



MARYLAND DEPARTMENT OF AGRICULTURE

LEGISLATIVE COMMENT

DATE: 02/24/15 BILL NO.: SB 257

SUBJECT: AGRICULTURE – NUTRIENT MANAGEMENT – PHOSPHORUS TOOL

COMMITTEE: SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS

MDA POSITION: OPPOSE

EXPLANATION:

SB 257 apparently attempts to codify the Phosphorus Management Tool (PMT) regulations that were submitted on November 14, 2015, and published in the Maryland Register on December 1, 2014. There are many drafting issues with the legislation that result in unclear time frames and responsibilities. SB 257 appears to collapse the staggered implementation schedule for three separate groups, based on average FIV values for the farm, into one schedule.

COMMENT:

The PMT was developed by the University of Maryland as the next generation of phosphorus risk assessment tools to be incorporated into nutrient management plans for farmers. These tools are applicable to farm fields exceeding a certain threshold of soil phosphorus as measured by a soil test.

The science of phosphorus transport dynamics and the management requirements to reduce loss of phosphorus from agricultural landscapes is a technical and complex issue which continues to evolve. Such a dynamic issue should not be hindered by the statute but allowed to be more nimble as science enhances our ability to assess risk and improve management. The collapsed schedule provided by the bill compromises the original intent to stagger implementation and provide a more orderly transition to full PMT adoption. With all farms on the same schedule, the otherwise incremental increase in additional manure to relocate or manage through alternative technologies is compromised.

MDA has submitted an enhanced regulatory proposal to implement the PMT more effectively for farmers and with greater environmental protection. The regulations are being sent to the Joint Committee on Administration, Executive and Legislative Review

Committee (AELR) today. This revised proposal improves upon the November 2014 PMT proposal by adding immediate environmental protection, new, informative data, and assurances for the regulated community that key elements necessary for a successful transition are in place.

The proposal includes an immediate ban on phosphorus applications on soils with a fertility index value (FIV) of 500 or greater. This ban provides immediate water quality protection targeting farm fields with the highest levels of phosphorus in the soil. The proposal provides two years of data from farmers running both the Phosphorus Site Index (PSI) and PMT side by side, reporting information to MDA on management changes to be required and volumes of manure to be relocated to alternative farms or alternative uses. The implementation schedule is adjusted to provide a minimum of two full years of running both tools and evaluations prior to management changes ratcheting down to the next, more restrictive level. The proposal also fills a knowledge gap on the true picture of soil phosphorus levels on farms across Maryland. In the first year, and every six years thereafter, soil test phosphorus data will be provided to MDA at the field scale-level. This data will inform program development and resource allocation to target efforts to areas of greatest need and identify receiving areas for relocated animal manures.

MDA and the agricultural community are committed to addressing phosphorus concerns. MDA is taking a comprehensive approach to manage phosphorus by proposing new regulations, ensuring the development of new, alternative uses and rolling out a demonstration project on farms across the State in the spring of 2015 as a means to further demonstrate PMT implementation and collect on-the-ground data as farmers implement the latest science in managing phosphorus and improving water quality.

MDA has identified a path that the farm community finds acceptable and provides greater environmental benefits than any previous proposal. The proposed regulations should be given an opportunity to demonstrate their effectiveness and build on the goodwill that has been developed in the process, in lieu of legislation that will prevent the agency from keeping up with the most current scientific research.

MDA requests an unfavorable report for SB 257.