



The *Minnesota State*
Cattlemen's Association
P.O. Box 12 - Maple Plain, MN 55359

www.mnsca.org ▪ mnsca@mnsca.org ▪ 612-618-6619

8/25/2017

Minnesota Department of Agriculture
Attn: Larry Gunderson
Fertilizer Technical Unit Supervisor
625 Robert St. North
St. Paul, MN 55155
Larry.Gunderson@state.mn.us
651-201-6168

RE: Draft Nitrogen Fertilizer Rule

Dear Mr. Gunderson,

Thank-you for the opportunity to comment on the Minnesota Department of Agriculture's draft Nitrogen rule. Minnesota is home to over 16,000 beef farmers and ranchers. In a 2016 economic contribution study, it was found that Minnesota's beef industry contributes \$4.9 billion and 47,300 job to the state. Each one of Minnesota's beef farms and ranches, regardless of size, creates jobs and economic stimulus for rural communities.

Water quality is a top priority for Minnesota farmers and ranchers. Minnesota's farmers, along with agronomists and fertilizer retailers are committed implementing best management practices to ensure the safety of drinking water, now and for future generations. These same farmers are also committed to proving a safe, health and wholesome food supply to feed a hungry world. We believe that safe drinking water and a prosperous agricultural industry can exist together.

With continued market volatility within the beef industry, farmers and ranchers are persistently monitoring inputs to sustainably maintain margins and function as a profitable operation. Because of this, we agree with the intent of the proposed rule to help insure that nitrogen fertilizers are used as efficiently as possible and in accordance to science based best management practices (BMPs). We do not agree with the overall, one size fits all, approach to the implementation to this rule.

Listed below, you will find specific sections of the Nitrogen Fertilizer proposed rule that MSCA members have found to be especially concerning.



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Section 1573.0010 Definitions. Subpart 13. Nitrogen fertilizer definition.

In section 1573.0010 Definitions, nitrogen fertilizer is defined as a substance containing nitrogen that is designed for use or claimed to have value in promoting plant growth. This section specifically claims to not include animal manures that have not been manipulated. We have concerns about this definition. Farmers are continually looking for ways to add value to manure through practices like composting or, through the inclusion of additives to prevent pit foaming and/or to enhance nutrient retention. These practices could be interpreted as manipulation of manure and would theoretically include manure as a Nitrogen fertilizer under this rule. We propose the word “manipulated” be removed from the definition of as farmers should not be penalized for following best management practices for manure storage or adding value to the manure produced on their farms.

Section 1573.0010 Definitions. Subpart 11. Local advisory team.

Throughout the development of the updated Nitrogen Fertilizer Management Plan and in the MDA's presentations on the proposed rule, significant emphasis has been placed on the involvement of local advisory teams, especially farmers and their nutrient management advisors or crop consultants. We propose deleting the requirement that local advisory team members “provide support” to the commissioner for the implementation of the response activities. As stated in the name, the function of the team is to “advise” the commissioner, not provide funding for this regulatory program.

Section 1573.0030 Statewide Water Resource Protection Requirements.

This section, generally referred to as part one of the rule, should be deleted in its entirety. All definitions and other language relating to part one of the rule should also be deleted. As MDA staffers have stated during listening sessions on the proposed rule, “we got this wrong”. The area defined as vulnerable by the MDA is unreasonable, as evidenced by your own water testing data. MDA staff acknowledge that current adoption of recommended nitrogen practices is very high. We agree, and suggest that rather than a rule restricting the timing of nitrogen applications, the MDA increase its support of University of Minnesota Extension research and education programs that focus on what causes high nitrates in the groundwater, where different areas of groundwater originate from, and what mitigating measures if any actually will reduce nitrate levels in the groundwater. The MDA should also increase its support of industry-led initiatives, such as the Discovery Farms program and nutrient management education events. These programs should be expanded through the prioritization of Clean Water Funds. The MDA should also provide funds from their Clean Water Fund allocation as matching funds



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to increase nutrient management research conducted via the Agricultural Fertilizer Research and Education Fund (AFREC).

Section 1573.0040 Private Wells; Mitigation Level Designation Subpart 2. Evaluation of nitrate-nitrogen concentrations in groundwater

The MDA's Township Testing Program County reports show that in some townships the number of wells is very small, sometimes due to a low number of wells and sometimes due to low participation. We propose that the MDA put forth greater effort targeting those areas in Level 2, 3 and 4 to ensure that all residents are made aware of groundwater conditions in the county by requiring that at least 80% of wells in the township be tested and screened for potential non-fertilizer nitrate sources prior to level 2, 3 or 4 designations.

We also ask the MDA to provide greater emphasis on the difference between initial and follow-up sampling, as first round results can be misleading. It is extremely important for all stakeholders to know that wells that may be influenced by nitrate sources other than fertilizer are NOT being used in the determination of mitigation level. Township well testing reports should not be released until after round two testing has been completed and all ineligible wells have been removed from the dataset.

Subpart 3. Designation of nitrogen fertilizer best management practices and mitigation levels.

The language relating to local advisory teams should be changed from "the commissioner may form a local advisory team" to "the commissioner shall form a local **township level** advisory team".

Subpart 5. Nitrogen fertilizer best management practices evaluation.

In this section, and in other parts of the proposed rule referring to nitrogen BMPs, we are very concerned about the complexity of evaluating nitrogen management practices and the direct connection with groundwater. While we fully support the commissioner's intent to ensure that farmers are using nitrogen as efficiently as possible, factors such as weather greatly influence crop growth and nitrogen uptake. We are concerned that the general recommendations currently found in University of Minnesota's BMPs are not well understood and there is a perception that the MDA may set unreasonable nitrogen rate limits through this regulation. This issue is compounded by the fact that the MDA has taken on a larger role in nutrient management education by choosing to add nutrient management staff within its own ranks. As it takes on a larger role in regulation, the MDA should provide additional funding to the University of Minnesota, Extension, and agricultural organizations for the purposes of



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determining groundwater historic levels and causes, BMP research, and nitrate education. Direct MDA activities should be confined to the regulatory functions you are now creating, specifically water monitoring and BMP adoption assessment.

Section 1573.0090 Requirements for Site-specific Water Resource Protection Requirement Orders

The requirement to maintain records and provide records to the commissioner, points A.1. and A.2., should be deleted.

Section 1573.0120 Alternative Management Tools; alternative protection requirements
Subpart 1. Authorization

The purpose of alternative management tools should be to allow alternative approaches to water resource protection. As such, this subpart should be amended from “in addition to the requirements” to “in lieu of the requirements” contained in the water resource protection order.

As previously stated, water quality is a top priority for Minnesota farmers and ranchers. We ask the Department of Agriculture to focus on helping farmers implement effective groundwater best management practices that work on individual farms, rather than another one-size fits all approach to BMP implementation.

Kindest Regards,

Krist Wollum
MSCA President