Appendix 8
Importer/Broker Agreement and NBSs

This section of the plan is to detail the use of that portion of manure or mortality compost produced on site that was not land applied on the operation (owned or rented acres) that produced it. This includes selling or giving the manure or mortality compost to a broker or exporting the manure to other farms for agronomic land application. It also includes sales to others who use it for purposes other than for agricultural land application, such as mushroom producers, or using it on the farm where it was produced for other than agricultural land application.

It should be noted that the program characterizes manure and mortality compost exporting as changing ownership of the manure or compost. When the importer accepts the material, the importer also accepts responsibility for its proper use on his or her land as required by DEP Chapter 91 regulations and the Manure Management Manual. The exporter may retain some responsibility for the application or storage of exported manure or compost, if the exporter is involved in the stacking or application of the material on the importing site, or if the exporter contracts with or hires those involved in the stacking or application of the exported material on the importing site.

Not all manure will be used in raw, unprocessed form. Several alternatives include: composting, bio-digestion, solids separation, or manure processing related to feeding poultry manure to beef cattle.

Listed below are the program planning requirements, based on five possible usage scenarios, for Act 38 participating operations using manure or mortality compost for purposes other than agronomic land application on their own operation (including owned and rented acres).

1. **When manure or mortality compost will be exported to known landowners or operators for agricultural land application, the plan shall include:**

    - A signed agreement with the importer, on the form provided by the Commission. This form is included in Supplement 11 of this manual. The exporter is to use this agreement form unless there is prior approval by the Commission to use an alternative agreement.
        a. The signed agreement has no end date, but can be cancelled by either party given 30 days notice
        b. Note that there are different agreements for various importing scenarios. There is an importer agreement for situations where manure will be land applied in Pennsylvania (our most common agreement type), one for situations where manure will be imported for non-land application (such as for mushroom operations or composting operations, this relates more to importing scenario “C” below), and one for exporting to importers that will be receiving the manure on farms outside of Pennsylvania.

- A completed Nutrient Balance Sheet addressing the fields where exported manure or mortality compost may be applied. You can also use an approved Act 38 nutrient management plan written for the importing operation to address this requirement. If using an Act 38 nutrient management plan, the importer's plan does not need to be submitted with the exporters plan, but the exporters plan needs to reference that the importer has an approved Act 38 plan on file with the relevant district. You may also use an USDA-NRCS accepted 590 plan to meet this requirement or a Manure Management Plan meeting all of the DEP requirements outlined in the most recent version of the Pa Manure Management Manual. When using a 590 plan or a Manure Management Plan to meet this obligation, a copy of the 590 plan or Manure Management Plan is required to be included in Appendix 8 of the exporter's Act 38 Nutrient Management Plan submitted for approval.

  Nutrient Balance Sheets (NBS) required under the Program must follow the standardized NBS form and process provided by the Commission. Supplement 3 provides the "Nutrient Balance Sheet User Guide" which is the format and the calculation process and accepted figures to use when completing a NBS for an importing operation. The Nutrient Management Program Website provides the NBS in a Word format, a pdf format, as well as an Excel spreadsheet format. The Commission recommends that planners use the Excel format to ensure that the NBSs submitted have used the proper calculation figures and process, as used in the Excel form.

Nutrient Balance Sheets

Nutrient Balance Sheets are designed to address entire crop groups, given a particular application scenario, for an importing operation, thus minimizing the number of these that may be necessary for a particular importing operation. For example, one balance sheet may address all corn silage applications across a farms' entire 150 acre operation, with another balance sheet covering all grass hay over that same 150 acres, etc. Another method to show acres under the NBS is, for example, if a farm is composed of fields 1-20 and these fields total 100 acres, there could be a corn NBS covering fields 1-20 with the acreage figure being 60 acres (where generally 60% of the importing lands are in corn) and a hay NBS covering fields 1-20 with an acreage figure of 40 acres (where generally 40% of the importing lands are in hay).

You may need more than one balance sheet to address a particular crop group if the importer may be applying other nutrient sources to some of the lands, but not all the land (such as one NBS may address all acres for corn silage if starter was used, and another to address the corn silage acres if no starter was used).

Also, an importer may address some of their fields using one option, where using another option of the remainder of their fields (such as using Option 1 for fields more than 150 feet from a stream, and using Option 3 for fields within 150' of a stream).

Nutrient Balance Sheets need to be reassessed once every 3 years. This reassessment needs to evaluate the new soil tests taken over the past three years (soil tests used in NBSs need to be redone once every three years) and the updated manure analysis for the manure being imported. The NBSs would be required to be redone and reauthorized by the district if any of the following are true:

1. the new soil tests require a **change in the planning option** (such as when a soil test for a field goes from 180 ppm P to 210 ppm P and the required planning option changes from Option 2 to Option 3), or
2. the new soil tests require a **change in the nutrient application rates** used on the NBSs (such as when a farmer is using Option 3 and the soil test level for phosphorus pushes the farmer from a P-Index of value of 75 to a P Index value of 82, requiring phosphorus removal application rates), or
3. the average **manure analysis observed over the past 3 years has changed by more than 20%** over the manure test used in the current NBSs.

The NBS has a cover page, a Nutrient Balance Sheet Summary and Nutrient Balance Sheet Summary Notes that are filled out once per importing operation. Also NBSs include 1) application rate worksheets; 2) a map(s) indicating the fields where manure may be applied, any applicable setbacks, and road names adjacent and within the importing operation; and 3) P-Index spreadsheets for importers using option 3.

The map does **not** need to be to scale, or computer generated. All that is needed for an acceptable map is one that indicates the field identification numbers, boundaries, and acreage for the fields where manure or mortality compost can be applied, any setbacks or buffers and the associated landscape features relating to those setbacks (streams, wells, sinkholes, etc); and roads and road names for streets adjacent to and within the importing operation. The way to test if this map is complete is to assume a commercial manure hauler needs to apply a given rate of manure or compost to a particular field, and by using this map alone would he be able to follow this map to find the field and identify if any setbacks are relevant on that field and what those setbacks would be.

An importer can select any of the 3 options for completing the NBS(s) for their operation.

1. If **option 1** is selected, the importer would not need to have soil tests to implement this option, but it is usually the most limiting option of the 3 (or 4 if you include that an approved Nutrient Management Plan can also be used for importing sites). If current (within 3 years) soil tests are available for the importing application fields, Nutrient Balance Sheet options 2 or 3 below must be used. You cannot use option 1 for fields that have a current soil test indicating the soil phosphorus levels for the importing fields.

    - With this option, both the N and P columns need to be completed to show that the application rate does not go over the Nitrogen or Phosphorus crop uptakes.

- NBSs completed using this option would not need to be updated at any time, as long as the yields for the importing site and the book value nutrient uptake values do not change over time.
- Importers may use this option to implement a "phosphorus banking" scenario for their farm. This means an importer can apply up to 3 years of phosphorus removal for their various crop rotations, without having to run soil tests for the fields being addressed in this fashion. This will only be allowed to the extent that 1) the multiple year application does not exceed the one year nitrogen removal rate, and 2) no other phosphorus sources can be applied to the fields where this has been implemented, until the time frame of the phosphorus bank has elapsed.

2. If **option 2** is selected, the importer will need soil tests to run this option, but it generally provides for larger amounts of manure to be applied to the importing site. This option can only be used for fields with soil test levels of less than 200 ppm P.

   - Only the N column will need to be completed in order to fill out the NBS using this option.
   - When using this option, the soil tests for the importing site will need to be run once every 3 years to ensure that the fields used under this option continue to fall within the "< 200 ppm P" range. Fields that go over 200 ppm P at the 3-year reevaluation time will need to be taken off of the NBS as being available for this Option 2 scenario.

3. If **option 3** is selected, then the NBS for the given operation will need to include the P Index spreadsheet indicating the appropriate rates for the fields falling under this option. Not only will soil tests be needed for these fields, but also the soil loss will need to be calculated, as well as the other factors included in the P Index analysis. This option can be used for all fields with current soil test values for phosphorus, but it is the only option available for fields with a current soil test showing phosphorus levels of greater than or equal to 200 ppm P or for fields within 150 feet of a stream, lake, pond, etc.

   - When using this option, the P Index result will indicate if the N and/or P columns need to be completed on the NBS.
   - The P Index will need to be reassessed every 3 years for importing operations using this option based on the most recent soil tests (which are required to be redone once every 3 years for these importers) and the most recent average manure test analysis. If any fields change over that time frame, they will need to be run on a new NBS if the importer wants to continue to use these fields.

2. **When manure or mortality compost will be transferred from an Act 38 participating operation through a manure broker, the plan shall include a signed agreement with the broker, on the form provided by the Commission.**

   This exporter/broker signed agreement form is included in Supplement 11 of this manual. The exporter is to use this agreement form unless there is prior approval by the Commission to use an alternative agreement. The signed agreement has no end date, but can be cancelled by either party given 30 days notice.

   - The agreement includes the broker's PDA Broker Certification number so that the certification of the broker can be verified during plan review.
   - A broker is a person, corporation, or partnership that assumes temporary ownership of manure or compost from a producer and then arranges for a third party receiver of the manure or compost (different from the producer or broker). A broker is an independent entity that does not work for, or under the control of, the agricultural producer providing the manure or compost to the broker. A broker must be able to demonstrate their ability to independently and adequately address the brokerage of the material from the production facility. Brokers hold a significant amount of liability for the proper handling and application of the manure or compost. A broker is responsible to follow the requirements in DEP's Chapter 91 regulations as they handle and apply manure.
   - The "broker" designation differs from a "manure hauler". A "manure hauler" works as a contracted agent for the animal producer or importer, under the direction of either of these entities.
   - Please note that if a broker accepts manure and applies it to fields that the broker either owns or rents, the broker is serving as a "known landowner importer" (as described in "a" above) and is not a "broker". For that portion of the manure or compost that is applied by the broker to lands that they own or rent, the program criteria described above (relating to "known landowner importer") must be followed.

3. **When manure or mortality compost will be transferred from an Act 38 participating operation to a known importer for use other than agricultural land application, the plan (in the 'Nutrient Management Plan Summary" Section, under the "Additional Nutrient Management Plan Requirements" page, under the "Exported Manure Summary" topic) shall include the following information:**

   - The name and general location of the importing operation.

     The "general location" of the importer should include the "full address" (street, road or route; street number or P.O. box; town and if necessary the distance from a landmark, etc.) of the site receiving the manure. The "full address" should be complete enough to provide adequate information so that the operation can be located on a street or topo map.

- A brief description of the planned use of the imported manure or compost.

  This should be complete enough to adequately explain what the importer is planning to do with the manure.

- The estimated amount of manure or compost the operation plans to transfer to the importer annually.

  The amount of manure or compost that the operation is planning to export to the importer is an agreed upon amount between the exporter and the importer based on the amount of manure that the importer is able to receive and the amount of the material the NMP operation has available for export.

- The intended season for the manure or compost transfer.

  The proposed timing of the manure or compost exporting needs to be indicated by season. The NMP operation may document a more precise time for export but by season (Spring, Summer, Fall, or Winter) is adequate for the plan. If manure is to be transferred for more than one season of the year, the amount of manure planned to be exported for each season shall be listed in the plan.

- A signed agreement with the importer, on the form provided by the Commission.

  This form is included in Supplement 11 of this manual and is titled "Exporter/Importer Agreement, Manure Used For **Other Than** Agriculture Land Application". The exporter is to use this agreement form unless there is prior approval by the Commission to use an alternative agreement.

  The signed agreement has no end date, but can be cancelled by either party given 30 days notice.

Some examples of uses other than agricultural land applications are: marketing manure to commercial greenhouses and landscape nurseries, golf courses and mine reclamation projects; composting for sale in bulk or packaged for commercial markets; mushroom farming; and as processed feed supplements for production animals.

4. **Where manure or mortality compost is to be processed or utilized on the Act 38 participating operation in a manner other than for agricultural land application, the plan shall briefly describe (in the 'Nutrient Management Plan Summary" Section, under the "Additional Nutrient Management Plan Requirements" page, under the "Exported Manure Summary" topic) the planned use of the manure, including the estimated amount expected to be processed or utilized annually.**

This description needs to be complete enough to adequately explain what the operator is planning to do with the manure or compost. The description should also say when the material will be used and how much will be utilized yearly.

5. **When manure or mortality compost is to be marketed from an Act 38 participating operation in existence as of Oct. 1, 1997, using an open advertising system where the importers cannot be identified at planning time, the plan shall describe (in the 'Nutrient Management Plan Summary" Section, under the "Additional Nutrient Management Plan Requirements" page, under the "Exported Manure Summary" topic) the proposed marketing scheme, including the estimated amount of manure expected to be marketed annually using an open advertising system.**

   A description of the marketing scheme should include the amount and the form of the product to be marketed, the prospective consumer markets and general region where the exporter expects to market the manure, and the planned advertising system for the product. The description of the planned advertising system should include how the exporter expects to advertise the product to assure that the potential customers are informed of the product being offered. If the exporter has done this in the past, that should be explained in this description along with how successful the exporter has been in using this alternative method in the past.

   It should be noted that this planning option is <u>not available to newer farms participating in the Act 38 program</u>. These newer operations need to show in their plan that they have found another method for excess manure distribution or use which will include a signed agreement with an importer or broker to address all the manure they expect to export. This does not mean that these newer operations cannot distribute their excess manure using an open advertising system; this just means that in their plan they need to show that they have arranged for an established alternative importer or broker for all their excess manure or compost at planning time in case their advertising system does not work.

   An exporter using this scenario will be required to be **certified by PDA as a Manure Broker**, prior to being authorized to utilize this exporting method. Also, these exporters will be required to fill out NBSs for the importers that will be accepting more than the minimal amount of manure or compost outlined below under in the "Small Quantity Importers" section.

Using more than one Export Scenario

There may be more than one alternative manure or mortality compost utilization method used for the exported material. Where this is the case, the plan should list separately, the above items for each alternative method that will be used.

Manure Application Setbacks

Importers are restricted from applying imported manure any closer to water bodies, than the setbacks established for the Act 38 farms where the manure is generated. So if Options 1 or 2 are selected for the NBS, no additional setbacks are required on the

importing site (other than 100' from active water wells) because the nutrient balance sheet process itself calls for a 150 foot setback; but if option 3 is used, than the setbacks established for Act 38 participating farms will be imposed for the manure imported to these other farms.

Small Quantity Importers

The detailed documentation (signed agreements and nutrient balance sheets) and setbacks described above are not needed for small quantity manure or mortality compost importers, specifically importers receiving less than the following amounts a year:

- 5 tons of poultry manure or poultry mortality compost
- 25 tons of non-poultry manure or non-poultry mortality compost
- 10,000 gallons of liquid manure

For farms that will be exporting using small quantity importers (this may be especially relevant to smaller horse operations), the nutrient management plan will need to describe (in the 'Nutrient Management Plan Summary" Section, under the "Additional Nutrient Management Plan Requirements" page, under the "Exported Manure Summary" topic) that small quantity importers will be used for implementation of the plan and that records will be maintained to document these small quantity exports.

Records for these exports can be documented on the sample small quantity exports record keeping form included in *Supplement 19* of this manual. These records are required to be maintained for all small quantity exports to document who received the manure or mortality compost, how much and when.