification issued  
24 under this chapter, a regulation promulgated under this  
25 chapter or an order issued under the authority of this  
26 chapter.

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

30 (7) Refuse to display the fertilizer application <--

~~business's, certified applicator's or fertilizer technician's~~

A license or certification number in a manner required by <--  
this chapter, a regulation promulgated under this chapter or  
an order issued under the authority of this chapter.

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

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

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

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

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

(3) Dispose of, discard or store a fertilizer product in  
a manner that would be inconsistent with its label, would  
cause over-application of fertilizer, would result in direct  
discharge to a storm drain or waters of this Commonwealth or  
would be inconsistent with this chapter, a regulation  
promulgated under this chapter or an order issued under the  
authority of this chapter.

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

(5) Hinder, mislead, make false statements to or refuse

1 to cooperate with an employee or agent of the department in  
2 an investigation or inspection undertaken by the authority  
3 delegated to the department under the provisions of this  
4 chapter.

5 (6) Apply fertilizer ~~or a nitrogen-based material~~ for <--  
6 the purposes of melting snow or ice, unless the material is  
7 applied to aircraft or areas an aircraft accesses at an  
8 airport.

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

12 SUBCHAPTER F

13 AGRICULTURAL AND HOMEOWNER EDUCATION PROGRAM

14 Sec.

15 6861. Agricultural and homeowner education.

16 § 6861. Agricultural and homeowner education.

17 The department, through guidelines established in  
18 consultation with The Pennsylvania State University and  
19 representatives of the agricultural and turf grass industries,  
20 shall establish and administer a program of public outreach to  
21 educate the public on proper use, application, handling and  
22 storage of fertilizers.

23 SUBCHAPTER G

24 ADMINISTRATION AND PENALTIES

25 Sec.

26 6871. Publications.

27 6872. Rules and regulations.

28 6873. Short weight.

29 6874. Refusal, suspension or revocation of registration,  
30 license or certification.

- 1 6875. Stop-sale orders.
- 2 6876. Seizure and condemnation.
- 3 6877. Unlawful conduct.
- 4 6878. Inspection, sampling and analysis.
- 5 6879. Interference with officer or employee of department.
- 6 6880. Enforcement and penalties.
- 7 6881. Appeal process.
- 8 6882. Civil remedy.
- 9 6883. Cooperation with other entities.
- 10 6884. Exchanges between manufacturers.
- 11 6885. Confidentiality.
- 12 6886. Fees, fines and civil penalties (RESERVED). <--
- 13 6887. Disposition of funds.
- 14 6888. Exclusion of local laws and regulations.
- 15 § 6871. Publications.
- 16 The department may publish on an annual basis, and in a form
- 17 as it deems proper, information concerning the distribution of
- 18 fertilizers for both agricultural and nonagricultural uses and <--
- 19 results of analyses based on official samples of fertilizer
- 20 distributed within this Commonwealth as compared with analyses
- 21 guaranteed under sections 6812 (relating to registration of
- 22 specialty fertilizers) and 6814 (relating to labels and
- 23 labeling).
- 24 § 6872. Rules and regulations.
- 25 The department may promulgate and enforce rules and
- 26 regulations necessary for administration and implementation of
- 27 this chapter. Regulations currently in place shall remain in
- 28 effect, to the extent they are consistent with this chapter,
- 29 until such time as new regulations are promulgated by the
- 30 department. THE DEPARTMENT MAY DRAFT AND ISSUE SUCH ORDERS AS <--



1 ARE NECESSARY TO ENFORCE AND PROVIDE CLARITY FOR ADMINISTRATION  
2 OF THIS CHAPTER.

3 § 6873. Short weight.

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

9 § 6874. Refusal, suspension or revocation of registration,  
10 license or certification.

11 (a) Authority of department.--The department may refuse,  
12 suspend or revoke:

13 (1) the registration of a fertilizer;

14 (2) the license or certification of a person, if the  
15 person is a registrant, licensee or certificate holder and  
16 has not complied with the provisions of this chapter, a  
17 regulation promulgated under this chapter or an order issued  
18 under the authority of this chapter; or

19 (3) the license or certification of a person, if the  
20 person has used fraudulent or deceptive practices in the  
21 evasion or attempted evasion of the provisions of this  
22 chapter.

23 (b) Hearing.--The department shall provide an opportunity  
24 for a hearing, as specified in section 6881 (relating to appeal  
25 process), to a person appealing an action of the department  
26 under this section.

27 § 6875. Stop-sale orders.

28 (a) Authority of department.--

29 (1) The department may issue and enforce a written or  
30 printed stop-sale, use or removal order to the owner or

1 custodian of a lot of fertilizer being offered or exposed for  
2 sale in violation of a provision of this chapter, a  
3 regulation promulgated under this chapter or an order issued  
4 under the authority of this chapter.

5 (2) Fertilizer placed under the order shall be held at a  
6 designated place approved by the department and may not be  
7 moved without written approval by the department.

8 (3) The order shall remain in effect until the law has  
9 been complied with and the fertilizer is released in writing  
10 by the department or the fertilizer in violation has been  
11 disposed of in a manner authorized by the department. The  
12 authorization shall be specified in writing.

13 (b) Release by department.--The department shall release the  
14 fertilizer held under a stop-sale order when the requirements of  
15 this chapter, a regulation promulgated under this chapter or an  
16 order issued under the authority of this chapter have been  
17 complied with and all costs and expenses incurred in connection  
18 with the order have been paid by the person responsible for the  
19 violation.

20 § 6876. Seizure and condemnation.

21 Fertilizer not in compliance with the provisions of this  
22 chapter, a regulation promulgated under this chapter or an order  
23 issued under the authority of this chapter shall be subject to  
24 seizure and condemnation by the department, provided that in no  
25 instance shall the disposition of the fertilizer be ordered by  
26 the department without first giving the claimant an opportunity  
27 for a hearing as provided for in section 6881 (relating to  
28 appeal process) or for opportunity to apply for permission to  
29 process or relabel the fertilizer to bring it into compliance  
30 with this chapter.

1 § 6877. Unlawful conduct.

2 It shall be unlawful for a person to fail to comply with or  
3 cause to assist in the violation of this chapter, a regulation  
4 promulgated under this chapter or an order issued under the  
5 authority of this chapter.

6 § 6878. Inspection, sampling and analysis.

7 (a) Authorization.--For purposes of enforcement of this  
8 chapter, the department or its agent may enter upon any public  
9 or private premises or carriers at reasonable times, including  
10 any vehicle being used to transport or hold fertilizer, as may  
11 be necessary to determine compliance with this chapter. The  
12 department may also:

13 (1) Have access for the purpose of inspecting any  
14 equipment subject to this chapter and the premises on which  
15 the equipment is kept or stored.

16 (2) Inspect and sample lands, plants or waterways  
17 actually or reported to be exposed to fertilizers.

18 (3) Inspect storage or disposal areas.

19 (4) Inspect or investigate complaints of injury to  
20 humans, animals, plants or the environment.

21 (5) Sample fertilizers being manufactured, processed,  
22 packed or held for distribution, being applied or to be  
23 applied.

24 (6) Have access to records relating to the manufacture,  
25 distribution, sale, storage and use of fertilizer.

26 (b) Inspection.--

27 (1) The department may conduct unannounced inspections,  
28 but shall give written notice to the owner or person in  
29 charge of the facility, warehouse, establishment, premises or  
30 vehicle at the time of inspection and sampling.

1           (2) A separate notice shall be given for each  
2           inspection, but a notice shall not be required for each entry  
3           made during the period covered by the inspection.

4           (c) Samples.--If an employee conducting an inspection  
5           obtains a sample in the course of the inspection, upon  
6           completion of the inspection and prior to leaving the premises,  
7           the employee may, when possible, give to the owner, operator or  
8           agent in charge a receipt describing the samples obtained.

9           (d) Methodology.--

10           (1) The methods of fertilizer sampling and analysis by  
11           the department ~~shall~~ MAY include those methods adopted by the <--  
12           Association of Official Analytical Chemists International.

13           (2) In cases not covered by those methods or in cases  
14           where improved methods are available, the department may  
15           issue a temporary order defining the method to be utilized.  
16           The method defined in the temporary order shall be effective  
17           upon publication in the Pennsylvania Bulletin. The temporary  
18           order shall remain in effect for a period not to exceed one  
19           year, unless reissued or until the notice is promulgated as a  
20           regulation.

21           (e) Deficiency determination.--In determining whether a  
22           fertilizer is deficient in nutrients, the department shall be  
23           guided solely by the official sample obtained.

24           (f) Maintenance by official samples.--

25           (1) Official samples maintained by the department and  
26           that require imposition of a penalty for nutrient deficiency  
27           shall be retained for a minimum of 90 days from issuance of a  
28           fertilizer deficiency report or an official report of  
29           analysis.

30           (2) Upon request, the department shall furnish to the

1 guarantor a portion of the official sample.

2 (3) Requests must be made within 30 days of receipt of a  
3 fertilizer deficiency report or an official report of  
4 analysis.

5 § 6879. Interference with officer or employee of department.

6 (a) Interference.--A person who willfully or intentionally  
7 interferes with an employee or officer of the department in the  
8 performance of the employee's or officer's duties or activities  
9 authorized under this chapter commits a misdemeanor of the third  
10 degree and shall, upon conviction, be subject to a term of  
11 imprisonment for not more than one year or a fine of not more  
12 than \$2,500, or both.

13 (b) Refuse entry.--

14 (1) It shall be a violation of this chapter to refuse  
15 entry to a department employee or agent acting under the  
16 authority of this chapter.

17 (2) For purposes of this subsection, the term "refuse  
18 entry" includes any of the following:

19 (i) Preventing entry to the establishment or any  
20 other place or object set forth in section 6878(a)  
21 (relating to inspection, sampling and analysis) of this  
22 chapter.

23 (ii) Preventing the taking of a sample as authorized  
24 under this chapter.

25 (iii) Preventing access to records required under  
26 this chapter or any order ~~or regulation issued~~ ISSUED <--  
27 UNDER THE AUTHORITY OF THIS CHAPTER OR REGULATION  
28 PROMULGATED under this chapter.

29 (c) Search warrant.--

30 (1) The department may apply for a search warrant to any

1 court of competent jurisdiction authorized to issue a search  
2 warrant for the purposes of conducting inspections,  
3 collecting samples or examining records of any facility,  
4 premises or vehicle in the enforcement of this chapter.

5 (2) The warrant shall be issued upon probable cause. It  
6 shall be sufficient probable cause to show any of the  
7 following:

8 (i) The department or its authorized agent has been  
9 subject to interference or refused entry as defined under  
10 subsections (a) and (b).

11 (ii) The department has reasonable grounds to  
12 believe that a violation of this chapter, a regulation  
13 promulgated under this chapter or an order issued under  
14 the authority of this chapter has occurred.

15 § 6880. Enforcement and penalties.

16 (a) Criminal penalties.--Unless otherwise specified, a  
17 person who violates a provision of this chapter, a regulation  
18 promulgated under this chapter or an order issued under the  
19 authority of this chapter:

20 (1) For the first offense, commits a summary offense and  
21 may, upon conviction, be sentenced for each offense to pay a  
22 fine of not less than \$100 nor more than \$500 and costs of  
23 prosecution or to imprisonment for a term which shall be  
24 fixed at not more than 90 days, or both.

25 (2) For a subsequent offense committed within three  
26 years of a prior conviction for a violation of this chapter,  
27 a regulation promulgated under this chapter or an order  
28 issued under the authority of this chapter commits a  
29 misdemeanor of the second degree and shall, upon conviction,  
30 be sentenced to pay a fine of not less than \$500 nor more

1 than \$1,000 and costs of prosecution or to imprisonment for  
2 not more than two years, or both.

3 (b) Civil penalties.--

4 (1) In addition to another remedy available at law or in  
5 equity for a violation of this chapter, the department may  
6 assess a civil penalty of not less than \$500 nor more than  
7 \$5,000 upon a person for each violation of this chapter. The  
8 civil penalty assessed shall be payable to the department and  
9 shall be collectible in any manner provided by law for the  
10 collection of debt.

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

17 (c) Trade secrets.--

18 (1) A person who to the person's own advantage uses or  
19 reveals to anyone other than the department, administrative  
20 tribunal or a court when relevant in a judicial proceeding  
21 information acquired under the authority of this chapter  
22 concerning a method, record, formulation or process that as a  
23 trade secret is entitled to protection under the law commits  
24 a misdemeanor of the third degree and shall, upon conviction,  
25 be sentenced to pay a fine of not less than \$500.

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

30 (d) Certified copy of official analysis.--In a prosecution

1 under this chapter involving the composition of a lot of  
2 fertilizer, a certified copy of the official analysis signed by  
3 the department shall be accepted as prima facie evidence of the  
4 composition.

5 (e) De minimis violations.--Nothing in this chapter shall be  
6 construed to require the department to report a violation and to  
7 institute seizure proceedings as a result of a de minimis  
8 violation of this chapter when the department concludes that the  
9 public interest will be best served by a suitable notice of  
10 warning in writing.

11 (f) District attorney.--A district attorney to whom a  
12 criminal violation of this chapter is reported shall cause  
13 appropriate proceedings to be instituted and prosecuted in a  
14 court of competent jurisdiction without delay.

15 § 6881. Appeal process.

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

22 § 6882. Civil remedy.

23 (a) Office of Attorney General.--In addition to other  
24 remedies provided for in this chapter, the Office of Attorney  
25 General, at the request of the department, may initiate in  
26 Commonwealth Court or the court of common pleas of the county in  
27 which the defendant resides or has a place of business an action  
28 in equity for an injunction to restrain a violation of this  
29 chapter, a regulation promulgated under this chapter or an order  
30 issued under the authority of this chapter from which no timely



1 appeal has been taken or which has been sustained on appeal.

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

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

11 (d) Civil penalties.--In addition to an injunction, the  
12 court may levy civil penalties as provided by this chapter.  
13 § 6883. Cooperation with other entities.

14 The department may cooperate with and enter into agreement  
15 with governmental agencies of the Federal Government, agencies  
16 of this Commonwealth or another state to carry out the purpose  
17 and provisions of this chapter.

18 § 6884. Exchanges between manufacturers.

19 Nothing in this chapter shall be construed to restrict or  
20 avoid sales or exchanges of fertilizers to each other by  
21 importers, manufacturers or manipulators who mix fertilizer  
22 materials for sale or as preventing the free and unrestricted  
23 shipments of fertilizer to manufacturers or manipulators who are  
24 in compliance with the provisions of this chapter.

25 § 6885. Confidentiality.

26 All proprietary business information contained in records,  
27 data, formulations and other information filed with or collected  
28 by the department under section 6841 (relating to records) and  
29 that relate to tonnage reports and trade secrets, such as  
30 product formulation, customer information or production methods,

1 shall be exempt from the act of February 14, 2008 (P.L.6, No.3),  
2 known as the Right-to-Know Law, and subject to inspection only  
3 upon the order of a court of competent jurisdiction. Aggregate  
4 data may be shared with other Federal, State or local agencies.

5 § 6886. Fees, fines and civil penalties. <--

6 (a) Insufficient revenues. If the revenues raised by fees,  
7 fines and civil penalties imposed under this chapter are  
8 insufficient to meet expenditures for the administration and  
9 enforcement of this chapter over a two year period, the  
10 department may increase those fees so that the project revenues  
11 will meet or exceed projected expenditures.

12 (b) Notice and effective date.

13 (1) The department shall announce the adjustment of  
14 fees, fines and penalties by transmitting a notice to the  
15 Legislative Reference Bureau for publication in the  
16 Pennsylvania Bulletin.

17 (2) Prior to the adjusted fees, fines and penalties  
18 becoming effective, the department shall hold a public  
19 meeting to receive input from the regulated community.

20 (3) Subsequent to the public meeting, the department  
21 shall transmit a notice to the Legislative Reference Bureau  
22 for republishing the adjusted fees, fines and penalties in  
23 the Pennsylvania Bulletin. The adjusted fees shall take  
24 effect 60 days after publication of the subsequent notice in  
25 the Pennsylvania Bulletin. (RESERVED). <--

26 § 6887. Disposition of funds.

27 Money received from license fees, registration fees,  
28 applicator certification, inspection fees, fines and penalties  
29 shall be paid into a special restricted account in the General  
30 Fund known as the Agronomic Regulatory Account. All money in the

1 Agronomic Regulatory Account is appropriated on a continuing  
2 basis to the department for the purposes of this chapter and  
3 Chapters 69 (relating to soil and plant amendment) and 71  
4 (relating to seed).

5 § 6888. Exclusion of local laws and regulations.

6 (a) Effect of chapter.--The provisions of this chapter are  
7 of Statewide concern and occupy the whole field of regulation  
8 regarding the registration, packaging, labeling, sale,  
9 transportation, distribution, use and application of fertilizers  
10 and certification of fertilizer applicators to the exclusion of  
11 all local regulations.

12 (b) Enforcement.--No ordinance or regulation of a local  
13 agency, political subdivision or home rule municipality may  
14 prohibit or attempt to regulate a matter relating to the  
15 registration, packaging, labeling, sale, transportation,  
16 distribution, use or application of fertilizers, if the  
17 ordinance or regulation conflicts with this chapter.

18 (c) Stricter requirements.--Nothing in this chapter shall be  
19 construed to prevent a political subdivision or home rule  
20 municipality from adopting and enforcing an ordinance or a  
21 regulation that is consistent with and no more stringent than  
22 the requirements of this chapter and the regulations ~~or~~ <--  
23 guidelines promulgated under this chapter. No penalty shall be  
24 assessed under the local ordinance or regulation under this  
25 subsection for a violation for which a penalty has been assessed  
26 under this chapter.

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

29 § 6921. Disposition of funds.

30 Moneys received from license fees, registration fees,

1 inspection fees, fines and penalties shall be paid into the  
2 Agronomic Regulatory Account established in section [6725] 6887  
3 (relating to disposition of funds). All moneys in the Agronomic  
4 Regulatory Account are hereby appropriated to the department for  
5 the purposes of this chapter [and], Chapter [67] 68 (relating to  
6 fertilizer) and Chapter 71 (relating to seed).

7 § 7122. Disposition of funds.

8 Moneys received from license fees, seed testing fees,  
9 certification fees, fines and penalties shall be paid into the  
10 Agronomic Regulatory Account established in section [6725] 6887  
11 (relating to disposition of funds). All moneys in the Agronomic  
12 Regulatory Account are hereby appropriated to the department for  
13 the purposes of Chapters [67] 68 (relating to fertilizer) and 69  
14 (relating to soil and plant amendment) and this chapter.

15 ~~Section 4. The State Treasurer shall transfer the sum of~~ <--  
16 ~~\$100,000 from the General Fund to the Agronomic Regulatory~~  
17 ~~Account for use by the Department of Agriculture to develop the~~  
18 ~~certification and recertification courses required under 3~~  
19 ~~Pa.C.S. §§ 6832 and 6833 and any computer programming or~~  
20 ~~software necessary for administration and enforcement of 3~~  
21 ~~Pa.C.S. Ch. 68.~~

22 SECTION 4. IF THE NUTRIENT REDUCTION PLANNING TARGETS <--  
23 IDENTIFIED IN THE PENNSYLVANIA PHASE 3 CHESAPEAKE BAY WATERSHED  
24 IMPLEMENTATION PLAN PREPARED BY THE DEPARTMENT OF ENVIRONMENTAL  
25 PROTECTION, DATED AUGUST 2019, FOR IMPLEMENTING THIS ACT ARE NOT  
26 ACHIEVED AND DO NOT RESULT IN CREDIT IN THE CHESAPEAKE BAY  
27 WATERSHED MODEL BY DECEMBER 31, 2026, THE FOLLOWING PROVISIONS  
28 OF THIS ACT SHALL EXPIRE DECEMBER 31, 2026:

- 29 (1) THE ADDITION OF 3 PA.C.S. CH. 68 SUBCHS. C AND D.  
30 (2) THE ADDITION OF 3 PA.C.S. § 6853(A) (1).

1 Section 5. This act shall take effect as follows:

2 (1) The addition of 3 Pa.C.S. § 6814(a)(3) and (4), (g),  
3 (h), (i), (j), (k) and (l) shall take effect in 18 months.

4 (2) The addition of 3 Pa.C.S. §§ 6831, 6831.1, 6832, <--  
5 6833 and 6834 shall take effect upon the development of the  
6 certification examination specified under 3 Pa.C.S. § 6832(a)  
7 and applicable software to implement these sections.

8 (3) This section and the remainder of this act shall  
9 take effect immediately.