

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 974

(Chair, Environmental Matters Committee)(By Request -
Departmental - Agriculture)

Environmental Matters

Education, Health, and Environmental Affairs

Nutrient Trading - Voluntary Agricultural Nutrient Credit Certification Program

This departmental bill authorizes the Maryland Department of Agriculture (MDA) to establish requirements for the voluntary certification and registration of nutrient credits on agricultural land. The requirements must include (1) application and eligibility requirements for certification; (2) standards for quantifying nutrient credits resulting from any existing or proposed agronomic, land use, and structural practice; (3) requirements governing the duration and maintenance of credits; and (4) establishment of a credit registry accessible to the public. The Secretary of Agriculture is authorized to suspend or revoke approval or certification of nutrient credits when specified violations occur. The bill does not (1) supplant or limit the Maryland Department of the Environment's (MDE) authority to establish eligibility and other requirements for the use of nutrient offset credits; or (2) affect the rights and obligations of any party to any agreement to preserve land for agricultural use. The bill expresses legislative intent that MDA retain the authority to establish requirements for the voluntary certification and registration of nutrient credits on agricultural land.

The bill takes effect June 1, 2010.

Fiscal Summary

State Effect: None. The bill generally codifies a program that MDA has already begun to establish.

Local Effect: None.

Small Business Effect: MDA has determined that this bill has a meaningful impact on small business (attached). Legislative Services disagrees with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: The Secretary of Agriculture has general supervision, direction, and control of the provisions of the Agriculture Article and generally of all matters in any way affecting or relating to the fostering, protection, and development of the agricultural interests of the State.

Background: Nutrient trading is a market-based approach for protecting and improving water quality. Nutrient trading involves (1) establishing a total amount of allowable pollution in a specified area and allocating this amount among the participating sources; and (2) allowing sources to trade in ways that meet local and watershed-wide water quality goals. Once pollution allowances are allocated, sources with low-cost pollution reduction options have an incentive to reduce nutrient loadings beyond what is required of them and to sell the excess credits to sources with higher control costs. This framework allows sources facing high pollution reduction costs to purchase less costly reductions from other sources, but the reductions must be made and paid for.

Virginia became the first state in the Chesapeake Bay watershed to issue nutrient trading rules when it created the Chesapeake Bay Watershed Nutrient Credit Exchange Program in 2005. The program targets trading between wastewater treatment facilities (point source to point source) at present. Virginia is also developing a nonpoint source guidance document for agriculture and has approved a nonpoint source nutrient bank. Pennsylvania is also involved with nutrient trading efforts. Pennsylvania has established an online nutrient trading tool and two wastewater treatment facilities in the state have brokered trades for the purchase of agricultural credits.

Nutrient Trading in Maryland

In early 2008, MDE issued a nutrient cap management and trading policy that outlines fundamental principles and guidelines for nutrient trading in Maryland. It also spelled out the requirements and procedures for nutrient trades between wastewater treatment plants. When this policy was released, it was recognized that trading between point and nonpoint sources, such as agriculture, presented some unique issues. In response, an agricultural nonpoint nutrient trading advisory committee was formed to help MDA develop policy for this area. The committee issued two comprehensive documents in April 2008 recommending requirements and procedures for point and nonpoint agricultural nutrient trading.

MDA and its partners have begun to develop an agricultural nutrient trading program. MDA secured a \$512,000 Conservation Innovation Grant from the U.S. Department of Agriculture to implement a nutrient trading program in fiscal 2010 through 2012. MDA's ecosystem program markets coordinator is currently working to design a web site and an online trading tool called Maryland NutrientNet. Maryland NutrientNet will be a suite of web-based tools that facilitate market-based approaches to improving water quality. MDA expects to complete modification and initial testing of Maryland NutrientNet by June 30, 2010. MDA's future agricultural nutrient trading program efforts include:

- implementing training sessions on the use of Maryland NutrientNet for MDA staff, soil conservation district staff, and program partners in Delaware and West Virginia;
- planning a series of public meetings on nutrient trading throughout the State; and
- developing and integrating a livestock and poultry component into the Maryland NutrientNet tool.

Small Business Effect: Because the bill generally codifies a program that MDA has already begun to establish, the bill alone is not expected to have a meaningful economic impact on small businesses. However, Legislative Services concurs that MDA's current efforts to develop a framework for certification and standards for nutrient credits traded in public/private ecosystem markets have a potentially significant economic effect on small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Garrett, Howard, and Montgomery counties; Department of Natural Resources; Maryland Department of Agriculture; Maryland Department of the Environment; World Resources Institute; Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2010
mam/lgc Revised - House Third Reader - March 23, 2010

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Nutrient Trading – Voluntary Agricultural Nutrient Credit Certification Program

BILL NUMBER: HB 974

PREPARED BY: Maryland Department of Agriculture

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

X WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation provides certification and standards for credits traded in public/private ecosystem markets. Trades involve thousands to hundreds of thousands of dollars for ecosystem offsets or credits. Private or public buyers pay farmers and landowners for goods and services. Other businesses, consultants and technical service providers are paid for management, verification, inspection and monitoring.