

Summary of Senate Agriculture Proposed Changes to S. 49 as Introduced  
Prepared by Cameron Wood

**Sec. 1 – PURPOSE**

- Changed to engage all municipalities, agriculture operations, businesses, and other interested parties

**Sec. 2 – AAP AND BMP**

- Added to the AAPs that a farmer may petition the Secretary to reduce the size or change the type of perennial buffer based on site-specific conditions
- Changed BMP language to have the Secretary provide specific financial information
  - When requiring a BMP the Secretary shall inform of financial resources available from State and federal sources, private foundations, public charities, or other sources
- If a perennial buffer of trees or woody vegetation is required as a BMP – the Secretary must pay the farmer for a first priority easement

**Sec. 3 – REVISION OF AAPs**

- Fleshed out the subsection prohibiting the stacking of manure and storage of nutrients
  - Cannot stack manure or store fertilizer or nutrients in:
    - A manner that presents a threat of discharge to a water of the State or contamination to groundwater
    - On lands in a floodway or subject to annual flooding
  - Changed the distance of stacking manure or storing nutrients from 100 feet to 200 feet of a private well or waters of the State
- Combined the subsection establishing standards for nutrient management and the subsection requiring a nutrient management plan on farms that deal with agriculture waste
- Described a ditch as being neither a surface water under State law nor a water of the U.S.
- Added that the Secretary shall establish standards for site-specific vegetative buffers
  - This is in combination with the addition to the AAPs that a farmer can petition to change the buffer size or type based on site-specific conditions. Here the Secretary has to establish standards for dealing with site-specific buffers.
- Added that the Secretary shall establish standards for soil conservation such as cover cropping
- Added section allowing for alternative techniques or practices when a farmer cannot comply with the AAPs due to site-specific conditions. These alternative techniques must be approved by the Secretary and must meet State requirements to reduce adverse impacts to water.

**Sec. 5 – SMALL FARM CERTIFICATION**

- Changed that the Secretary shall “establish” the requirements and manner of certification. As the bill was introduced it said the Secretary shall “certify” the requirements and manner of certification. – As introduced the wording was confusing.

## **Sec. 6 – AGRICULTURE WATER QUALITY TRAINING**

- Clarify that requirements for Agriculture water quality training of farmers shall be established by rule and not by procedure
- Added that the training should address standards required for nutrient management planning
- Added the ability of 3rd parties to do the training – the Secretary may authorize them
- Added that the Secretary shall not charge farmers for the training – the money shall come from funds available to the Agency for water quality initiatives

## **Sec. 7 – CUSTOM APPLICATOR**

- Changed the definition of a custom applicator to someone that owns a business that engages in the business of applying manure, nutrients, or sludge
- Changed the requirement of training for seasonal employees to a “shall” from a “may”

## **Sec. 8 – AGRICULTURE ENFORCEMENT**

- Added that the Sec. shall notify a farmer within 3 business days when the Sec. receives a complaint and determines there is a violation. The Secretary has to notify the farmer that there was a complaint and the action complained of. The Secretary shall not be required to reveal the source of the complaint.
- Added a section that allows the court to take into account additional relevant factors when assessing a civil penalty

## **Sec. 22 – CLEAN WATER FUND AND BOARD**

- Added a purpose section to the fund – the fund shall be used to:
  - Assist the State in complying with water quality requirements
  - Provide necessary funding for staffing positions
  - Provide funding to non-governmental entities for water quality programs and projects
- Required the two public members of the board to be farmers
- Recommendations of the board:
  - Added requirement that all recommendations of the board should be intended to achieve the greatest water quality gain for the investment being made
  - Recommendation should provide equitable apportionment to all areas of the State and to point and non-point source pollution
  - Added priorities for the board’s recommendations
    - Shall prioritize
      - Funding for the necessary staff; funding to impaired waters; funding to significant contributors of pollution; funding to address or repair riparian conditions; funding to assist municipalities; funding for education, outreach, and access to tools for AMP implementation
    - May Prioritize
      - Funding to education for implementing water quality; funding for innovative or alternative techniques; funding to purchase agriculture land that cannot meet water quality requirements

- Board shall develop protocols for how the agencies submit proposed recommendations of awards from the fund
- Added to the annual investment report
  - The summary of investments shall also include the cost-effectiveness of those investments
  - Report shall include a summary of the additional funding sources pursued by the board, whether that funding was attained, and where it was spent
  - The board shall develop and use a results based accountability process in publishing the report
- Added a clean water fund audit
  - Due in January 2020
  - Includes:
    - Summary of expenditures, including projects and programs
    - An analysis and summary of the efficacy of the projects
    - An evaluation of whether the projects and programs are achieving the intended benefits
    - Recommendation of whether the fund should continue and at what levels
  - The audit is required to be conducted by a qualified, independent environmental consultant or organization

**Sec. 23 – PER PARCEL FEE**

- Removed the impervious surface fee and the fertilizer fee.
- Added a per parcel fee
  - \$0.50 per acre on enrolled forestland
  - \$1.00 per acre on other land
  - Minimum of \$25.00
- Not assessed on exempt parcels
- Collection
  - Done by municipalities as part of tax bill
  - Listed separately but collected together with the tax bill
  - Municipality shall not be required to remit to the State the full amount for all parcels within the municipality
- \$10.00 additional fee for failure to pay – along with other applicable fees
- Repealed on July 1, 2021

**Sec. 26 & 27 – AGENCY POSITIONS**

- Appropriated money to the Agency of Agriculture, Food and Markets and the Department of Environmental Conservation for the necessary positions.
- Money comes out of the clean water fund
- The clean water board has to prioritize the continued payment for these positions in their recommendations