

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

House Bill 1248 (Delegate Shank, *et al.*)
 Environmental Matters

Agriculture - Nutrient Management Plans - Confidentiality

This bill requires the Maryland Department of Agriculture (MDA) to maintain copies of nutrient management plan summaries for three years from the date of filing. After this three-year period, MDA must either destroy or return, to the individual for whom they were prepared, nutrient management plans and summaries. MDA is prohibited from sharing farm-specific information about a nutrient management plan or an enforcement action taken in accordance with the nutrient management provisions of the Agriculture Article.

Fiscal Summary

State Effect: MDA general fund expenditures increase by \$14,700 in FY 2010 for a part-time contractual position. Future year expenditures reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	14,700	19,100	20,000	20,800	21,800
Net Effect	(\$14,700)	(\$19,100)	(\$20,000)	(\$20,800)	(\$21,800)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A “nutrient management plan” is a plan prepared by a certified nutrient management consultant to manage the amount, placement, timing, and application of animal waste, commercial fertilizer, sludge, or other plant nutrients to prevent pollution by transport of bioavailable nutrients and to maintain productivity.

A summary of each nutrient management plan must be filed and updated with MDA at a time and in a form that MDA requires by regulation. MDA is required to maintain a copy of each summary for three years in a manner that protects the identity of the individual for whom the nutrient management plan was prepared.

Background: The Water Quality Improvement Act (WQIA) of 1998, Chapters 324 and 325 of 1998, seeks to protect the health of Maryland’s citizens and its waterways by establishing both short- and long-term strategies for reducing nutrient levels in streams, rivers, and the Chesapeake Bay. WQIA requires farmers grossing \$2,500 or more annually, or raising 8,000 pounds or more of animal weight, to develop and implement a nutrient management plan by specified dates. The nutrient management plan must address both nitrogen and phosphorus inputs for all agricultural land used to produce plants, food, feed, fiber, animals, or other agricultural products. Farmers are required to update their nutrient management plans once every three years, or more frequently if their operation changes. Nonagricultural nutrient applicators, including commercial lawn care companies, landscapers, golf course managers, and public groundskeepers, are required by law to follow Maryland Cooperative Extension guidelines when applying nutrients to lawns, athletic fields, or other landscapes.

WQIA affects approximately 6,000 farm operations. Therefore, MDA has approximately 6,000 original nutrient management plans that were submitted prior to mid-2004 and 24,000 annual nutrient management plan summaries that were submitted after mid-2004. MDA maintains electronic versions of nutrient management records at its headquarters in Annapolis and paper copies of nutrient management records are maintained at six MDA regional offices located throughout the State.

On February 10, 2009, an Anne Arundel County Circuit Court judge ruled that specified nutrient management plan information is public information. However, when nutrient management documents are less than three years old, information identifying an individual farmer and that farmer’s operation must be withheld.

State Fiscal Effect: General fund expenditures increase by \$14,735 in fiscal 2010, which accounts for the bill’s October 1, 2010 effective date. This estimate reflects the cost of a part-time contractual employee to monitor records retention, respond to requests

for records to be returned, and discard records as required. Future year expenditures are adjusted to reflect annualization and inflation.

Additional Comments: MDA advises that retaining the ability to track noncompliance over time is critical to evaluating program performance, establishing penalties, monitoring individual farmer compliance, and addressing cases of chronic noncompliance.

Additional Information

Prior Introductions: None.

Cross File: SB 623 (Senator Pipkin, *et al.*) - Education, Health, and Environmental Affairs.

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

Fiscal Note History: First Reader - March 6, 2009
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