

Maryland Farm Bureau's Government Relations Bulletin



11 – November 22, 2011

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#FoodThanks Returns for Thanksgiving

This Thanksgiving season, people throughout the food system will be using social media to show their thanks for food and raise awareness of agriculture through the AgChat Foundation's #foodthanks campaign. Last year, more than 800 people participated in the campaign by blogging, adding the #foodthanks twibbon to their avatar photo, and sharing more than 2,000 Twitter posts.

“For many of us, this month is when we take time to give thanks for the food on our tables,” said Farm Bureau member Darin Grimm, president of the AgChat Foundation, a 100 percent volunteer organization that aims to empower farmers and ranchers to “advocate” via social media platforms. “The #foodthanks campaign provides tools and inspiration for people to take their personal expressions of gratitude beyond the dinner table to friends, family and followers within their social networks.”

Grimm encourages members of the ag and food communities to tweet, post and blog about #foodthanks this month and especially on Nov. 23 as Thanksgiving becomes top of mind for much of the country. The newly revamped #foodthanks microsite, foodthanks.com, offers visitors tips and resources for making their voices heard in the conversation. The site provides greater personalization options, including a larger selection of #foodthanks avatars to choose from. In addition, people can showcase their own personalized #foodthanks avatars in an online gallery.

Nutrient Management Regulations

Maryland Farm Bureau sent a letter to Governor O'Malley this week urging him to direct MDA to withdraw the proposed nutrient management regulations in light of our very serious concerns over limits on fertilizer use, requirements for 10-month storage for manure and stream fencing mandates. We opposed requests being made by environmental activists to make the regulations stronger and to require 12-month storage of manure and sewage sludge.

The Maryland Department of Agriculture formally proposed the changes to the nutrient management regulations last month. The full proposal can be viewed at: http://www.mda.state.md.us/pdf/proposed_nm_%20regs.pdf. Some of the changes include mandatory stream fencing, limited fall nutrient application, a winter application ban for organic matter (including sewage sludge) and requirements for incorporation of most organic matter in the future. The proposed regulations were sent to the AELR Committee of the Maryland General Assembly. The AELR Committee can approve the regulations upon review or hold a public hearing. The Governor and/or MDA can recall the regulations before this process to make changes. Former State Senator Gerry Winegrad is

calling on the Governor to make changes that will further impede farming and will create a greater risk to the environment by requiring all organic fertilizer to be applied in a short time frame just before planting.

Maryland Farm Bureau members are encouraged to email the Governor and Members of the General Assembly voice concern over the proposed regulations. The email address for Governor O'Malley is: Governor@gov.state.md.us . To email members of the General Assembly use this link and look up a member's name: <http://mlis.state.md.us/mgaweb/mail32.aspx>.

The Chesapeake Bay Foundation's letter calling for more stringent regulations is attached. Maryland Farm Bureau's letter is printed below and attached:



Maryland Farm Bureau, Inc.
8930 Liberty Road • Randallstown, MD 21133 • (410) 922-3426

November 21, 2011

The Honorable Martin O'Malley
Governor of Maryland
State House
Annapolis, MD 21410

Dear Governor O'Malley:

We are sincerely disappointed at the direction the state's nutrient management program is taking based on the most recent set of regulations sent forward by the Department of Agriculture to the AELR Committee.

Since its inception, nutrient management planning on farms has been site specific and has taken into consideration the individual soil types, cropping schedule, nutrient needs and land characteristics of individual farms. When the program became part of the regulatory structure in 1998, the plans maintained their site specific characteristics, even when assessing the risk of phosphorus loss using the P-Site Index.

The regulatory proposal put forward by MDA, without the support of the Nutrient Management Advisory Committee, will turn our site-specific farm management tool into a one-size-fits-all prescription for farming that will force crop farmers to accept lower yields and livestock operators to take thousands of acres out of production because the cost of fencing every mile of stream that meanders through a pasture is not economically feasible. The manure application restrictions are likely to cause higher risk to the environment and complaints from neighbors when 12 months of manure is applied in a 2-3 week period in the spring. In addition, the one-size-fits-all "setback" in the proposed regulation is a "taking" of agricultural land without compensation and will disqualify Maryland farmers from participation in the highly successful federal CREP conservation program in the future.

Frankly, it appears to the farm community that the most recent proposal to change nutrient management guidelines are designed to simply "check off boxes" in the state's TMDL requirements rather than as reasonable, economically feasible, practices that take into consideration the varying factors on each farm in the state. Farmers in every county are working with their local WIP planning

group and are committed to implement the Best Management Plan options laid out in each county. This regulatory proposal short-circuits the TMDL/WIP process.

Farmers are frustrated by the whittling away of their ability to make farm-specific decisions to be productive while meeting nutrient reduction goals. The speed at which Maryland is placing mandates and restricting farm practices makes it impossible for good scientific research and cost/benefit analysis to be conducted. When you met with our Board of Directors during the summer of 2010, you pledged not to put Maryland farmers at a disadvantage compared to growers in other states. I can assure you this proposal will do exactly that. We are calling upon you now to uphold your pledge.

Listed below are some of our concerns about the most recent regulatory proposal to change the nutrient management program:

I. Setbacks for Nutrient Application –

A. We oppose the one-size-fits-all setback of 35-feet for the application of nutrients in proximity to surface water. A required setback regardless of site specific conditions is a “taking” of private property. We urge you to allow farmers to use site specific setbacks under a Soil Conservation and Water Quality Plan or other assessment that provides reasonable protection without undue reduction in field capacity.

B. We oppose language in the 10-foot setback requirement for pastures and hayfields that requires farmers to prevent livestock from depositing nutrients in the setback area. We believe this is a mandate to fence all streams. This requirement will impose a tremendous burden on farmers, whose livestock numbers have declined by 50% over the last 10 years. The fencing of some streams will require the division of pastures in such a way as to cut off access to barns and other structures integral to the farm operation. The language in the proposed regulation that prohibits a farmer from growing any crop or using the land in the 10 foot setback will make Maryland producers ineligible for participation in USDA's CREP under federal guidelines in 2-CRP (Rev. 5), Amendment 1, paragraph 151.

It is our understanding that the state has not conducted an analysis of the amount of stream fencing that will have to occur under this mandate or the cost of that mandate. Contrary to the declaration of the Department on the forms transmitting this proposed regulation to AELR, I can assure you that this mandate will have significant financial impact on the small businesses that are our family farms.

II. Application Timing –

A. The March 1st – September 9th requirement to inject or incorporate within 72 hours all organic nutrient sources should be deleted from the Guidelines. The nutrient value of the organic nutrients is already calculated and included in a farm's nutrient management plan and the nutrients are taken up by the growing crop. By including the incorporation requirement for dry manures, the regulations will force farmers to disturb the soil and undo decades of no-till benefit for the Bay. The current economic situation does not allow most farmers to invest in expensive new Turbo-Till equipment. We believe the mandate to incorporate will lead to soil erosion and phosphorus transport and set back our ability to meet TMDL/WIP goals.

B. The requirement for 10-months of manure storage (and the call by the environmental community for 12-months storage) is wrongheaded for many reasons. First, spreading 12 months worth of manure in one month in the spring could be a bigger environmental risk than the current process of spreading manure throughout the year based on soil holding capacity and crop need. If spring rains are overwhelming, nutrients will move at higher rates if they are applied all at

once in larger quantities. Second, the farm community does not have the infrastructure (trucks and equipment to spread and incorporate) 12 months of manure in the 2 or 3 weeks prior to spring planting.

The requirement for additional storage to comply with a winter application ban and a year-round restriction on traditional application by July 1, 2016 should be removed from the draft. The cost of this requirement far outweighs the benefits in most cases. Winter application of manure because of lack of storage capacity occurs in only a small percentage of cases. Many of the winter applications due to storage capacity issues occur because of unusual rainfall patterns. This is not an annual occurrence. It is our understanding that cost-share programs at the state and federal level are not sufficiently funded and do not allow investment in the amount of storage capacity called for in this regulation.

III. Fall Fertilization Rates –

In the Maryland Nutrient Management Manual Supplement 3 MDA proposes to prohibit fall application of commercial fertilizer to small grain crops unless a soil nitrate test shows less than 10 ppm for wheat or 15 ppm for barley. Our primary concern with this proposal is that it has not been fully vetted and the research to support it has not been peer reviewed. In the two hour discussion held in May, we learned that the research was conducted only in modest yielding grain plots. There is significant concern among professional agronomists that limiting fall nutrient use will stifle highly productive fields. We believe more study and discussion should be given to determine the optimum soil nitrate level necessary for high yielding crop growth. We urge you to withdraw this proposal until the research can be peer reviewed and agreement can be reached among Maryland's professional agronomists.

In conclusion, Maryland Farm Bureau urges you to direct the Maryland Department of Agriculture to withdraw or redraft many of the proposed nutrient management changes in a way that allows the site-specific characteristic of the program to continue. We urge you to protect the diversity of our industry and allow for scientifically-proven agronomic practices to improve, not hinder, our ability to produce the highest quality food and fiber for consumers in Maryland and around the world.

Sincerely,

PATRICIA A. LANGENFELDER
President

SaveFarmFamilies.org and the Hudson Lawsuit

Governor O'Malley Weighed In to Support the Hudsons Against UMD Law Clinic

With a letter widely applauded by the farm community, Governor Martin O'Malley expressed his dismay over the activities of the University of Maryland's Environmental Law Clinics in representing the Waterkeeper Alliance against Alan and Kristen Hudson. In the letter he wrote:

Dear Dean Haddon:

I am writing to express my concerns about the ongoing injustice being perpetrated by the University of Maryland Environmental Law Clinic's continued pursuit of costly litigation of questionable merit against Alan and Kristen Hudson and their family-owned farm.

The Hudson Farm has been in the family for four generations and for over 100 years. In 2010, environmental groups—presumably well intended—persuaded the University Clinic to file suit against the Hudson and Perdue Farms, alleging that they were polluting the Pocomoke River.

Since that time, the Maryland Department of the Environment completed a full investigation into these accusations. Although MDE fined the farm \$4,000 for placing fertilizer composed of treated human waste too close to a drainage ditch, it concluded that there was no “strong evidence conclusively linking bacterial pollution” in the local waterways to the farm. Given MDE’s conclusions, there are significant questions as to whether the environmental group’s claims can be substantiated. Nevertheless, the environmental groups and the Clinic continue to pursue the suit.

Corporations can defend themselves against such questionable suits even from deep-pocketed litigants. But the Hudsons must retain their own representation and, due to extensive legal fees, they now face possible bankruptcy and loss of their land. They face this possibility even if, as is quite possible, they are ultimately exonerated from the environmental wrongdoing alleged by this suit—a suit that persists notwithstanding the facts found by the Maryland Department of the Environment.

As a University of Maryland law student, I worked in the Clinic. I represented battered women and other persons who could not afford to pay for an attorney. I believe that law school clinics provide an important educational experience for students and also a critical public service by representing those who lack access to quality legal representation. I also believe that law schools must retain the academic freedom to operate their clinics in the manner they think will best achieve these goals.

I am not advocating that the government should dictate the clients clinics may represent or the cases they should undertake. But it is my strong belief that this case, at this juncture, is a misuse of state resources. This case, at this juncture, perpetrates an injustice. This case, given the facts now discovered, uses the economic weapon of unlimited litigation resources—namely, taxpayer supported State resources—to potentially bankrupt and destroy a family farming operation which has no recourse to similarly unlimited litigation assets.

This is not what we were taught about the high calling of justice when I was a student at the Law Clinic.

Our clinics should help level the too often unequal playing field of court-administered justice. With vigor and determination our clinics should represent those who cannot afford representation. And in this case, it seems that this purpose would have been better served by the Clinic representing the Hudsons.

This is a matter of fundamental fairness and the ongoing and significant injustice and economic harm being done to a decent, hard-working Maryland family by the continued pursuit of this very questionable suit. I strongly and respectfully urge you to review this matter and, in doing so, to consider my view that continued participation by the Clinic in this suit is a state-sponsored injustice and a misuse of taxpayer resources.

Sincerely,

*Martin O’Malley
Governor*

Maryland Farm Bureau members who would like to send a note of appreciation to Governor O’Malley may send it to: Governor@gov.state.md.us.

At last count, hundreds of families had logged onto the www.savefarmfamilies.org website to make small or large contributions to help with the Hudsons’ legal bills. In addition, almost a dozen state Farm Bureaus and Legal Foundations from across the country have sent checks. The proceeds from Maryland Farm Bureau’s annual banquet & auction on December 5th will be donated to the fund as well.

Natural Resource Update

MFB Comments on Sustainable Forestry Council's "No-Net-Loss of Forest Policy"

November 18, 2011

Mr. Donald Van Hassent
Maryland Department of Natural Resources
580 Taylor Avenue
Tawes State Office Building
Annapolis, MD 21401

Dear Mr. Van Hassent:

On behalf of our over 37,000 member families from across the state, I appreciate the opportunity to share Maryland Farm Bureau's comments regarding the Sustainable Forestry Council's Draft "No-Net-Loss of Forest Policy".

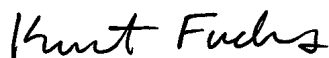
The Council's charge is certainly a daunting one with many intricate facets and far-reaching implications for a number of stakeholders. It is evident from the initial draft of the *NNL Policy* that much effort and time was taken in crafting the final product. Our members appreciate the draft's recommendation to target low-conflict opportunities for afforestation such as large rural residential lots as opposed to productive farmland. However, despite such recommendations, the suggestion to increase mitigation ratios remains a tremendous concern to our members that any effort to target low-conflict opportunities will undoubtedly be offset by an increase in demand.

A call for establishing a better baseline data of current and projected forest cover throughout the state is probably overdue and well-placed within the draft's recommendations. Such data could help stakeholders engage in more targeted efforts, as well as determine the overall feasibility of a NNL policy.

Our membership is very concerned about the recommendation to revise "most" of the existing exemptions in the Forest Conservation Act (FCA). Many of the exemptions geared towards family members and agricultural activities were established in good faith, not in an effort to abuse the system, but instead to enable the continued good stewardship of the land without removing significant acreage from agricultural production. Efforts to revise existing exemptions under the FCA should be targeted as opposed to a broad elimination, with significant stakeholder input

Maryland's agricultural community continues to be the original stewards of the land - including our state's forests - working to provide the most abundant, safest, and most affordable food supply all while enhancing the environment for future generations. We appreciate the opportunity to offer our comments on the draft and look forward to working with the Council and other stakeholders as it moves forward.

Sincerely,



KURT H. FUCHS
Assistant Director of Government Relations