

RULES AND REGULATIONS

Title 7--AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 130b]

Nutrient Management Certification

[35 Pa.B. 6504]

The Department of Agriculture (Department), under section 7(a) and (b) of the Nutrient Management Act (act) (3 P. S. § 1707(a) and (b)), amends Chapter 130b (relating to nutrient management certification). The Department published a notice of proposed rulemaking at 35 Pa.B. 2101 (April 9, 2005). On July 6, 2005, Governor Rendell signed the act of July 6, 2005 (P. L. 112, No. 38) (Act 38), codified at 3 Pa.C.S. Chapters 3 and 5 (relating to local regulation; and nutrient management and odor management). Among other things, Act 38 consolidates the act (3 P. S. §§ 1701--1718) and adds provisions prohibiting and providing for enforcement of unauthorized local government unit actions, providing for nutrient management and odor management certification and maintaining, but recodifying, many of the provisions of the Nutrient Management Act in 3 Pa.C.S. Chapters 3 and 5. The Department amends Chapter 130b under the specific authority in 3 Pa.C.S. § 508(a) (relating to nutrient management certification program and odor management certification program).

Authority

The Department has the power and authority to promulgate and adopt this final-form rulemaking. This authority is established in 3 Pa.C.S. § 508(a), which charges the Department, in consultation with the State Conservation Commission (Commission), with the duty of establishing " . . . a nutrient management certification program for the purpose of certifying individuals who have demonstrated the competency necessary to develop nutrient management plans" The Department, or its designees, is charged under 3 Pa.C.S. § 508 (a)) with the duty of developing " . . . such written testing procedures, educational requirements and examinations as it deems appropriate to carry out its responsibilities under this section. The Department shall by regulation establish fees and terms and conditions of certification as it deems appropriate. The Department shall establish individual, commercial and public certification categories, including a certification category for farmers to develop and certify nutrient management plans . . . on their own operations." Under the authority originally in section 7 of the act, the Department promulgated nutrient management certification regulations published at 26 Pa.B. 4723 (September 28, 1996). The current regulations in Chapter 130b set forth the criteria for certification and establish criteria for interim certification as required by section 7(b) of the act.

Need for the Final-Form Rulemaking

These amendments to Chapter 130b are required to bring the Nutrient Management Certification Program (NMCP), created by the current regulations, into compliance with changes in the industry and pending changes to 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management). The final-form rulemaking adds definitions to provide clarity, streamline and redefine the certification process and make other changes in response to problems, concerns and input from those administering the NMCP over the past 9 years and from persons currently certified under the regulations. The final-form rulemaking also deletes the section setting forth interim certification requirements, since interim certification is no longer necessary.

Comments

Notice of proposed rulemaking was published at 35 Pa.B. 2101 and provided for a 30-day public comment period. The Department did not receive any comments from the general public or the Senate or House Agricultural and Rural Affairs Committees regarding the proposed rulemaking. The Department did receive comments from the Independent Regulatory Review Commission (IRRC). The Department acknowledges those comments and thanks IRRC for its review and its insightful comments which should help to clarify and streamline the final-form rulemaking. IRRC's comments and the Department's responses are available upon request.

Fiscal Impact

Commonwealth

The final-form rulemaking will impose no additional fiscal impacts on the Commonwealth. The final-form rulemaking will not require the Department to commit any additional amount of time and manpower to review of applications or the certification process.

Political Subdivisions

The final-form rulemaking will not impose costs or fiscal impact upon political subdivisions. The final-form rulemaking does not impose any additional burden of enforcement or review on political subdivisions.

Private Sector

The final-form rulemaking will not impose significant costs on the private sector. The only additional costs to the regulated community may be in increased fees necessary to administer the NMCP.

General Public

The final-form rulemaking will not impose costs or have fiscal impact on the general public.

Paperwork Requirements

The final-form rulemaking will not result in a substantial increase of paperwork. The Department will not have to develop new application forms or review procedures.

Contact Person

Further information is available by contacting the Department of Agriculture, Nutrient Management Certification Program, Attn: Johan Berger, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 772-4189.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 30, 2005, the Department submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2101, to IRRC and the Chairpersons of the House and the Senate Agriculture and Rural Affairs Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 2, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 3, 2005, and approved the final-form rulemaking.

Findings

The Department finds that:

(1) Public notice of intention to adopt these amendments was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments received were considered.

(3) The amendments that were made to the final-form rulemaking in response to comments received do not enlarge the purpose of the proposed rulemaking published at 35 Pa.B. 2101.

(4) The adoption of the amendments in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

Order

The Department, acting under authority of the authorizing statute, orders that:

(a) The regulations of the Department, 7 Pa. Code Chapter 130b, are amended by deleting § 130b.4; by amending §§ 130b.2, 130b.3, 130b.11, 130b.12, 130b.21, 130b.22, 130b.31

and 130b.41; and by adding § 130b.5 to read as set forth in Annex A.

(b) The Secretary of Agriculture shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Secretary of Agriculture shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

DENNIS C WOLFF,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 6390 (November 19, 2005).)

Fiscal Note: Fiscal Note 2-147 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 7. AGRICULTURE

PART V. BUREAU OF PLANT INDUSTRY

CHAPTER 130b. NUTRIENT MANAGEMENT CERTIFICATION

Subchapter A. GENERAL PROVISIONS

§ 130b.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act--3 Pa.C.S. §§ 311--522.

Agricultural operations--The management and use of farming resources for the production of crops, livestock or poultry.

BMP--*Best management practice*--

(i) A practice or combination of practices determined by the Commission to be effective and practicable (given technological, economic and institutional considerations) to manage nutrients to protect surface and groundwater taking into account applicable nutrient requirements for crop utilization.

(ii) The term includes:

- (A) Conservation tillage.
- (B) Crop rotation.
- (C) Soil testing.
- (D) Manure testing.
- (E) Diversions.
- (F) Manure storage facilities.
- (G) Stormwater management practices.
- (H) Nutrient application.
- (I) Practices set forth in the nutrient management regulations.

Certificate year--The period from January 1 to December 31.

Certification--The completion of all requirements of a nutrient management specialist contained in this chapter.

Commission--The State Conservation Commission established by the Conservation District Law (3 P. S. §§ 849--864).

Competency--Demonstrating a high level of technical or scientific knowledge as evidenced by successfully meeting the requirements of § 130b.11 (relating to determination of competence) for commercial and public nutrient management specialists, or meeting the requirements of § 130b.21 (relating to determination of competence) for individual nutrient management specialists.

Conservation district--A county conservation district established under the Conservation District Law.

Department--The Department of Agriculture of the Commonwealth.

Designee--A person chosen or appointed by the Secretary of the Department to carry out the Secretary's duties under this chapter.

Nutrient--

(i) A substance or recognized plant nutrient, element or compound which is used or sold for its plant nutritive content or its claimed nutritive value.

(ii) The term includes livestock and poultry manures, compost as fertilizer, commercially manufactured chemical fertilizers, sewage sludge or combinations thereof.

Nutrient management plan--A written site-specific plan which incorporates BMPs to manage the use of plant nutrients for crop production and water quality protection

consistent with the criteria established in sections 504 and 506 of the act (relating to powers and duties of commission; and nutrient management plans).

Nutrient management regulations--The regulations in 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management).

Nutrient management specialist--

(i) *Individual*--A person certified to develop nutrient management plans for his agricultural operation.

(ii) *Commercial*--A private sector person certified to develop nutrient management plans for another person's agricultural operation.

(iii) *Public*--A State, Federal or other public employee certified to develop or review, or both, nutrient management plans and make recommendations for approval or denial of nutrient management plans to a conservation district or the State Conservation Commission, or both.

(A) *Review specialist*--A public nutrient management specialist certified to review nutrient management plans and make recommendations for approval or denial of nutrient management plans.

(B) *Dual specialist*--A public nutrient management specialist certified to review and develop nutrient management plans for another person's agricultural operation and make recommendations for approval or denial of nutrient management plans which the specialist has not personally written or developed.

Precertification training--The initial nutrient management training courses which shall be completed by persons seeking to become nutrient management specialists.

Provisional certification--The level of certification obtained by a nutrient management specialist applicant who has successfully completed the precertification training and passed the written examination, but has not yet developed or reviewed, or both, the required number of nutrient management plans.

Recertification training--The completion of continuing education and training requirements in § 130b.31 (relating to recertification).

§ 130b.3. Fees.

(a) *Certification fees.* Certification fees are nonrefundable. The Department establishes the following certification fees for each level of nutrient management specialist:

(1) Individual nutrient management specialist--\$15.

(2) Commercial nutrient management specialist--\$200.

(3) Public nutrient management specialist:

(i) Review specialist--\$25.

(ii) Dual specialist--\$50.

(b) *Examination fees.* Examination fees are nonrefundable. The Department establishes the following examination fees for each level of nutrient management specialist:

(1) Individual nutrient management specialist--No charge

(2) Commercial nutrient management specialist--\$50

(3) Public nutrient management specialist:

(i) Review specialist--\$50

(ii) Dual specialist--\$50

§ 130b.4. (Reserved).

§ 130b.5. Certification authority.

(a) *Individual certification authority.* A person certified under this chapter as an individual nutrient management specialist is authorized to develop nutrient management plans for his own agricultural operation. An individual nutrient management specialist has no authority to develop a nutrient management plan for another person or review and recommend action on a nutrient management plan.

(b) *Commercial certification authority.* A person certified under this chapter as a commercial nutrient management specialist is authorized to develop nutrient management plans for another person's agricultural operation. A commercial nutrient management specialist has no authority to review or recommend action on a nutrient management plan.

(c) *Public certification authority.* A public employee certified as a public nutrient management specialist has authority to review and recommend action or develop a nutrient management plan for another person, or both, dependent on the certification requirements he has successfully completed.

(1) *Public nutrient management review specialist.* A person certified under this chapter as a public nutrient management review specialist is authorized to review nutrient management plans and make recommendations for approval or denial of nutrient management plans.

(2) *Public nutrient management dual specialist.* A person certified under this chapter as a public nutrient management dual specialist is authorized to review and develop nutrient management plans for another person's agricultural operation and make recommendations for approval or denial of nutrient management plans which the specialist has not personally developed.

Subchapter B. CERTIFICATION

COMMERCIAL AND PUBLIC NUTRIENT MANAGEMENT SPECIALISTS

§ 130b.11. Determination of competence.

(a) *Commercial nutrient management specialist.* Determination of competence for a commercial nutrient management specialist shall be based on the successful completion of precertification training and examinations as set forth in this section. Precertification requirements for a commercial nutrient management specialist include an orientation training course, a nutrient management plan writing course and a written examination approved by the Department. As advancements in science and technology make new nutrient management techniques and BMPs available and after these techniques and BMPs are approved by the State Conservation Commission, the precertification requirements may include other course work related to those techniques and best management requirements, as well as, any new requirements set forth in the nutrient management regulations, as part of the certification course and training requirements. The new techniques and BMPs will not become part of the final certification requirements until after training manuals and course work have been modified to include the information necessary to impart knowledge of these new techniques and BMPs. Nutrient management plans developed under this subsection shall be determined to be adequate by the Department or its designee.

(b) *Public nutrient management specialist.* Determination of competence for a public nutrient management specialist shall be based on the level of certification sought to be attained.

(1) *Public nutrient management review specialist.* To be certified as a public nutrient management review specialist the applicant shall successfully complete precertification training and examinations as set forth in this section. The precertification requirements for a public nutrient management review specialist include an orientation training course, a nutrient management plan review course, a nutrient management plan writing course and a written examination approved by the Department. As advancements in science and technology make new nutrient management techniques and BMPs available and after these techniques and BMPs are approved by the State Conservation Commission, the precertification requirements may include other course work related to those techniques and best management requirements, as well as, any new requirements set forth in the nutrient management regulations, as part of the certification course and training requirements. The new techniques and BMPs will not become part of the examination until after training manuals and course work have been modified to include the information necessary to impart knowledge of these new techniques and BMPs. Nutrient management plan reviews completed and nutrient management plans developed under this subsection will be determined to be adequate by the Department or its designee.

(2) *Public nutrient management dual specialist.* To be certified as a public nutrient management dual specialist, the applicant shall successfully complete precertification training and examinations set forth in this section. The precertification requirements for a public nutrient management dual specialist include an orientation training course, a nutrient management plan review course, a nutrient management plan writing course and a written examination approved by the Department. As advancements in science and technology make new nutrient management techniques and BMPs available and after these techniques and BMPs are approved by the State Conservation Commission, the precertification

requirements may include other course work related to those techniques and best management requirements, as well as, any new requirements in the nutrient management regulations, as part of the certification course and training requirements. The new techniques and BMPs will not become part of the final certification requirements until after training manuals and course work have been modified to include the information necessary to impart knowledge of these new techniques and BMPs. Nutrient management plan reviews completed and nutrient management plans developed under this subsection will be determined to be adequate by the Department or its designee.

(c) *Precertification.* The precertification training courses must, at a minimum, consist of the following areas of nutrient management planning:

- (1) Nutrient application including:
 - (i) Determination of the cropping system and crop nutrient requirements.
 - (ii) Determination of sources of nutrients available for application on the farm.
 - (iii) Determination of additional nutrients required to obtain realistic expected crop yields.
 - (iv) Application records.
- (2) Manure management.
- (3) Excess manure alternatives.
- (4) Stormwater runoff control.
- (5) Applicable laws and regulations.
- (6) Proper nutrient management plan review procedures (public nutrient management specialists only).
- (7) Proper nutrient management plan writing procedures (commercial, public nutrient management specialists only).
- (8) Other areas and course work related to requirements set forth in the nutrient management regulations, as determined appropriate by the Department.

(d) *Examination.* The written examination will be proctored by the Department or its designee. The Department will administer the examination at least twice per year, or more often as deemed necessary by the Department. At a minimum, the successful completion of the examination will demonstrate an examinee's technical knowledge relating to nutrient management planning and nutrient management plan development in the following areas:

- (1) Competency in soil science and soil fertility.
- (2) Competency in nutrient application and management.

- (3) Competency in crop production.
- (4) Competency in soil and manure testing and interpretation.
- (5) Understanding in determining needed BMPs related to proper utilization of nutrients and stormwater management.
- (6) Competency in fertilizer materials and their characteristics.
- (7) Understanding of environmental and economic impacts associated with nutrient management.
- (8) Understanding of the act and other applicable laws and regulations.

(9) Other areas related to new technology and BMPs that become available and are approved by the State Conservation Commission, as well as, new requirements set forth in the nutrient management regulations. These other areas will not become part of the final certification requirements until training manuals and course work have been modified to include information necessary to impart knowledge of these new techniques and BMPs.

(e) *Other examinations.* The Department may approve the use of written examinations other than the Pennsylvania nutrient management examination, if the written examinations meet the requirements in subsection (d).

(f) *Provisional certification.* Upon the successful completion of the requirements in subsections (c) and (d), the applicant for certification as a commercial or public nutrient management specialist will be issued the appropriate provisional certification. The holder of a provisional certification is qualified, dependant on the type of provisional certification attained, to develop or review, or both, nutrient management plans for the purpose of satisfying the requirements of this section regarding final certification. Provisional certification is valid for 3 years ending on the last day of the month from the date of issuance.

(g) *Final certification requirements.* Once provisional certification has been granted the provisionally certified specialist shall complete one of the following dependant on the type of provisional certification granted and final certification sought.

(1) *Commercial nutrient management specialist.* To attain final certification, a provisionally certified commercial nutrient management specialist shall develop three approved nutrient management plans which meet the requirements of section 6(e) of the act (relating to nutrient management plans). Nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

(2) *Public nutrient management specialist.* To attain final certification, a provisionally certified public nutrient management specialist shall do one of the following dependant upon the level of provisional certification attained and the level of final certification sought.

(i) *Public nutrient management review specialist.* To attain final certification, a provisionally certified public nutrient management review specialist shall successfully review two nutrient management plans and develop one approved nutrient management

plan which meets the requirements of section 6(e) of the act. Nutrient management plan reviews completed and nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

(ii) *Public nutrient management dual specialist.* To attain final certification, a provisionally certified public nutrient management dual specialist shall successfully review two nutrient management plans and develop two approved nutrient management plan in accordance with section 6(e) of the act. Nutrient management plan reviews completed and nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

(h) *Public nutrient management specialist to commercial nutrient management specialist.* A certified public nutrient management specialist may obtain certification as a commercial nutrient management specialist. To attain this certification, a certified public nutrient management review specialist shall develop two approved nutrient management plans or a certified public nutrient management dual specialist shall develop one approved nutrient management plan in accordance with section 6(e) of the act. The certified public nutrient management specialist seeking this certification shall submit the nutrient management plans or plan to the Department or its designee for review and approval.

(i) *Public nutrient management review specialist to public nutrient management dual specialist.* A certified public nutrient management review specialist may obtain certification as a public nutrient management dual specialist. To attain this certification, the certified public nutrient management review specialist shall develop one approved nutrient management plan in accordance with section 6(e) of the act. The applicant seeking to attain this certification shall submit the nutrient management plan to the Department or its designee for review and approval.

(j) *Commercial nutrient management specialist to public nutrient management specialist.* A certified commercial nutrient management specialist who wishes to obtain certification as a public nutrient management specialist shall complete a nutrient management plan review course covering proper nutrient management plan review procedures and shall successfully review two nutrient managements plans in accordance with section 6(e) of the act. The applicant seeking to attain this certification shall submit the nutrient management plan reviews to the Department or its designee for review and approval.

§ 130b.12. Final certification.

(a) *Application for final certification.* Upon completion of all the requirements of this chapter, a commercial nutrient management specialist or a public nutrient management specialist may submit an application to the Department for final certification. The appropriate certification fee, as set forth in § 130b.3(a) (relating to fees) shall accompany the application for final certification.

(b) *Eligibility for final certification.* A person is eligible to apply for final certification as a commercial or public nutrient management specialist upon fulfilling the applicable requirements established under § 130b.11 (relating to determination of competence). An application for final certification may be obtained from the Department.

(c) *Time period for filing application.* An application for final certification shall be filed

with the Department within 120-calendar days of notification by the Department of meeting the appropriate requirements in § 130b.11. If the applicant fails to file an application with the Department within the prescribed 120-calendar days, that person shall again satisfy the appropriate competency requirements as provided in § 130b.11.

(d) *Time period final certification is valid.* A final certification is valid for 3 years ending on December 31 of the third year following the date of final certification. However, the Department will authorize an additional year when the certification is issued during the last 2 months of the initial certificate year.

INDIVIDUAL NUTRIENT MANAGEMENT SPECIALISTS

§ 130b.21. Determination of competence.

(a) Determination of competence for an individual nutrient management specialist shall be based on the completion of precertification training which includes an orientation training course and a written examination approved by the Department.

(b) The orientation training course shall at a minimum consist of the same requirements as in § 130b.11(c) (relating to determination of competence).

(c) The written examination will be proctored by the Department or its designee. The Department will administer the examination on an as needed basis, which will be determined by the number of requests for the testing. At a minimum, the successful completion of the examination will demonstrate an examinee's technical knowledge relating to nutrient management planning and nutrient management plan development in the following areas:

- (1) Competency in nutrient application and management.
 - (2) Competency in crop production.
 - (3) Competency in soil and manure testing and interpretation.
 - (4) Understanding in determining needed BMPs related to proper utilization of nutrients and stormwater management.
 - (5) Understanding of soil science and soil fertility.
 - (6) Understanding of fertilizer materials and their characteristics.
 - (7) Understanding of environmental and economic impacts associated with nutrient management.
 - (8) Understanding of the act and other applicable laws and regulations.
 - (9) Other areas and coursework related to the requirements in the nutrient management regulations as determined appropriate by the Department.
- (d) The Department may approve the use of written examinations other than the

Pennsylvania nutrient management examination, if the written examinations meet the requirements in subsection (c).

(e) Individual nutrient management specialists are exempt from the nutrient management plan preparation requirement.

§ 130b.22. Final certification.

(a) A person is eligible to apply for final certification as an individual nutrient management specialist upon fulfilling the requirements under § 130b.21 (relating to determination of competence). An application for certification may be obtained from the Department. The appropriate fee shall accompany the specialist's application for certification.

(b) An application for certification shall be filed with the Department no later than 120-calendar days after the applicant's completion of the competency requirements. If the applicant fails to file an application with the Department within the prescribed 120-calendar days, that person shall again satisfy the competency requirements as provided in § 130b.21 (a)--(d).

(c) A certificate is valid for 3 years ending on December 31 of the third year following the date of certification. However, the Department will authorize an additional year when the certification is issued during the last 2 months of the initial certificate year.

RECERTIFICATION

§ 130b.31. Recertification.

(a) At intervals of 3 years, final certified commercial, public or individual nutrient management specialists shall provide written documentation of having received continuing education and training in Department-approved training courses in nutrient management planning and nutrient management plan development. Training must address the specific areas in § 130b.11(c) and (d) (relating to determination of competence) for commercial and public specialists and § 130b.21(b) and (c) (relating to determination of competence) for individual specialists.

(b) Recertification credits approved by the Department will be given on the basis of attendance at approved training sessions, as provided in subsection (a). The Department will evaluate the training and assign the appropriate credits. Commercial and public specialists are required to obtain 20 credits with one quarter or 5 of those credits being obtained through Department or Commission conducted courses. Individual specialists are required to obtain 6 credits during the recertification interval. The Department may, if deemed necessary, require specific training for certified nutrient management specialists, in addition to the required training in §§ 130b.11 and 130b.21. The Department will provide written notification to the certified nutrient management specialists of required specific training.

(c) Training will be approved for recertification credits at the rate of 1 credit per hour of applicable instruction, exclusive of coffee breaks, lunches, visits to exhibits, and the like. Credits will be assigned to each training session based upon the subjects covered and the amount of time expended on each subject. Credits assigned may be modified if either the

content or length of the training substantially differs from the originally approved course.

(d) Sponsors of recertification training shall first submit a written request for course approval to the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408. A request shall be submitted to the Department at least 15 working days prior to the training date and include the following information:

- (1) The name and phone number of the contact person who is coordinating the training.
 - (2) The specific location of the training.
 - (3) The date of the training.
 - (4) A listing of the speakers, subject matter and time allotted to each subject.
 - (5) A statement whether the training is open to the public and if there is a charge to attend.
- (e) A recertification training course will be approved if at a minimum it consists of the same requirements as set forth in § 130b.11(c) and (d) and is conducted or sponsored by an educational institution, an association, a business, a governmental agency or other qualified source. Preapproval of recertification courses is vested solely with the Department.
- (f) Falsification by a course sponsor of information required under this section may result in the withdrawal of credits or course approval, or both.
- (g) If the Department or its designee is unable to monitor the training, the sponsor shall be responsible for verifying attendance and shall compile a list of Pennsylvania certified specialists in attendance. The list shall be returned to the Department within 10 working days following the training date and include the name of each person attending and their certification number.
- (h) If a nutrient management specialist allows his final certification to expire and does not obtain recertification in accordance with this chapter, his final certification shall be suspended and the specialist must refrain from all duties relating to his certification until all delinquent recertification credits are acquired as described in subsection (b).
- (i) If a nutrient management specialist whose final certification has been suspended as set forth in subsection (h) fails to complete delinquent recertification credits within 1 year from the expiration date of his final certification, then his final certification shall be revoked and that person shall again satisfy the requirements of § 130b.11 and § 130b.12 (relating to eligibility) for commercial and public specialists, and § 130b.21 and § 130b.22 (relating to final certification) for individual specialists.

RECIPROCITY

§ 130b.41. General.

- (a) A person who has a valid certificate or license from another state may obtain

certification in this Commonwealth if:

- (1) The state in which that person is certified has a reciprocal agreement with the Department.
- (2) The applicant satisfies the required precertification training as set forth in § 130b.11 (c) (relating to determination of competence). The applicant will not be required to take a written examination to determine competence if the applicant satisfies the requirements of this subsection.
- (b) Upon the successful completion of the requirements in subsection (a), the applicant for certification as a commercial or public nutrient management specialist will be issued provisional certification and shall complete the requirements in § 130b.11(g). Provisional certification is valid for 3 years ending on the last day of the month from the date of issuance.
- (c) In addition to the requirements in subsection (a), if the applicant is a commercial nutrient management specialist, that person shall develop three approved nutrient management plans which meet the requirements of section 6(e) of the act (relating to nutrient management plans). If the applicant is a public nutrient management review specialist, that person shall successfully review two nutrient management plans and develop one approved nutrient management plan which meets the requirements of section 6(e) of the act. If the applicant is a public nutrient management dual specialist, that person shall successfully review two nutrient management plans and develop two approved nutrient management plans which meet the requirements of section 6(e) of the act. Nutrient management plan reviews completed and nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.
- (d) The applicant shall complete all requirements for reciprocity in the manner and within the time frames established in § 130b.11 and § 130b.12 (relating to final certification).

DENIAL, SUSPENSION AND REVOCATION OF CERTIFICATES

§ 130b.51. Denial, suspension and revocation of certificates.

- (a) The Department may, after notice, including a statement of the reasons therefore, deny, suspend or revoke a commercial, public or individual nutrient management specialists certification for any of the following:
- (1) A violation of the act or this chapter.
 - (2) Failure to obtain the required recertification credits.
 - (3) Inconsistency and demonstration of a lack of knowledge of nutrient management plan writing and review skills.
 - (4) Three or more occurrences within a 3-year period of delay or noncommunication with landowner or review agency during plan development or review.
 - (5) Falsifying information.

(6) Misrepresentation of the Nutrient Management Act Program.

(7) A violation of program policy established by the Department, its designee or the State Conservation Commission.

(b) An applicant or nutrient management specialist may request a hearing, in writing, within 15 days of receipt of notice of the denial, suspension or revocation from the Department. The request shall be sent to the Bureau of Plant Industry, Agriculture Building, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110.

[Pa.B. Doc. No. 05-2197. Filed for public inspection December 2, 2005, 9:00 a.m.]

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