

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE

House Bill 778 (Delegates Glassman and James)
 Environmental Matters

Agriculture - Nutrient Management Plans - Applicability

This bill exempts agricultural operations with a gross income of \$2,500 to \$4,999 (and that do not meet the animal unit criteria under current law) from the requirements of the Water Quality Improvement Act (WQIA) of 1998.

Fiscal Summary

State Effect: General fund expenditure decrease of an estimated \$50,100 annually due to a decrease in State cost sharing for nutrient management plans.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	(50,100)	(50,100)	(50,100)	(50,100)	(50,100)
Net Effect	\$50,100	\$50,100	\$50,100	\$50,100	\$50,100

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: Meaningful.

Analysis

Current Law: The Maryland Department of Agriculture (MDA) regulates nutrient management in the State. WQIA (Chapters 324 and 325 of 1998) provides for a variety of measures aimed at improving water quality throughout the State including the development of nutrient management plans.

Agricultural operations with at least \$2,500 in gross income and livestock operations with at least eight animal units using chemical fertilizer must have a phosphorus- and nitrogen-based nutrient management plan by December 31, 2001 and must implement it by December 31, 2002. Agricultural operations using sludge or animal manure must have a nitrogen-based nutrient management plan by December 31, 2001 and must implement it by December 31, 2002. Agricultural operations using sludge or animal manure must have a phosphorus- and nitrogen-based nutrient management plan by July 1, 2004 and must implement it by July 1, 2005.

Farmers were able to achieve compliance with the first deadline by submitting a nutrient management plan created by a “certified nutrient management consultant” to MDA by December 31, 2001. Farmers may have their plan developed by a University of Maryland Cooperative Extension Service consultant for free. State cost-sharing under the Nutrient Management Cost Share (NMCS) program is available to farmers who have their plans developed by private nutrient management consultants. Alternatively, farmers were able to submit to MDA a “Justification for Nutrient Management Plan Delay” form signed by a certified nutrient management consultant indicating an approximate time the plan will be completed.

Farmers not meeting the requirements of WQIA are subject to various sanctions, including administrative penalties, repayment of cost-sharing funds, and civil penalties.

Background: During the 1997 interim, members of the General Assembly and the Governor’s Blue Ribbon Citizens Pfiesteria Action Commission studied the scientific and public policy issues regarding fish kills in lower Eastern Shore rivers in late 1996 and the summer of 1997. Both the General Assembly and the Governor’s commission focused on the role of the toxic dinoflagellate, Pfiesteria. The Governor’s commission conducted a series of briefings and public meetings and issued a final report on November 3, 1997.

The report included numerous recommendations regarding the safety of Maryland seafood, agricultural and nonagricultural nutrient management strategies, public health strategies, and future research needs. The commission pursued the causative link between Pfiesteria and agricultural practices in the lower Eastern Shore.

Of particular concern was the role of the chicken industry and the large quantities of chicken litter generated and ultimately applied to local fields as fertilizer. Therefore, throughout the commission’s proceedings, a primary concern was the efficacy of the State’s existing nutrient management program and the feasibility of recommended changes. In its final report, the commission recommended, among other things, that the State replace its voluntary, nitrogen-based, agricultural nutrient management program with a mandatory phosphorus- and nitrogen-based program. The commission further

recommended that “the State enroll all farmers in nutrient management plans by the year 2000. The nutrient management plans should be fully and demonstrably implemented by 2002, contingent upon the State supplying the appropriate level of education, outreach, technical support and financial resources necessary to meet these goals.”

WQIA addressed the recommendations of the Blue Ribbon Commission, while taking into account the concerns of the agricultural community, particularly mandatory participation in nutrient management plans. That law was amended in 2000 (Chapter 485) to address concerns raised by the Nutrient Management Advisory Commission in drafting proposed regulations to implement WQIA.

According to MDA, approximately 9,000 farm operations were required to submit nutrient management plans by the December 31, 2001 deadline. These plans will cover an estimated 1.7 million acres of agricultural land in the State. As of that deadline, MDA had received 2,152 nutrient management plans for the management of 338,392 acres. Additionally 2,993 “Justification for Nutrient Management Plan Delay” forms were submitted covering 757,535 acres. Accordingly, a total of 5,145 farm operations managing approximately 1.1 million acres are technically in compliance with WQIA.

State Revenues: To the extent that exempting specified agricultural operations from the requirements of WQIA results in a decrease in penalties assessed for noncompliance, special fund revenues will decrease. Although a significant number of agricultural operations are not in compliance with WQIA, the extent to which MDA will assess penalties under current law is unknown.

State Expenditures: By exempting specified farms from WQIA, the bill could result in a general fund expenditure decrease of an estimated \$50,112 under the NMCS program. This estimate is based on the following assumptions:

- about 865 farmers would become exempt from WQIA (about 1,365 farms generate \$2,500 to \$4,999 in gross income; of these, an estimated 500 will remain subject to plan requirements based on the animal unit criteria under current law);
- none of those farmers have developed plans to date;
- an estimated 25% of the farmers (216), in the absence of this bill, would hire private consultants to develop their plans (and be eligible for State cost-sharing);
- farms with sales from \$2,500 to \$4,999 average 58 acres in size; and
- average per acre costs of plans developed under the cost-share program total \$4 per acre.

Legislative Services advises that because the bill exempts an estimated 865 farmers from WQIA, costs for MDA with respect to reviewing and enforcing plans could decrease. MDA did not provide any information relating to its current expenditures for those activities; accordingly, any such decrease cannot be reliably estimated at this time.

Small Business Effect: Most farms are small businesses. An estimated 865 farmers (those that generate from \$2,500 to \$4,999 in gross income and that do not meet the animal unit criteria under current law) would become exempt from WQIA. The bill could also affect private certified consultants; under this bill, approximately 216 farmers would no longer need their services.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Maryland Department of the Environment, Department of Legislative Services

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