

# Maryland Farm Bureau's Government Relations Bulletin



# 13 – December 20, 2011

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The staff at Maryland Farm Bureau thanks you for your hard work on the land and in the legislative arena in 2011. We hope you and your family enjoy the holidays and we look forward to working with you throughout the New Year to keep farmers prosperous in Maryland. **MERRY CHRISTMAS!**

## Nutrient Management Regulations – BayStat Meeting

Maryland Farm Bureau President Pat Langenfelder represented our organization on Thursday, December 15<sup>th</sup> at a meeting with BayStat officials and representatives of the environmental community to discuss the nutrient management regulations that have been temporarily withdrawn from consideration. The other ag representatives invited to provide comment were Kenny Bounds for the poultry industry, Scott Youse for dairy, Stuart Pittman for equine and Lynne Hoot for many commodity and agri-service/ conservation organizations. Environmentalists included Jen Aiosa from the Chesapeake Bay Foundation, Roy Hoagland from the Keith Campbell Foundation, Jen Brock-Cancellieri from the League of Conservation Voters and Bob Gallagher from a local Waterkeeper group. Candace Donoho, Maryland Municipal League, attended to convey the concerns of the municipalities on the sewage sludge storage portion of the proposed regs.

Attending on behalf of the Governor were BayStat Committee members: MDE Secretary Bob Summers, DNR Secretary John Griffin and MDA Secretary Buddy Hance. Also attending were staff from the Governor's StateStat office.

The outcome of the meeting is that the regulations are still on hold. The Governor's staff wants the group to meet again during the first week of January to try to come to a compromise so that the regulations can move forward in the AELR committee before session gets underway in mid-January. The Governor's folks indicated that consideration should be given to pilot projects and targeted implementation of some of the environmental goals rather than wholesale adoption of new restrictions in order to find some way to compromise.

During the meeting the farm community reps outlined our continued opposition to the one-size-fits-all nature of the proposed regulations. Specifically, Pat Langenfelder discussed our opposition to mandatory setbacks (and fencing), application timing and fall fertilizer restrictions. Kenny Bounds described the frustration of many farmers about the continued onslaught of new regulations. He insisted that the state use sound science to draft policy and pointed to the Binford study that demonstrates no time limit should be set for field storage of poultry litter if it is done correctly. Kenny also discussed the impossibility of cleaning out all poultry houses (and replacing wood shavings) in a small timeframe as would be necessary under the current draft with a limit of 180 days field storage on grain farms.

Scott Youse discussed the current economic situation for dairy farms and predicted that many will go out of business with the stream fencing mandate. He also discussed the financial burden of 10 months worth of manure storage. He explained that weather plays a huge role in the need to empty storage structures in the fall – especially this year when 30-inches of rain fell in a couple of months.

Lynne Hoot emphasized the need for site-specific plans. She argued that regulation for the sake of “counting beans” is not the way to manage farms. She suggested that consideration be given to changing the annual implementation report to allow farmers to voluntarily report the conservation practices they use on their farms. She informed the group that a new study is underway to better account for the conservation practices already used on farms. She pointed out the incongruity of the Governor asking the public to identify regulations that are hampering businesses while at the same time proposing new nutrient management regulations that will significantly harm farm businesses.

Lynne also discussed the results of Bob Kratchovil’s fall fertilizer research, which was funded by the Maryland Grain Producers Utilization Board. The study was an economic study that looked at yield results when farmers paid to purchase commercial fertilizer for fall seed crops. The study was not an environmental study and its results are not ready to be used for regulation. Specifically, she reported that continued analysis has demonstrated that 10ppm nitrate (which is in the proposed reg) is not the right figure to use when testing for the need for fall fertilizer. The true number might be higher, but the research is not done. Lynne also showed the group a map of blue-line streams on a local farm that was put together by students from a nearby college. The map is wrong, but under the regulations it would be used to determine mandatory setbacks.

Stuart Pittman supported Pat’s comments and pointed out concerns from the horse industry with regard to mandatory stream fencing, manure storage and restrictions for spreading in the spring only. He said that politically many in the horse industry consider themselves environmentalists and they are very angry that the proposed regulations are being pushed by environmental groups.

On behalf of the environmental community, Jen Aiosa indentified the three issues of most concern to them. (1) They support a prohibition on all winter application of fertilizer or organic matter. She said the state needs more reasonable alternatives then spreading because of lack of storage. Although they initially opposed the delay, she said they can live with the regs proposal to require enough storage by 2016 to prevent winter application. She said they are very nervous about fall application of manure and would like to prevent fertilizer from being used in the fall just to empty out storage facilities before the winter. (2) They support the setback provisions in the regs and believe there is a bevy of scientific information that says setbacks are the most important thing that can be done. She also believes that stream fencing is a “win-win” because keeping livestock out of streams will keep them healthier. Between now and 2014 she believes we need to identify what it will take to fence our most critical waterways and get it done. She also supports field checking the blue line streams to make sure they are correctly noted on maps. (3) They are also extremely supportive of the mandate to incorporate all manures applied to fields because of the risk of volatilization. They would prefer a mandate for incorporation in 24 hours or 48 hours rather than the current draft of 72 hours.

Candace Donoho for MML said that only 10 small municipalities land-apply sewage sludge. They are very small and cannot afford to build storage and the NIMBY’s will not allow a storage site to be located. They can only store for 3 or 4 days. Landfills are clamping down and municipalities will be forced to take the sludge out of state. Bills for the residents of those towns already range from \$150 - \$300 per

quarter for wastewater services. She said there is no alternative to winter application for them. 2/3 of their wastewater treatment plants are so small they do not qualify for flush tax funding.

The Governor's staff indicated that the briefing was very helpful to them. They asked each cabinet Secretary to respond or comment. Secretary Hance said that the process started 18 months ago and MDA has been trying to keep science as the premise for the regulations. He said the draft regs were changed substantially based on comments from the farm community. He said they would like to help small farms meet the financial challenges rather than go out of business in this process.

Secretary John Griffin of DNR said there was potentially more chance of agreement than anyone in the room thinks. He said that sometimes the state needs to try something on a targeted basis to see how it works before mandating it statewide. This may be the case here. He said that if the financial burden to dairy farmers and others that may need to fence streams or build more storage is so great, perhaps the state should waive the 12 ½ percent cost-share requirement and pay for the entire structure. He suggested that the farm community and the environmental community look at targeting certain reforms and cost assistance. He said "pilot" projects may be useful to work out the kinks and there may be certain areas of the state that have more impact on the bay and they should be of most concern.

Secretary Bob Summers of MDE supported the observation that there is room to work out a compromise approach. He suggested the option of phasing-in certain requirements. He did say there is a need to prevent too much organic fertilizer from being used on land where the plants are not using it. With regard to animals in streams, he said there may not be a need to fence every mile of stream if alternate watering sources are used with strategic fencing.

The Governor's staff asked all in attendance to spend time over the next few weeks discussing a compromise approach. A meeting for the first week of January may be called to continue to group discussion.

Maryland Farm Bureau members who would like to offer advice or comments about the meeting described above or about the potential for compromise language should email Val Connelly at [valeriec.mdfb@verizon.net](mailto:valeriec.mdfb@verizon.net). To review earlier summaries of the regulations or the MFB letter filed as official comments, please go to [www.mdfarmbureau.com](http://www.mdfarmbureau.com). All previous GRBs can be found under the Government Relations tab along the top of the page.

## Septic Task Force Report

The Governor's Task Force on Sustainable Growth and Wastewater Disposal has published its final report. The report makes 24 recommendations to the Governor, many of which may be considered in the 2012 Maryland General Assembly session.

Some of the recommendations include: New funding to direct growth into Priority Funding Areas; regulatory relief to encourage development in designated areas; a Comprehensive Plan Tier Approach designed to significantly slow growth on septic systems in areas designated for preservation (which may be similar to the 5-lot limit for septic development on farms that was in last year's bill); a requirement for best available technology for all septic systems used in new construction in the Chesapeake Bay watersheds, in nitrogen impaired watersheds and for replacement systems in the Critical Area; increasing the Bay Restoration Fee (or flush tax) to \$60 in 2013 and \$90 in 2015; estate tax reform for farms; a study

of reforestation/afforestation regulations on prime and productive farmland; a TDR pilot project and more. The report and presentations made to the Task Force can be viewed at the following links:

[Click here for the final report >>](#)

[Click here for the cover letter >>](#)

[Click here for presentations and handouts from previous meetings >>](#)

## Plan Maryland Update

Despite calls from various stakeholders from across the state to slow the process and allow for more General Assembly input, Governor O'Malley yesterday issued Executive Order (EO) 01.01.2011.22 (attached) officially implementing PlanMaryland, Maryland's State Development Plan. Being sold as a means to coordinate the smart growth efforts and programs of all state agencies, the Plan has the real potential to redirect state resources from less developed, rural areas and instead prioritize infrastructure and capital funding in more urbanized areas of the state.

Not having an opportunity to thoroughly review the latest changes to the Plan published yesterday, it appears the undefined progress benchmarks have been removed. However, there remains much need for stakeholders to maintain involvement as implementation moves forward. The next steps involve the development of Planning Area Guidelines that will establish criteria for identifying appropriate locations for Planning Areas that the State will then use to direct their resources in order to achieve the goals and objectives of the Plan. The EO calls for various forums and meetings to be held to explain future draft Planning Area Guidelines. State agencies will have 180 days from issuance to report on their efforts to implement PlanMD and the SmartGrowth Subcabinet shall report within 240 days a summary of how each State agency intends to implement the Plan.

An Executive Summary and the full Plan may be found online at <http://plan.maryland.gov>. For more information or to provide comment, contact Kurt Fuchs at [kurtf.mdfb@verizon.net](mailto:kurtf.mdfb@verizon.net).

## National Legislative Update

### **Latham Introduces Bill Countering Child Farm Labor Proposal**

Rep. Tom Latham (R-Iowa) on Friday introduced a measure that expresses the sense of the Congress that "the Secretary of Labor should recognize the unique circumstances of family farm youth and multi-generational family partnerships in agricultural operations when drafting regulations under the Fair Labor Standards Act."

Latham's legislation, co-sponsored by Rep. Dan Boren (D-Okla.), is a response to a proposal by the Department of Labor that would affect the ability of growers to hire youth, limit training offered by the Cooperative Extension Service and vocational educational programs such as 4-H and FFA and also potentially affect the existing family farm exemption. In addition, the new rules could prevent young people from doing other types of work that isn't directly agricultural but related to agriculture, such as

jobs connected with grain storage. Farmers and ranchers are worried that the proposed rules could significantly affect the way families work their operations. DOL is currently reviewing public comments on its proposal.

[News release from Rep. Latham](#)

[AFBF news release](#)

### **Bill Exempts CAFOs From Some EPA Reporting**

The \$1 trillion omnibus spending bill that President Barack Obama is expected to soon sign contains an extension of the exemption for concentrated animal feeding operations from having to report to the Environmental Protection Agency the amount of greenhouse gases they emit.

The measure prohibits the use of federal money for reporting rules for manure storage or stabilization systems with methane and nitrous oxide levels above certain thresholds. The nine-bill package also contains a provision barring EPA from moving forward with a final rule on greenhouse gas emissions that could require farmers and ranchers to get Clean Air Act permits.

Obama's signature, expected by Dec. 23, when the most recent continuing resolution expires, is the final step in the fiscal year 2012 appropriations process.