

Nutrient Legislation Needs

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support from all agricultural organizations and environmental organizations who testified before the House, and has been apparently idled in the wake of more recent legislative proposals.

According to the groups, the current legislation is a compromise arrived at after many discussions with lawmakers, representatives of agricultural organizations and others who would be directly involved in implementing the program.

However, they said that as long as the bill's intent was not changed, they would go along with amendments which clarified wording.

During a Wednesday morning farmers' seminar sponsored by Lebanon Valley National Bank in Prescott, Lebanon County, Sheila Miller, executive director of the Senate Agricultural and Rural Affairs Committee, urged farmers to study the proposed legislation, consider how nutrients could be effectively managed, and to provide their opinions to their legislators.

Miller said that at least one researcher has estimated that if nutrient management legislation

were to be approved as it is written in HB 496 about 10,000 farmers would go out of business as a result.

In theory, the bill would eventually require virtually all farmers file plans.

The bill targets those who conduct agricultural operations (definition includes raising of all animals and plants) who fertilize with "animal manure," or raise livestock or poultry, commercially or otherwise on 10 or more acres.

Not included are landowners who allow municipal waste to be applied to their land, although a definition of "animal manure" is not made.

Those affected by the bill would have to file plans as to how they intend to use or dispose of animal manure and nutrients. The specifics of what information would be required in the plan would be decided by conservation commission.

Those, whose livestock or poultry exceed a certain number per acre, would be required to have the plans further approved by local conservation district personnel.

A certification program is to be set up by the department of agriculture so that farmers or others

could qualify to approve plans and create approved plans.

All plans have to be approved by a certified person before they are submitted to the conservation district.

In more specificity, the proposal sets up the state Conservation Commission (an autonomous board which oversees the state's soil conservation districts) to create regulations and guidelines for making nutrient management plans. The commission is also to create enforcement parameters.

The board has been chaired by the secretary of DER, but is not controlled by DER.

The law would create a Nutrient Management Advisory Board to the commission to review and comment on all regulations, criteria and policies the commission proposes.

Also, the law would establish a limit for penalties for failure to comply with the regulations that could not exceed \$500 per offense.

But the legislation leaves interpretation of how the penalties are to be meted out up to the commission.

As written, the law would allow local municipalities to create and enforce their own nutrient management regulations, as long as they are not inconsistent with the

state law.

However, there has been some question as to what "inconsistent" would legally mean.

One interpretation offered is that a local ordinance would be consistent with the law if it were more restrictive, as long as it were not more liberal.

The fear is that farmers would be subject to the possibility of municipalities creating ordinances with the real intent of driving certain farms out of the community for reasons other than poor nutrient management.

The wording in the proposed law regarding that provision is under scrutiny, since it was agreed during hearings that the intent of the law is to prevent local municipalities from creating tough, prohibitively expensive and complex local laws that would drive farmers out of business.

Schmidt said that if the legislation were changed to ban local enforcement and ordinances concerning nutrient management, the Sierra Club would not endorse the legislation. They would continue to support the legislation, however if the wording required local ordinances to mirror exactly the state law — no more liberal and no

more restrictive.

Other potential problems with the legislation as approved by the House include the definition of an agricultural operation, which, as worded, would include any size crop, livestock or poultry production operation — ranging from raising a handful of rabbits or keeping a summer garden to large, animal-dense commercial operations.

No distinction is technically made between hobby, or own-use production and commercial operations.

Technically, as written, HB 496 could affect more than commercial farming.

Also offering a potential problem is the standard for stocking rate.

The proposed law creates a standard for stocking rate that is based on something called an "animal equivalent unit."

And animal equivalent unit is defined as 1,000 pounds live-weight of any livestock or poultry, regardless of species, breed or number of animals.

Under the guidelines provided, those who would wish to own or raise livestock at a density of more than two animal units per acre would have to submit a nutrient management plan for review and approval by the local conservation district.

For poultry, the rate is one unit per acre.

The proposal leaves room for the commission to create its own regulations.

However, the commission is bound to follow DER's lead under the legislation because it would only be able to create regulations that follow the DER publication, "Manure Management For Environmental Protection."

The publication was originally developed to serve as an educational tool for farmers, according to Miller, who had helped create the educational manual.

However, Miller and her boss, Sen. Edward Helfrick, chairman of the committee, have said they are currently not seeking to discuss the specifics of HB 496, but rather, they said they are still open to hear other alternatives to nutrient management.

Toward that effort, the Senate ag committee has scheduled a public hearing on Feb. 12 at Bloomsburg State College in Columbia County to hear testimony on the issue. It is to be held in the Forum Room, located on the third floor of the McCormick Human Services Building.

Professional representatives are discouraged from giving testimony.

The purpose is to hear testimony from practicing farmers about nutrient management in general, not HB 496.

However, those reviewing HB 496 may want to also consider:

- Funding from the state to support the program has been eliminated by Gov. Casey, even when it was budgeted.

- Research programs seeking better methods of determining nutrient load at a farm are being developed at Penn State University, but funding has been slashed. Potential new methods would use the amount of feed purchased by a farmer during a normal year to determine whether or not excessive nutrients are being concentrated at a specific site and need to be managed properly.

- Manure application recommendations included in the DER manual were based on application rates which are more than 20 years old. The diets of livestock and poultry have changed significantly since then, therefore the nutrient contents have changed. Ostensibly, since food is being more efficiently used, there should be less average nutrient value to modern manure compared to that produced more than 20 years ago.

- Nutrient testing methods were just developed and significant changes can be expected to come soon, pending adequate funding of research.

- The state is under a signed agreement with Maryland and Virginia to permanently reduce the volume of nitrogen into the Chesapeake by 40 percent by the year 2000. If an effective nutrient management law doesn't go into effect soon, that 40-percent reduction goal may be unattainable.



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