

House Agriculture & Rural Affairs Committee
Public Hearing – SB 251 Fertilizer Law
PA Department of Agriculture
Russell Redding, Secretary
October 25, 2021

Chairman Moul, Chairman Pashinski, and members of the House Agriculture and Rural Affairs Committee, thank you for the opportunity to speak on Senate Bill 251, Senator Yaw's Fertilizer Bill. I am joined by my colleague, Erin Bubb, Division Chief of Agronomic and Regional services in the Department's Bureau of Plant Industry. I am grateful for Senator Yaw's leadership as a member of the Chesapeake Bay Commission and for his vision in pursuing this critical legislation in Pennsylvania.

Members who served on the committee in 2018 may remember my testimony on SB 792, a precursor to SB 251. Since we last spoke on this topic, we have continued to make improvements to this legislation based on significant stakeholder input from critical partners such as the Pennsylvania Landscaping and Nursery Association and the Chesapeake Bay Commission also testifying today. I'm proud to explain how this legislation will maintain the quality of fertilizer available in Pennsylvania and improve water quality in every watershed. This legislation is as important for the stream or creek in your hometown or backyard as it is for the Chesapeake Bay watershed, which is why I'm especially proud of the statewide and holistic approach we have worked hard to develop.

To begin with, Pennsylvania's Fertilizer Act was passed in 1956 and has not been substantially modernized since. Without updates to establish best practices, application rates, and professional certification, Pennsylvania waterways are at risk of nutrient runoff from urban and suburban areas. While I am proud that Pennsylvania leads the nation in farmland preservation, we continue to see farmland sold to development throughout the commonwealth. When that land was in the stewardship of farmers, it was covered by nutrient management plans and we continue to invest in and encourage best management practices to improve productivity and water quality. Once the land is sold, that accountability and stewardship no longer applies to housing developments and lawns. Currently, homeowners investing in lawncare services have no way to know if the employees applying fertilizer to their yards are properly trained, and the Department of Agriculture has no authority to investigate irresponsible or illegal applications. Pennsylvania does not and has not received any credit towards the state's Chesapeake Bay Phase 3 Watershed Implementation Plan (Phase 3 WIP) for the current Fertilizer Act, and updating the Fertilizer Act was included as a recommendation to make sure we are getting credit. Various states in the Chesapeake Bay watershed have passed urban fertilizer laws to achieve and receive credit for reductions in fertilizer applications in urban and suburban areas. Pennsylvania is seeking a Commonwealth-wide solution for cleaner waters while promoting innovation through technology and product development.

Senator Gene Yaw introduced SB 251 with strong bipartisan support, where it passed the Senate 47-1. This bill was developed through extensive stakeholder engagement process including Pennsylvania-based scientists and research institutions, industry, including the PA Landscaping and Nursery Association, fertilizer manufacturers, and entities that would be licensed as certified applicators, the Fertilizer Advisory Board, local government stakeholders, the Environmental Protection Agency, and advocates, all with the goal of lowering nutrient loads to Pennsylvania waters. For the first time in Pennsylvania's history, this bill would create a professional certification program for accountability, and it would restrict or prohibit irresponsible fertilizer applications by all users.

This bill seeks to level the playing field so everyone, not just farmers, can do their part to decrease nutrient runoff and be part of the solution for cleaner Pennsylvania waters. Once passed and implemented, the Fertilizer Bill is identified as a solution for achieving necessary credit in Pennsylvania's Phase 3 WIP. The bill will:

- 1. Establish best practices for use of fertilizer.** Best practices describe when and where fertilizer can be applied to maximize effectiveness. For lawn fertilizer, application rates for total nitrogen would be established and phosphorus application would be prohibited, except under approved conditions.
- 2. Create a certification program for commercial and public applicators of fertilizer.** All commercial or public fertilizer applications in categories of agronomic, fruit, vegetable, ornamental, lawn and turf, right-of-way, parks and schools, or aerial applications would be held to program certification standards including licensing, training, record-keeping, and continuing education. Current certified pesticide applicators who have passed applicable pesticide exams would receive a fertilizer applicator certification without additional testing. The bill would license all businesses applying fertilizer.
- 3. Promote homeowner and private agricultural fertilizer education through public outreach.** Education on the proper use, handling, and storage of fertilizers would be supported by the Department through consultation with the Pennsylvania State University and industry representatives.
- 4. Enhance required labeling of all fertilizer products.** Labels would include directions for use, best practices, and prohibited uses to ensure applicators are responsible for the proper use, storage, and disposal of fertilizer.
- 5. Provide for the preemption of local laws and regulations.** It would be prohibited for a local agency, homeowner association, or political subdivision to develop ordinances or rules related to fertilizer registration, packaging, labeling, sale, transportation, distribution, use, or application of fertilizer to conflict with or be more stringent than the PA Fertilizer Act.
- 6. Re-establish enhanced reporting requirements.** The intended use of fertilizer would be reported to the Department (agricultural, non-agricultural, other). This provision is critical to provide aggregate data to EPA for WIP credit.
- 7. Provide a broad-based increase of fees while repealing the separate classification for small package fees for inspections.** Manufacturing/Guarantor license and product registration fees were last increased in 1984. The tonnage and inspection fee were last increased by \$0.02 per ton in 2001. The bill also repeals the current \$25 inspection fee for small package fertilizer. Future proposed fee increases would be reviewed at a public meeting to ensure that revenue generated by fees would support no more than the certification program, public education and outreach, and costs to run the program.

Stakeholders who support this legislation include PLNA, the Lawn & Horticultural Products Work Group, the County Commissioners Association of Pennsylvania, as well as fertilizer manufacturers and distributors such as Growmark FS and Scott's Miracle-Gro. We are heartened to see broad support for this legislation, and we appreciate the efforts of all of our stakeholders to create legislation that provides such a significant return on investment.

We would be happy to address any questions members of the committee might have at this time.

Thank you.