

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 915 Session of 2019

INTRODUCED BY YAW, VOGEL, KILLION AND SCHWANK, DECEMBER 18, 2019

AS AMENDED ON THIRD CONSIDERATION, MAY 27, 2020

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12 Consolidated Statutes is repealed: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
21 context clearly indicates otherwise:

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

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

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

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

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

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

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

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

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

28 "Fertilizer material." A fertilizer which:

29 (1) contains only one of the following primary plant  
30 nutrients: nitrogen, phosphate or potash;

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

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

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

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

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

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

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

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

1 of fertilizer.

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

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

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

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

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

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

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

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

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

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

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

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

28 § 6703. Licensing.

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

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

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

14 § 6704. Registration of specialty fertilizers.

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

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

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

1 (4) The net weight.

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

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

16 § 6705. Labels and labeling.

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

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

23 (2) The guaranteed analysis.

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

25 (4) The net weight.

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

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

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

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

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

18 (1) The net weight.

19 (2) The guaranteed analysis.

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

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

25 § 6706. Inspection fees.

26 (a) Amounts.--

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

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

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

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

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

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

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

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

29 § 6707. Tonnage reports.

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



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

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

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

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

21 (e) Confidentiality of information.--

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

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

29 § 6708. Inspection, sampling and analysis.

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

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

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

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

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

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

4 § 6709. Plant food deficiency.

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

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

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

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

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

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

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

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

7 § 6710. Commercial value.

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

15 § 6711. Misbranding.

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

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

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

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

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

30 § 6712. Adulteration.

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

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

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

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

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

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

20 § 6713. Publications.

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

28 § 6714. Short weight.

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

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

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

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

12 § 6716. Stop-sale orders.

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

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

27 § 6717. Seizure and condemnation.

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

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

6 § 6718. Appeal process.

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

12 § 6719. Cooperation with other entities.

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

17 § 6720. Rules and regulations.

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

21 § 6721. Unlawful conduct.

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

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

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

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

4 § 6723. Enforcement and penalties.

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

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

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

21 (b) Trade secrets.--

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



1 than one year, or both.

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

7 (c) Civil penalties.--

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

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

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

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

1 warning in writing.

2 § 6724. Exchanges between manufacturers.

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

9 § 6725. Disposition of funds.

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

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

18 CHAPTER 68

19 FERTILIZER

20 Subchapter

21 A. General Provisions

22 B. Fertilizer Manufacturers and Guarantors

23 C. Applicator Licensing and Certification

24 D. Recordkeeping

25 E. Application Rates, Requirements and Prohibitions

26 F. Agricultural and Homeowner Education Program

27 G. Administration and Penalties

28 SUBCHAPTER A

29 GENERAL PROVISIONS

30 Sec.

1 6801. Short title of chapter.

2 6802. Legislative intent.

3 6803. Definitions.

4 § 6801. Short title of chapter.

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

7 § 6802. Legislative intent.

8 This chapter is intended to:

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

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

15 (3) Establish professional fertilizer applicator  
16 certification.

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

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

20 § 6803. Definitions.

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

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

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

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

1 all applicable regulations of the Department of Environmental  
2 Protection.

3 "Certified applicator." A person who is certified under  
4 section 6832 (relating to certification of applicators) as  
5 competent to use or supervise the use of fertilizer or train  
6 fertilizer technicians on the proper application of fertilizer.

7 "Commercial applicator." A person who applies or supervises  
8 the application of fertilizer to the property or premises of  
9 another or who applies or supervises application of fertilizer  
10 to any of the following:

11 (1) A golf course.

12 (2) The property or premises of a public or private  
13 park.

14 (3) The property or premises of a public, nonpublic or  
15 licensed private elementary or secondary school where a  
16 resident of this Commonwealth may fulfill the compulsory  
17 school attendance requirements and that meets the applicable  
18 requirements of Title IV of the Civil Rights Act of 1964 (42  
19 U.S.C. § 2000c) (Public Law 88-352, 78 Stat. 241). This term  
20 does not include the residence of a home schooled student.

21 (4) A public or private college or university that  
22 applies fertilizer to the campus grounds, excluding a person  
23 who conducts research at a public or private college or  
24 university or a State-related university that applies  
25 fertilizer to test plots.

26 (5) A public playground or an athletic field.

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

29 "Deficiency." The amount of nutrient found by analysis to be  
30 less than that guaranteed, that may result from a lack of

1 nutrient ingredients or uniformity.

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

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

6 "Distributor." A person that distributes fertilizer or  
7 fertilizer material.

8 "Enhanced efficiency." Relating to a fertilizer product with  
9 characteristics that allow increased plant nutrient uptake and  
10 reduced potential of nutrient losses to the environment, such as  
11 gaseous losses, leaching or runoff.

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

14 "Fertilizer." A substance containing one or more recognized  
15 plant nutrients that is used for its plant nutrient content and  
16 is designed for use or claimed to have value in promoting plant  
17 growth, except unmanipulated animal manure and plant remains,  
18 agricultural liming materials, wood ashes and other materials  
19 exempted by the department's regulations. The term shall not  
20 apply to animal manure that is regulated under:

21 (1) Chapter 5 (relating to nutrient management and odor  
22 management);

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

25 (3) 25 Pa. Code § 91.36(b) (relating to pollution  
26 control and prevention at agricultural operations).

27 "Fertilizer application business." A governmental or public  
28 entity, commercial applicator or business for profit or not for  
29 profit that applies fertilizer to or on:

30 (1) the property or premises of another;

1       (2) the property or premises of a golf course, park,  
2       school, college or university or public playground; or  
3       (3) an athletic field.

4       "Fertilizer application business license." A license  
5       obtained under section 6831 (relating to licensing of fertilizer  
6       application businesses).

7       "Fertilizer license." A license obtained under section 6811  
8       (relating to licensing).

9       "Fertilizer material." A fertilizer that:

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

12               (i) nitrogen;

13               (ii) phosphate; or

14               (iii) potash;

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

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

23       "Fertilizer technician." A person who:

24               (1) Is not certified under this chapter.

25               (2) Works for a fertilizer application business.

26               (3) Works under the direction of a certified applicator.

27       "Governmental or public entity." An executive or independent  
28       agency or governmental unit of the Federal Government,  
29       Commonwealth or its instrumentalities, a local agency, municipal  
30       authority or political subdivision.

1 "Grade." The percentage of total nitrogen, available  
2 phosphate and soluble potash stated in whole numbers in the same  
3 terms, order and percentages as in the guaranteed analysis,  
4 which, in the case of specialty fertilizers, may be guaranteed  
5 in fractional units of less than 1% of total nitrogen, available  
6 phosphate and soluble potash, and provided that fertilizer  
7 materials, bone meal, manures and similar materials may be  
8 guaranteed in fractional units.

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

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

13	<u>Total Nitrogen (N)</u>	<u>%</u>
14	<u>Available Phosphate (P2O5)</u>	<u>%</u>
15	<u>Soluble Potash (K2O)</u>	<u>%</u>

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

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

23 "Impervious surface." A structure, surface or improvement  
24 that reduces or prevents infiltration of water into soil,  
25 including, but not limited to, concrete, asphalt, roadways,  
26 sidewalks, parking lots, driveways and patios.

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

30 "Labeling." All written, printed or graphic matter, on or

1 accompanying fertilizer or advertisements, brochures, posters or  
2 electronic media used in promoting the distribution of  
3 fertilizer.

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

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

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

12 "Micronutrient." Any of the following:

13 (1) Boron.

14 (2) Chlorine.

15 (3) Cobalt.

16 (4) Copper.

17 (5) Iron.

18 (6) Manganese.

19 (7) Molybdenum.

20 (8) Nickel.

21 (9) Sodium.

22 (10) Zinc.

23 "Natural organic fertilizer." Materials that are:

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

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



1 combination of these processes.

2 (3) Not mixed with synthetic materials or changed in any  
3 physical or chemical manner from their initial state except  
4 by manipulations such as drying, cooking, chopping, grinding,  
5 shredding, hydrolysis or 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 "Percent" or "percentage." A percentage by weight.

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

25 "Plant nutrient." Any of the following:

26 (1) A primary nutrient.

27 (2) A secondary nutrient.

28 (3) A micronutrient.

29 "Primary nutrient." Any of the following:

30 (1) Nitrogen.

1 (2) Phosphorus.

2 (3) Potassium.

3 "Public applicator." A certified applicator who applies  
4 fertilizer as an employee of the Federal or State government or  
5 a public entity.

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

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

10 "Secondary nutrient." Any of the following:

11 (1) Calcium.

12 (2) Magnesium.

13 (3) Sulfur.

14 "Specialty fertilizer." A fertilizer distributed for nonfarm  
15 use or a fertilizer primarily intended to supply plant nutrients  
16 other than nitrogen, phosphate or potash.

17 "Stream buffer zone." A permanent strip of dense perennial  
18 vegetation established parallel and immediately adjacent to the  
19 bank of a pond, wetland or flowing body of water, such as a  
20 stream, river or creek, that is used to slow water runoff,  
21 enhance water infiltration and minimize the risk of potential  
22 nutrients reaching the waters.

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

25 "Ton." A net weight of 2,000 pounds.

26 "Turf." Land, including, but not limited to, residential  
27 property, a golf course and privately or publicly owned land,  
28 that is planted in closely mowed, managed grass, except for land  
29 used for agricultural production.

30 SUBCHAPTER B

1                   FERTILIZER MANUFACTURERS AND GUARANTORS

2   Sec.

3   6811. Licensing.

4   6812. Registration of specialty fertilizers.

5   6813. Turf fertilizer components.

6   6814. Labels and labeling.

7   6815. Inspection fees.

8   6816. Tonnage reports.

9   6817. Plant food deficiency.

10 6818. Commercial value.

11 6819. Misbranding.

12 6820. Adulteration.

13 § 6811. Licensing.

14     (a) Requirements.--Each person engaged in the manufacture of  
15 fertilizer to be distributed in this Commonwealth and each  
16 guarantor of the fertilizer shall, on or before July 1 of each  
17 year or prior to manufacture or distribution of the fertilizer,  
18 obtain a fertilizer license for each manufacturing facility  
19 located in this Commonwealth and for each guarantor by  
20 completing a form furnished by the department and paying a \$50  
21 application fee or a fee established in the manner provided  
22 under section 6886 (relating to fees, fines and civil  
23 penalties). All licenses shall expire on June 30 of each year.

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

1 § 6812. Registration of specialty fertilizers.

2 (a) Application.--Each brand and grade of specialty  
3 fertilizer shall be registered by the guarantor with the  
4 department before being offered for sale, sold or distributed in  
5 this Commonwealth. An application for each brand and grade of  
6 specialty fertilizer shall be made on a form furnished by the  
7 department and shall be accompanied by a fee of \$100 or a fee  
8 established in the manner provided under section 6886 (relating  
9 to fees, fines and civil penalties), per each grade of each  
10 brand. Labels for each brand and grade shall accompany the  
11 application. All registrations shall expire on June 30 of each  
12 year.

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

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

19 (c) Exemption.--

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

24 (2) Registration shall not be required when a fertilizer  
25 is formulated according to the specifications that are  
26 furnished by the end user and is not further distributed or  
27 offered for sale to the general public.

28 (d) Late fee.--

29 (1) If the application for renewal of the specialty  
30 fertilizer registration required under this section is not

1 filed prior to June 30 of each year, a penalty of \$25 or 10%  
2 of the total registration fee for all products sought to be  
3 registered, whichever is greater, or a fee established in the  
4 manner provided under section 6886 may be assessed and added  
5 to the original fee and shall be paid by the applicant before  
6 the renewal of the specialty fertilizer registration is  
7 issued.

8 (2) The penalty shall not apply if the applicant  
9 furnished an affidavit that the applicant has not distributed  
10 the specialty fertilizer subsequent to the expiration of the  
11 applicant's prior registration.

12 § 6813. Turf fertilizer components.

13 (a) General rule.--Except as provided in subsection (b),  
14 fertilizer labeled for turf that is distributed to end users in  
15 this Commonwealth shall:

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

21 (2) Contain no phosphorus, unless the fertilizer is a  
22 natural organic or organic based fertilizer.

23 (b) Exemptions.--

24 (1) Subsection (a) shall not apply when turf fertilizer  
25 is labeled for repairing a turf area or establishing a turf  
26 area for the first time.

27 (2) Subsection (a)(1) shall not apply to liquid turf  
28 fertilizers or readily available nitrogen fertilizers labeled  
29 for turf, if the directions for use are in accordance with  
30 the requirements of section 6852 (relating to application of

1 fertilizer to turf).

2 (c) Additional requirements.--The department, through  
3 regulation, may establish additional requirements for turf  
4 fertilizer.

5 § 6814. Labels and labeling.

6 (a) Contents of label.--The guarantor of a fertilizer  
7 distributed in a container in this Commonwealth shall place on  
8 or affix to the container a label stating in legible and  
9 conspicuous form the following:

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

12 (2) The guaranteed analysis.

13 (3) A derived from statement.

14 (4) Directions for use for fertilizer distributed to the  
15 end user.

16 (5) The name and address of the guarantor.

17 (6) The net weight.

18 (b) Bulk fertilizer.--In the case of bulk fertilizer  
19 distribution, the information required under subsection (a)  
20 shall accompany delivery and shall be provided in writing to the  
21 purchaser at time of delivery.

22 (c) Other guarantees.--Guarantees for nutrients other than  
23 primary nutrients, shall be expressed in the form of the  
24 element. The department may require by regulation that other  
25 beneficial substances or compounds be guaranteed. When plant  
26 nutrients or other substances or compounds are guaranteed, they  
27 shall be subject to inspection and analysis in accordance with  
28 the methods and regulation prescribed by the department.

29 (d) Proof of labeling claims.--The department may require  
30 proof of labeling claims made for fertilizer. Research in

1 support of the claims must be performed by an institution  
2 approved by the department utilizing acceptable scientific  
3 methodology.

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

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

14 (g) Turf fertilizer.--Subject to subsection (i), fertilizer  
15 intended for use on turf that is distributed to end users in  
16 this Commonwealth, in bulk or packages that are one pound or  
17 greater, shall include a statement in legible and conspicuous  
18 form that at a minimum sets forth the following requirements:

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

21 (2) The product may not be applied if heavy rain is  
22 expected.

23 (3) The product may only be applied to the intended  
24 application site.

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

28 (h) Nonturf fertilizer.--Subject to subsections (i) and (k),  
29 fertilizer that is not labeled for turf, in bulk or packages  
30 that are 40 pounds or greater, that is distributed to end users

1 in this Commonwealth, shall include a statement in legible and  
2 conspicuous form that at a minimum sets forth the following  
3 requirements:

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

6 (2) The product may not be applied if heavy rain is  
7 expected.

8 (3) The product may only be applied to the intended  
9 application site.

10 (i) Fertilizers containing pesticides.--In lieu of the  
11 statements required under subsections (g) and (h), the label for  
12 fertilizer products containing pesticides shall contain the  
13 environmental hazard statement recommended by the Environmental  
14 Protection Agency for that product.

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

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

22 (l) Prohibition.--The label for fertilizer or nitrogen-based  
23 material shall not be labeled for the purposes of melting snow  
24 or ice, unless the product is distributed to an airport to be  
25 used on aircraft or areas an aircraft accesses.

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

29 § 6815. Inspection fees.

30 (a) Amounts.--The guarantor whose name appears on the label



1 of a fertilizer distributed in this Commonwealth shall pay  
2 semiannually and not later than January 31 and July 31 of each  
3 year an inspection fee at the rate of 17¢ per ton of fertilizer  
4 distributed in this Commonwealth or a fee established in the  
5 manner provided under section 6886 (relating to fees, fines and  
6 civil penalties). In no case shall the inspection fee paid  
7 semiannually amount to less than \$25 or a fee established in the  
8 manner provided under section 6886.

9 (b) Adjustment of fees by department.--

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

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

19 (3) The department shall announce the adjustment of fees  
20 by transmitting notice to the Legislative Reference Bureau  
21 for publication in the Pennsylvania Bulletin. The adjusted  
22 fees shall take effect 60 days after publication of the  
23 notice in the Pennsylvania Bulletin.

24 § 6816. Tonnage reports.

25 (a) Requirements.--The guarantor whose name appears on a  
26 label shall submit, along with the requisite inspection fee, a  
27 report in a manner prescribed by the department listing by  
28 county the intended use and net tons of each brand and grade of  
29 fertilizer distributed in this Commonwealth for the period  
30 covered by the inspection fee. The department may promulgate

1 regulations to establish additional tonnage reporting  
2 requirements.

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

8 (c) Late fee.--A penalty of \$25 or 10% of the total  
9 inspection fee, whichever is greater, or a fee established in  
10 the manner provided under section 6886 (relating to fees, fines  
11 and civil penalties), shall be imposed for a fee or report not  
12 submitted at the required time.

13 (d) Examination permitted.--

14 (1) The department or its authorized representative may  
15 examine the records of the guarantor to verify the  
16 information contained in the reports filed with the  
17 department.

18 (2) Reports containing fraudulent or incorrect  
19 information shall be considered a violation of this chapter  
20 for which the department may assess a penalty as provided for  
21 in this chapter.

22 (e) Confidentiality of information.--

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

29 (2) This subsection shall not apply to information  
30 furnished to a court or administrative tribunal in accordance

1 with law.

2 § 6817. Plant food deficiency.

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

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

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

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

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

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

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

28 (c) Deficiencies in fertilizers.--A deficiency in an  
29 official sample of fertilizer resulting from nonuniformity shall  
30 not be deemed distinguishable from a deficiency due to actual

1 plant nutrient shortage and shall be deemed a violation of this  
2 chapter for which the department may assess a penalty as  
3 provided for in this chapter.

4 § 6818. Commercial value.

5 For the purpose of determining the commercial value to be  
6 applied under section 6817 (relating to plant food deficiency),  
7 the department shall determine and publish annually a notice  
8 transmitted to the Legislative Reference Bureau for publication  
9 in the Pennsylvania Bulletin stating the values per pound of  
10 total nitrogen, available phosphate and soluble potash in  
11 fertilizers in this Commonwealth. The values published in the  
12 Pennsylvania Bulletin shall take effect July 1 of each year and  
13 be used in determining and assessing penalty payments.

14 § 6819. Misbranding.

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

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

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

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

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

30 (5) The label or labeling are in conflict with section

1 6852 (relating to application of fertilizer to turf).

2 § 6820. Adulteration.

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

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

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

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

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

19 SUBCHAPTER C

20 APPLICATOR LICENSING AND CERTIFICATION

21 Sec.

22 6831. Licensing of fertilizer application businesses.

23 6832. Certification of applicators.

24 6833. Recertification of applicators.

25 6834. Reciprocal agreement.

26 6835. Training of fertilizer technicians.

27 § 6831. Licensing of fertilizer application businesses.

28 (a) Requirements.--

29 (1) A fertilizer application business must be licensed  
30 prior to applying fertilizer and shall comply with the

1 provisions of this chapter and any regulation or order of the  
2 department.

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

7 (3) For a governmental or public entity, each district  
8 or region shall be considered a separate business and shall  
9 require a separate license.

10 (b) Operation, application and expiration.--

11 (1) A fertilizer application business may not be  
12 operated without first obtaining a fertilizer application  
13 business license.

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

19 (3) All business licenses shall expire on December 31  
20 each year, except that the department may issue a license for  
21 the following year when an initial license application is  
22 filed during the last two months of a licensing year.

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

29 (d) Fertilizer technicians.--A fertilizer application  
30 business shall ensure fertilizer technicians do not apply

1 fertilizer unless the persons have completed a training program  
2 as described by section 6835 (relating to training of fertilizer  
3 technicians).

4 (e) Record.--A fertilizer application business shall  
5 maintain a record and provide to the department, upon request,  
6 the following:

7 (1) A list of all certified applicators employed by the  
8 business.

9 (2) A list of all fertilizer technicians employed by the  
10 business and an attestation that each has completed a  
11 training program meeting the requirements of section 6835.  
12 The attestation shall be subject to the penalties for a  
13 violation of 18 Pa.C.S. § 4904 (relating to unsworn  
14 falsification to authorities).

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

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

26 (h) Aerial application.--If a fertilizer application  
27 business or an applicator of fertilizer engages in aerial  
28 applications, the applicant shall, upon request by the  
29 department, provide proof of compliance with the Federal  
30 Aviation Administration regulations as described in 14 CFR Pt.

1 137 (relating to agricultural aircraft operations) or its  
2 successor regulations.

3 § 6832. Certification of applicators.

4 (a) Certification examination.--

5 (1) Any person required to be certified under this  
6 chapter must take and pass a written examination developed or  
7 approved by the department and administered by the department  
8 or an agent of the department. The department may also  
9 establish field testing requirements. All tests and  
10 examinations shall be subject to examination fees established  
11 by the department. Any person seeking certification shall  
12 demonstrate minimum standard proficiency on the basis of a  
13 written examination conducted at an approved test site under  
14 direction of the department or its designated agent.

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

17 (i) Safety and health.

18 (ii) Labeling and label comprehension.

19 (iii) Environmental protection.

20 (iv) Equipment use, calibration and dosage  
21 calculations.

22 (v) Personal protective equipment.

23 (vi) Cleaning and maintaining equipment.

24 (vii) Transportation, storage, security and  
25 disposal.

26 (viii) Applicable Federal and State laws.

27 (ix) Any subject matter deemed appropriate by the  
28 department through regulation.

29 (3) The department shall require a minimum examination  
30 fee of \$10 or a fee established in the manner specified under



1 section 6886 (relating to fees, fines and civil penalties).

2 (b) Commercial and public applicators.--

3 (1) A commercial or public applicator certification  
4 shall not be valid until the applicator is associated with a  
5 fertilizer application business that is licensed according to  
6 the requirements of section 6831 (relating to licensing of  
7 fertilizer application businesses).

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

13 (c) Issuance of certification.--Certification shall be  
14 issued to a person upon:

15 (1) successful completion of all classroom, examination,  
16 testing and any other certification requirements established  
17 by this chapter; and

18 (2) payment of all fees.

19 (d) Activation.--

20 (1) Upon receiving notice of passing all certification  
21 requirements, the applicant shall, within 12 months of  
22 becoming eligible to be certified as a commercial or public  
23 applicator, file with the department a request to activate  
24 certification.

25 (2) A person who fails to request activation within this  
26 12-month period shall lose certification eligibility and must  
27 again establish eligibility in accordance with this section.

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

29 (1) Commercial applicator certification shall expire on  
30 September 30 of each year following the date of

1 certification.

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

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

9 (f) Existing applicator certifications.--

10 (1) A person who holds a valid pesticide applicator  
11 certification in the following categories under 7 Pa. Code §  
12 128.42 (relating to categories of commercial and public  
13 applicators) on the effective date of this section shall be  
14 granted certification as a certified fertilizer applicator  
15 under this chapter and shall comply with all other  
16 requirements of this chapter:

17 (i) Category 1, Agronomic crops.

18 (ii) Category 2, Fruits and nuts.

19 (iii) Category 3, Vegetable crops.

20 (iv) Category 5, Forest pest control.

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

22 (vi) Category 7, Lawn and turf.

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

24 (viii) Category 18, Demonstration and research pest  
25 control.

26 (ix) Category 22, Interior plantscape.

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

28 (xi) Category 25, Aerial applicator.

29 (2) The certification under this subsection shall be  
30 valid until each person's pesticide core recertification is

1 due, at which time the person shall be required to meet all  
2 the recertification requirements as required by this chapter  
3 or regulations promulgated under this chapter.

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

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

15 § 6833. Recertification of applicators.

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

22 (b) Credits.--Continuing education credits shall be given on  
23 the basis of attendance at courses or other appropriate training  
24 approved by the department. At a minimum, certified applicators  
25 shall obtain four credits every three years or the total amount  
26 of credits established by notice published in the Pennsylvania  
27 Bulletin.

28 (c) Training.--Training shall be approved based on the  
29 following:

30 (1) Training shall be conducted or sponsored by the

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

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

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

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

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

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

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

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

14 (i) Violation.--

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

18 (2) A person may not falsify attendance or that of  
19 another person's attendance at a continuing education  
20 meeting.

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

24 (j) Failure to obtain required credits.--If a person does  
25 not obtain the required number of recertification credits in the  
26 triennial year in which continuing education credits are due,  
27 the person's certification shall be invalid and the person shall  
28 cease and desist from all fertilizer application and, in order  
29 to renew recertification, the person must complete delinquent  
30 continuing education credits as established under this section.

1 (k) Failure to complete delinquent credits.--If a person  
2 fails to complete delinquent continuing education credits within  
3 one year from the triennial expiration date or fails to renew  
4 the certification for any reason during that time period, the  
5 person shall cease and desist from all fertilizer application  
6 and shall be required to reestablish eligibility by meeting the  
7 requirements in section 6832.

8 § 6834. Reciprocal agreement.

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

15 § 6835. Training of fertilizer technicians.

16 (a) Prohibition.--Fertilizer technicians working for a  
17 fertilizer application business may not apply fertilizer without  
18 completing a training program, as required by the provisions of  
19 this chapter, an order of the department or the department's  
20 regulations.

21 (b) Requirements.--A fertilizer technician shall be an  
22 employee of the business and trained by a certified applicator  
23 who is an employee of the same business.

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

26 (d) Program administration.--The training program for a  
27 fertilizer technician shall be administered by a certified  
28 applicator, employed by the fertilizer application business  
29 employing the fertilizer technician, in subject matter involving  
30 the assigned tasks of the fertilizer technician. The training

1 program shall include, but not be limited to:

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

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

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

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

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

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

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

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

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

28 (2) The name of fertilizer technician trained.

29 (3) The date of training.

30 (4) The areas of training.

1           (5) The business name and address of the fertilizer  
2 application business employing the fertilizer technician.

3           (6) Any other requirements as established by the  
4 department through order or regulation.

5                                   SUBCHAPTER D

6                                   RECORDKEEPING

7 Sec.

8 6841. Records.

9 § 6841. Records.

10       (a) Condition.--A person required to be licensed, certified  
11 or permitted and a person issued a license, certificate or  
12 permit under the provisions of this chapter shall keep accurate  
13 records of the information specified in this section and such  
14 relevant information as the department may deem necessary  
15 through order or by regulation. The person shall make the  
16 records available to the department upon request.

17       (b) Fertilizer application.--Applicators required to be  
18 certified under section 6832 (relating to certification of  
19 applicators) and fertilizer technicians trained under section  
20 6835 (relating to training of fertilizer technicians) shall keep  
21 for every application of fertilizer a record containing the  
22 following information:

23           (1) The name and address of the customer and the address  
24 and location of the application site, if different from the  
25 address of the customer.

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



1 entered in the record.

2 (3) The weather conditions, including approximate  
3 temperature.

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

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

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

9 (7) Identification of the application site, including  
10 the specific field or land area and the crop and size of the  
11 area treated with fertilizer.

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

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

18 (c) Fertilizer application record.--A fertilizer application  
19 record shall be completed in written or printable form no later  
20 than 24 hours after the application date and made immediately  
21 available to the department upon request.

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

24 SUBCHAPTER E

25 APPLICATION RATES, REQUIREMENTS AND PROHIBITIONS

26 Sec.

27 6851. Application of fertilizer.

28 6852. Application of fertilizer to turf.

29 6853. Prohibited acts.

30 § 6851. Application of fertilizer.

1 (a) Restrictions.--

2 (1) No person may apply nonaquatic fertilizer within 15  
3 feet of the top of a bank of a lake, pond, wetlands or  
4 flowing body of water, such as a stream, river or creek,  
5 except that fertilizer may be applied to the top of the bank  
6 of the waterways if applied using a drop spreader, rotary  
7 spreader with deflector, targeted spray liquid or other  
8 available targeted application technology when establishing  
9 and maintaining a stream buffer zone.

10 (2) The establishment of setbacks for fertilizer  
11 application under this subsection shall not be construed to  
12 preclude the establishment or applicability of or required  
13 compliance with any other environmental standard established  
14 under other Federal or State law, rule or regulation.

15 (b) Regulation.--The department may establish additional  
16 restrictions through regulation.

17 (C) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE  
18 CONSTRUED TO PROHIBIT THE LAWFUL USE OF FERTILIZER IN BLASTING  
19 AS REGULATED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.  
20 § 6852. Application of fertilizer to turf.

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

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

25 (2) Shall not exceed 0.9 pounds of total nitrogen per  
26 1,000 square feet per application except, when labeled as an  
27 enhanced-efficiency nitrogen fertilizer, the amount of  
28 nitrogen released at any given time shall not exceed 0.7  
29 pounds of nitrogen per 1,000 square feet.

30 (3) Shall contain zero phosphorus, except when

1 specifically labeled for the following purposes:

2 (i) establishing vegetation for the first time;

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

4 (iii) as an enhanced-efficiency phosphorus

5 fertilizer, natural organic fertilizer or organic-based

6 fertilizer, if the application rate does not exceed 0.25

7 pounds of phosphorus per 1,000 square feet per

8 application, with a maximum total annual application of

9 0.5 pounds of phosphorus per 1,000 square feet.

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

11 (1) Apply turf fertilizer to an impervious surface. Turf

12 fertilizer that is inadvertently applied to an impervious

13 surface shall be removed from the impervious surface

14 immediately following the application.

15 (2) Apply fertilizer containing nitrogen or phosphorus

16 to turf at any time when the ground is frozen to a depth of

17 at least two inches or snow covered.

18 (3) Except as provided in paragraph (4), apply

19 fertilizer containing nitrogen or phosphorus to turf after

20 December 15 and before March 1 or dates as established in

21 regulations promulgated by the department.

22 (4) Fertilizer containing no more than 0.5 pounds of

23 total nitrogen per 1,000 square feet, or at a rate

24 established in regulations promulgated by the department, may

25 be applied by a certified applicator or fertilizer technician

26 to turf after December 15 and before March 1 or dates as

27 established in regulations promulgated by the department.

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

29 (1) The department may establish use and application

30 rates for fertilizer that is applied to turf.

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

6           (3) New application rates or changes to established  
7 fertilizer use and application rates shall:

8           (i) Be based on appropriately peer-reviewed  
9 scientific research representing conditions of this  
10 Commonwealth and recommended by The Pennsylvania State  
11 University or other institution of higher education in  
12 this Commonwealth.

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

15           (iii) Be published as a notice of public comment in  
16 the Pennsylvania Bulletin and allow for a 30-day public  
17 comment period. The department shall respond to all  
18 comments received and make a copy of the comments  
19 publicly available. The new rates or changes shall be  
20 published as final rates in the Pennsylvania Bulletin and  
21 take effect upon publication.

22           (d) Application based on soil test and site-specific plan.--  
23 An applicator shall not be required to follow application rates  
24 established under subsection (a) or (c) if a site-specific plan  
25 is used based on all the following:

26           (1) A soil test was conducted within the previous three  
27 years and in accordance with procedures recommended by the  
28 Pennsylvania State University.

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

1           (3) Rates recommended by The Pennsylvania State  
2           University or other institution of higher education in this  
3           Commonwealth recognized by the department.

4           (e) Certified applicators or fertilizer technicians.--In  
5           addition to the requirements of section 6841 (relating to  
6           records), when a certified applicator or fertilizer technician  
7           applies fertilizer in accordance with subsection (d), the  
8           certified applicator or fertilizer technician shall retain a  
9           copy of the soil test and recommendations received for the site-  
10           specific plan as part of the recordkeeping requirements.

11           (f) Additional requirements.--The department may establish  
12           additional requirements through regulation.

13           (g) Exemption.--This section shall not apply to fertilizer  
14           applied for agricultural production or by a public or private  
15           institution of higher education for research purposes.

16           § 6853. Prohibited acts.

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

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

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

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

26           (4) Make a false statement or misrepresentation of  
27           material fact on an application for issuance or renewal of a  
28           license or certification required under this chapter, a  
29           regulation promulgated under this chapter or an order issued  
30           under the authority of this chapter.

1           (5) Refuse or neglect to comply with a condition or  
2 limitation imposed upon a license or certification issued  
3 under this chapter, a regulation promulgated under this  
4 chapter or an order issued under the authority of this  
5 chapter.

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

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

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

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

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

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

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

27           (3) Dispose of, discard or store a fertilizer product in  
28 a manner that would be inconsistent with its label, would  
29 cause over-application of fertilizer, would result in direct  
30 discharge to a storm drain or waters of this Commonwealth or

1 would be inconsistent with this chapter, a regulation  
2 promulgated under this chapter or an order issued under the  
3 authority of this chapter.

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

9 (5) Hinder, mislead, make false statements to or refuse  
10 to cooperate with an employee or agent of the department in  
11 an investigation or inspection undertaken by the authority  
12 delegated to the department under the provisions of this  
13 chapter.

14 (6) Apply fertilizer or a nitrogen-based material for  
15 the purposes of melting snow or ice, unless the material is  
16 applied to aircraft or areas an aircraft accesses at an  
17 airport.

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

21 SUBCHAPTER F

22 AGRICULTURAL AND HOMEOWNER EDUCATION PROGRAM

23 Sec.

24 6861. Agricultural and homeowner education.

25 § 6861. Agricultural and homeowner education.

26 The department, through guidelines established in  
27 consultation with The Pennsylvania State University and  
28 representatives of the agricultural and turf grass industries,  
29 shall establish and administer a program of public outreach to  
30 educate the public on proper use, application, handling and

1 storage of fertilizers.

2 SUBCHAPTER G

3 ADMINISTRATION AND PENALTIES

4 Sec.

5 6871. Publications.

6 6872. Rules and regulations.

7 6873. Short weight.

8 6874. Refusal, suspension or revocation of registration,  
9 license or certification.

10 6875. Stop-sale orders.

11 6876. Seizure and condemnation.

12 6877. Unlawful conduct.

13 6878. Inspection, sampling and analysis.

14 6879. Interference with officer or employee of department.

15 6880. Enforcement and penalties.

16 6881. Appeal process.

17 6882. Civil remedy.

18 6883. Cooperation with other entities.

19 6884. Exchanges between manufacturers.

20 6885. Confidentiality.

21 6886. Fees, fines and civil penalties.

22 6887. Disposition of funds.

23 6888. Exclusion of local laws and regulations.

24 § 6871. Publications.

25 The department may publish on an annual basis, and in a form  
26 as it deems proper, information concerning the distribution of  
27 fertilizers for both agricultural and nonagricultural uses and  
28 results of analyses based on official samples of fertilizer  
29 distributed within this Commonwealth as compared with analyses  
30 guaranteed under sections 6812 (relating to registration of



1 specialty fertilizers) and 6814 (relating to labels and  
2 labeling).

3 § 6872. Rules and regulations.

4 The department may promulgate and enforce rules and  
5 regulations necessary for administration and implementation of  
6 this chapter. Regulations currently in place shall remain in  
7 effect, to the extent they are consistent with this chapter,  
8 until such time as new regulations are promulgated by the  
9 department.

10 § 6873. Short weight.

11 If the department finds that a fertilizer in the possession  
12 of a consumer is short in weight, the guarantor of that  
13 fertilizer shall, within 30 days after official notice from the  
14 department, submit to the consumer a penalty payment of two  
15 times the value of the actual shortage.

16 § 6874. Refusal, suspension or revocation of registration,  
17 license or certification.

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

20 (1) the registration of a fertilizer;

21 (2) the license or certification of a person, if the  
22 person is a registrant, licensee or certificate holder and  
23 has not complied with the provisions of this chapter, a  
24 regulation promulgated under this chapter or an order issued  
25 under the authority of this chapter; or

26 (3) the license or certification of a person, if the  
27 person has used fraudulent or deceptive practices in the  
28 evasion or attempted evasion of the provisions of this  
29 chapter.

30 (b) Hearing.--The department shall provide an opportunity

1 for a hearing, as specified in section 6881 (relating to appeal  
2 process), to a person appealing an action of the department  
3 under this section.

4 § 6875. Stop-sale orders.

5 (a) Authority of department.--

6 (1) The department may issue and enforce a written or  
7 printed stop-sale, use or removal order to the owner or  
8 custodian of a lot of fertilizer being offered or exposed for  
9 sale in violation of a provision of this chapter, a  
10 regulation promulgated under this chapter or an order issued  
11 under the authority of this chapter.

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

15 (3) The order shall remain in effect until the law has  
16 been complied with and the fertilizer is released in writing  
17 by the department or the fertilizer in violation has been  
18 disposed of in a manner authorized by the department. The  
19 authorization shall be specified in writing.

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

27 § 6876. Seizure and condemnation.

28 Fertilizer not in compliance with the provisions of this  
29 chapter, a regulation promulgated under this chapter or an order  
30 issued under the authority of this chapter shall be subject to

1 seizure and condemnation by the department, provided that in no  
2 instance shall the disposition of the fertilizer be ordered by  
3 the department without first giving the claimant an opportunity  
4 for a hearing as provided for in section 6881 (relating to  
5 appeal process) or for opportunity to apply for permission to  
6 process or relabel the fertilizer to bring it into compliance  
7 with this chapter.

8 § 6877. Unlawful conduct.

9 It shall be unlawful for a person to fail to comply with or  
10 cause to assist in the violation of this chapter, a regulation  
11 promulgated under this chapter or an order issued under the  
12 authority of this chapter.

13 § 6878. Inspection, sampling and analysis.

14 (a) Authorization.--For purposes of enforcement of this  
15 chapter, the department or its agent may enter upon any public  
16 or private premises or carriers at reasonable times, including  
17 any vehicle being used to transport or hold fertilizer, as may  
18 be necessary to determine compliance with this chapter. The  
19 department may also:

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

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

25 (3) Inspect storage or disposal areas.

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

28 (5) Sample fertilizers being manufactured, processed,  
29 packed or held for distribution, being applied or to be  
30 applied.

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

3 (b) Inspection.--

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

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

11 (c) Samples.--If an employee conducting an inspection  
12 obtains a sample in the course of the inspection, upon  
13 completion of the inspection and prior to leaving the premises,  
14 the employee may, when possible, give to the owner, operator or  
15 agent in charge a receipt describing the samples obtained.

16 (d) Methodology.--

17           (1) The methods of fertilizer sampling and analysis by  
18 the department shall include those methods adopted by the  
19 Association of Official Analytical Chemists International.

20           (2) In cases not covered by those methods or in cases  
21 where improved methods are available, the department may  
22 issue a temporary order defining the method to be utilized.  
23 The method defined in the temporary order shall be effective  
24 upon publication in the Pennsylvania Bulletin. The temporary  
25 order shall remain in effect for a period not to exceed one  
26 year, unless reissued or until the notice is promulgated as a  
27 regulation.

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

1 (f) Maintenance by official samples.--

2 (1) Official samples maintained by the department and  
3 that require imposition of a penalty for nutrient deficiency  
4 shall be retained for a minimum of 90 days from issuance of a  
5 fertilizer deficiency report or an official report of  
6 analysis.

7 (2) Upon request, the department shall furnish to the  
8 guarantor a portion of the official sample.

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

12 § 6879. Interference with officer or employee of department.

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

20 (b) Refuse entry.--

21 (1) It shall be a violation of this chapter to refuse  
22 entry to a department employee or agent acting under the  
23 authority of this chapter.

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

26 (i) Preventing entry to the establishment or any  
27 other place or object set forth in section 6878(a)  
28 (relating to inspection, sampling and analysis) of this  
29 chapter.

30 (ii) Preventing the taking of a sample as authorized

1           under this chapter.

2           (iii) Preventing access to records required under  
3           this chapter or any order or regulation issued under this  
4           chapter.

5           (c) Search warrant.--

6           (1) The department may apply for a search warrant to any  
7           court of competent jurisdiction authorized to issue a search  
8           warrant for the purposes of conducting inspections,  
9           collecting samples or examining records of any facility,  
10           premises or vehicle in the enforcement of this chapter.

11           (2) The warrant shall be issued upon probable cause. It  
12           shall be sufficient probable cause to show any of the  
13           following:

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

17           (ii) The department has reasonable grounds to  
18           believe that a violation of this chapter, a regulation  
19           promulgated under this chapter or an order issued under  
20           the authority of this chapter has occurred.

21           § 6880. Enforcement and penalties.

22           (a) Criminal penalties.--Unless otherwise specified, a  
23           person who violates a provision of this chapter, a regulation  
24           promulgated under this chapter or an order issued under the  
25           authority of this chapter:

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

1       (2) For a subsequent offense committed within three  
2 years of a prior conviction for a violation of this chapter,  
3 a regulation promulgated under this chapter or an order  
4 issued under the authority of this chapter commits a  
5 misdemeanor of the second degree and shall, upon conviction,  
6 be sentenced to pay a fine of not less than \$500 nor more  
7 than \$1,000 and costs of prosecution or to imprisonment for  
8 not more than two years, or both.

9       (b) Civil penalties.--

10       (1) In addition to another remedy available at law or in  
11 equity for a violation of this chapter, the department may  
12 assess a civil penalty of not less than \$500 nor more than  
13 \$5,000 upon a person for each violation of this chapter. The  
14 civil penalty assessed shall be payable to the department and  
15 shall be collectible in any manner provided by law for the  
16 collection of debt.

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

23       (c) Trade secrets.--

24       (1) A person who to the person's own advantage uses or  
25 reveals to anyone other than the department, administrative  
26 tribunal or a court when relevant in a judicial proceeding  
27 information acquired under the authority of this chapter  
28 concerning a method, record, formulation or process that as a  
29 trade secret is entitled to protection under the law commits  
30 a misdemeanor of the third degree and shall, upon conviction,

1 be sentenced to pay a fine of not less than \$500.

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

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

11 (e) De minimis violations.--Nothing in this chapter shall be  
12 construed to require the department to report a violation and to  
13 institute seizure proceedings as a result of a de minimis  
14 violation of this chapter when the department concludes that the  
15 public interest will be best served by a suitable notice of  
16 warning in writing.

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

21 § 6881. Appeal process.

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

28 § 6882. Civil remedy.

29 (a) Office of Attorney General.--In addition to other  
30 remedies provided for in this chapter, the Office of Attorney



1 General, at the request of the department, may initiate in  
2 Commonwealth Court or the court of common pleas of the county in  
3 which the defendant resides or has a place of business an action  
4 in equity for an injunction to restrain a violation of this  
5 chapter, a regulation promulgated under this chapter or an order  
6 issued under the authority of this chapter from which no timely  
7 appeal has been taken or which has been sustained on appeal.

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

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

17 (d) Civil penalties.--In addition to an injunction, the  
18 court may levy civil penalties as provided by this chapter.  
19 § 6883. Cooperation with other entities.

20 The department may cooperate with and enter into agreement  
21 with governmental agencies of the Federal Government, agencies  
22 of this Commonwealth or another state to carry out the purpose  
23 and provisions of this chapter.

24 § 6884. Exchanges between manufacturers.

25 Nothing in this chapter shall be construed to restrict or  
26 avoid sales or exchanges of fertilizers to each other by  
27 importers, manufacturers or manipulators who mix fertilizer  
28 materials for sale or as preventing the free and unrestricted  
29 shipments of fertilizer to manufacturers or manipulators who are  
30 in compliance with the provisions of this chapter.

1 § 6885. Confidentiality.

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

10 § 6886. Fees, fines and civil penalties.

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

17 (b) Notice and effective date.--

18 (1) The department shall announce the adjustment of  
19 fees, fines and penalties by transmitting a notice to the  
20 Legislative Reference Bureau for publication in the  
21 Pennsylvania Bulletin.

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

25 (3) Subsequent to the public meeting, the department  
26 shall transmit a notice to the Legislative Reference Bureau  
27 for republishing the adjusted fees, fines and penalties in  
28 the Pennsylvania Bulletin. The adjusted fees shall take  
29 effect 60 days after publication of the subsequent notice in  
30 the Pennsylvania Bulletin.

1 § 6887. Disposition of funds.

2 Money received from license fees, registration fees,  
3 applicator certification, inspection fees, fines and penalties  
4 shall be paid into a special restricted account in the General  
5 Fund known as the Agronomic Regulatory Account. All money in the  
6 Agronomic Regulatory Account is appropriated on a continuing  
7 basis to the department for the purposes of this chapter and  
8 Chapters 69 (relating to soil and plant amendment) and 71  
9 (relating to seed).

10 § 6888. Exclusion of local laws and regulations.

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

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

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

1 under this chapter.

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

4 § 6921. Disposition of funds.

5 Moneys received from license fees, registration fees,  
6 inspection fees, fines and penalties shall be paid into the  
7 Agronomic Regulatory Account established in section [6725] 6887  
8 (relating to disposition of funds). All moneys in the Agronomic  
9 Regulatory Account are hereby appropriated to the department for  
10 the purposes of this chapter [and], Chapter [67] 68 (relating to  
11 fertilizer) and Chapter 71 (relating to seed).

12 § 7122. Disposition of funds.

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

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

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

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

30 (2) The addition of 3 Pa.C.S. §§ 6831, 6832, 6833 and

1       6834 shall take effect upon the development of the  
2       certification examination specified under 3 Pa.C.S. §  
3       6832(a).

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