Minnesota Farm Bureau Federation®

January 26, 2016

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Larry Gunderson
Pesticide and Fertilizer Management Division
Minnesota Department of Agriculture
625 Robert Street North
St. Paul, MN 55155-2538

Dear Mr. Gunderson:

Minnesota Farm Bureau is extremely interested in the actions planned by the Department of Agriculture as the process continues in development of rules related to the Nitrogen Fertilizer Management Plan. Our members and all Minnesota farmers take the protection of ground water very seriously.

As opposed to over-reaction and inappropriate regulatory activities we want the record to reflect that advances in nitrogen management have been made, particularly in areas with relatively higher potential for nitrate nitrogen losses due to leaching. Many proactive and positive steps have been widely adopted by those who depend on wise use and optimum benefits associated with nutrient management. Some would seek to misrepresent this point, in spite of the way in which MDA and University of Minnesota reports show high rates of adoption of currently recognized nitrogen fertilizer BMPs.

We wish the record to properly represent that the issue of nitrate effects on groundwater is very complicated. We strongly encourage that you carefully examine and document for public review all the relevant data that is made available during the rulemaking process. We offer the following comments to assist you and to help insure that the rules developed under the Nitrogen Fertilizer Management Plan (NFMP) might reasonably be expected to achieve the goal of protecting groundwater from adverse impacts of nitrogen fertilizer use.

The NFMP clearly outlines that the plan (and thus the associated rule) applies to those areas of the state where groundwater is vulnerable to contamination, generally those areas with sandy soils or karst geology. Even though this is a statewide plan, the context of considered activities needs to properly focus on a small fraction of the state where contamination is an issue. The MDA estimates in the NFMP that 250-350 townships (15-20% of all townships) may be targeted for nitrate testing. The MDA should clearly state this focus of the NFMP and rule and clearly state that all other areas are not subject to the proposed rule.

The MDA should refrain from using statewide statistics, which are not relevant given the clearly defined areas of focus outlined in the plan. As an example the fact that "three out of four Minnesotans rely on groundwater for their drinking water supply" may be true, but it would be more useful to know how many Minnesotans get their drinking water from groundwater in the areas of focus covered by the NFMP. Likewise, statewide crop acreages, fertilizer sales and related figures mean little in the context of actually focusing on and prioritizing efforts to protect vulnerable groundwater.

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We agree with the MDA's conclusion that tile drainage should not be a priority under the NFMP as the co-incidence of tile drainage and vulnerable groundwater is extremely minimal.

Farm Bureau policy explicitly takes exception to the proposed use of a domestic well testing program offered in the MDA Nitrogen Fertilizer Plan. We strongly recommend that the MDA exclude wells of questionable construction or with known problems from their groundwater assessments. While it is important for all Minnesotans to have access to safe drinking water, it is also important to account for all the factors for specific areas of concern and not entirely limit the consequences on commercial agricultural fertilizer use. Is the actual impact due to septic systems or feedlots? Is the nitrate condition ongoing or due to decades-old contributions? The answers to these questions may also vary considerably across the state.

In order to adequately engage local stakeholders and bring in local knowledge of water conditions and farming practices, we strongly suggest that the MDA work diligently with local advisory teams once priority areas have been identified. These local advisory teams should include farmers and agronomists with knowledge of local conditions and their input should be both actively sought and highly regarded.

Regarding part one of the proposed statewide rule, we again emphasize that the plan may be statewide, but it will only apply in areas with vulnerable groundwater. In these areas, the restriction of fall and frozen soil applications will provide a means for the MDA to insure that all farmers are following this recommended BMP. We would encourage the MDA to allow for exceptions for phosphorus fertilizers containing small amounts of nitrogen, such as MAP or DAP, in instances where fall application is part of an overall conservation strategy to reduce soil erosion.

We want to express our concern with arbitrarily defining "fall" as time after August 1. If this timeframe will be used for regulatory purposes, substantial documentation and research findings should be given for justification. It should also be clearly indicated that it would only apply to areas with vulnerable groundwater classification.

Even though the impact for typical farm or ranch businesses might not exceed $25,000 in association with the basic rule, it should be clearly noted that further requirements by MDA for Alternative Management Tools and consequences of restrictive crop choices might force costs above $25,000 for some farms and fertilizer retailers.

With regards to the question of criteria for vulnerable groundwater areas, we understand the difficulty of defining geography for purposes of a rule, given the highly variable nature of soil types and their shapes. We do insist that the rule would incorporate the concept that MDA define coarse textured soils based on NRCS classifications as dominated by sand and loamy sand. We also suggest that the MDA develop criteria that more accurately reflects the variability in groundwater vulnerability throughout the karst region. Even in this area, some areas have greater topsoil depths that reduce vulnerability and fall nitrogen applications can be done without undue risk of groundwater contamination.

While the township scale proposed by the MDA should be small enough to address local condition, we would suggest that the MDA also consider some exemptions for those townships in which there are clear and marked differences in soil type and groundwater vulnerability across a township.

With regards to reasonable notification, we recommend notification be sent to affected counties and townships, farm/commodity organizations and Extension professionals. The newly formed Nitrogen Fertilizer Education and Promotion Team should also play an integral role in guiding MDA efforts.

We also encourage the MDA to support ongoing educational programs of Minnesota farm/commodity organizations and the Minnesota Agricultural Water Resource Center, especially the annual Nutrient Management Conference and the annual Nitrogen Fertilizer Management Conference.

Minnesota Farm Bureau looks forward to continued involvement in this on-going process and being able to trace these and other recommended ideas as having been considered and used in the final product of the rule-making process.

Sincerely,

Kevin Paap

Kevin Paap
President

KP/kfo