



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

March 11, 2022

The Honorable Kumar P. Barve
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

Re: House Bill 1415 – Grading and Sediment Control Plans – Agricultural Land Management Practices

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed HB 1415, entitled *Grading and Sediment Control Plans – Agricultural Land Management Practices*, and would like to offer a letter of concern about this legislation. The Department would like to note that we are currently in conversations with the county to understand the intent of this legislation.

HB 1415 would define agricultural land management practices to include the clearing and grading of land required to cultivate land to further crop and livestock production, and conservation of related soil and water resources. This language expands activities that are exempt from needing an approved erosion and sediment control plan under state law.

However, this does not alter federal law, which requires an approved erosion and sediment control plan for these same activities under the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction Activity, Permit No. 14-GP (14-GP). The 14-GP requires an erosion and sediment control plan (E&SC) approved under the state's program as part of its application for the 14-GP. If this bill were to pass, the Department will be obligated to issue individual NPDES permits for these activities. The only alternative would be for the applicant to apply for and achieve an approved E&SC, only leading to additional frustration and delays for the individual(s). The Department will need to develop a new administrative process for the approval of erosion and sediment control plans and the issuing of individual NPDES permits for these activities that will become exempt under state law.

It is unclear how many projects would fall into this expanded exemption category if the proposed bill were to pass. The Department's best estimate is it could be anywhere from 50-100 projects that would need individual permits, instead of receiving coverage under the general permit. It is also unclear how the Department would enforce this new exemption. There may be circumstances where an inspector observes the clearing of acres of forest and it is asserted that it is being cleared for agricultural purposes and is therefore exempt, only for sometime later for it to be discovered that a different type of project, such as a strip mall, was erected at the same site.

Thank you for considering the Department's concerns regarding this legislation. We will continue to monitor HB 1415 during the committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", written over a horizontal line.

Tyler Abbott

cc: The Charles County Delegation
Lee Currey, Director, Water and Science Administration