



Testimony

Senate Environmental Resources & Energy and
Senate Agriculture & Rural Affairs Committees
Regarding The Proposed
Nutrient Trading Credit Trading Program Act

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Offered by
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Good morning. I am Joel Rotz, State Governmental Relations Director for Pennsylvania Farm Bureau, on whose behalf I appear before the Committee today. Pennsylvania Farm Bureau is a statewide general farm organization that represents more than 44,000 farm and rural families in the Commonwealth. We appreciate the opportunity to provide you our thoughts concerning the need to adopt Senate Bill 1493, the proposed Nutrient Trading Program Act.

In an effort to meet nutrient and sediment reduction goals, the Chesapeake Bay watershed is currently facing the need to reduce nitrogen loadings in the watershed by 60 percent, Phosphorus by 70 percent and sediment by 75 percent. In 2003, DEP began developing the Chesapeake Bay Tributary Strategy. This state Tributary Strategy was required of all Bay states participating in the Chesapeake 2000 Agreement, to demonstrate how each would meet the newly established nutrient and sediment load allocations necessary to restore the Bay by 2010. Based on 2002 estimates, agriculture has been held responsible for contributing approximately 63% of the total Phosphorus, 49% of the total Nitrogen, and 72% of the sediment delivered from Pennsylvania waters into the Bay.

The Department of Environmental Protection estimates the cost for agriculture to meet water quality goals in the Chesapeake Bay Watershed alone is \$600 million. The Fair Share Coalition partners all understand water quality goals in the bay region will not be met without expansion of best management practices on our farms to address sediment and nutrient

reductions. That expansion will not occur without adequate funding of core programs in our state budget as well as establishing a viable nutrient trading program.

Pennsylvania Farm Bureau supported significant funding for municipal authorities to upgrade sewage treatment plants in meeting water quality mandates as part of the Fair Share Coalition's efforts. However, we quite frankly feel agriculture has been left behind in funding assistance. We don't begrudge the fact that funding provided in recently passed legislation will greatly assist municipal authorities in upgrading sewage treatment plants and help limit the financial impact on sewage treatment ratepayers. Yet the financial impact on individual farmers in the bay watershed will be far greater than the estimated doubling or tripling of sewage rates on ratepayers that would have occurred without state assistance.

With respect to Pennsylvania's nutrient trading program, let me offer some preliminary thoughts on the expectations that the agricultural community had originally when Farm Bureau and other stakeholders who met during the 18-month process to develop the nutrient trading program. I think it is fair to say that neither Farm Bureau nor any other stakeholder expected nutrient trading to be the magical answer to the overall effort to meet nutrient reduction goals in the Chesapeake Bay. Time and again, stakeholders restated their belief that nutrient trading would be just one tool to be utilized in the overall effort to meet nutrient loading reduction goals.

Farm Bureau viewed the value of nutrient trading in the context of farmers' overall efforts to implement best management practices (BMPs) on their farms. We saw nutrient trading to be another means by which farmers could finance costs to improve environmental management of their farms and reduce overall costs associated with nutrient reduction. The basic premise on which the concept of nutrient trading works in this case is that farmers applying best management practices are more likely to achieve nutrient reductions at a lower cost per unit than a sewage treatment plant can. Consequently, the sewage treatment plant can achieve a greater reduction of nutrient loadings for each dollar spent by investing in farm practices rather than more costly sewage treatment facilities. Although some were hopeful that nutrient trading might provide significant assistance for farmers in meeting water quality goals, we were not envisioning the nutrient trading program as eliminating the need for funding in key state programs identified in the PA Fair Share for Clean Water Plan which we continue to advocate.

Keep in mind that nutrient trading can only occur on farms that have met a threshold of controlling nutrient runoff that many farmers have yet to reach. While nutrient trading can assist farmers in meeting higher nutrient reduction levels, financial assistance is still needed in helping many of our family farms meet the reduction levels necessary for farmers to begin generating credits available for trading.

Passage of Senate Bill 1493 is needed to resolve the core issue of concern that we believe prohibits a viable nutrient trading program from taking root now that it has been created. The basic problem is as simple as the application of the economic principle of supply and demand, or to use a farm analogy we have a “chicken and egg” problem. I believe most in this room understand if you want to have an egg, you need to have a chicken, but how do you have the chicken without first having the egg? Both components are needed to get started, yet one creates the other.

How does a farmer invest in best management practices that go beyond what is needed for a baseline of environmental compliance without knowing for certain how he will finance the additional costs he will incur in implementation? Without some appreciable demand in place, it will be difficult for farmers to seriously consider and incorporate plans for nutrient credit generation and trading in their total nutrient management plan. BMPs are generally not cheap and cannot be immediately put in place. The existing lack of demand does not provide the predictability needed to measure and offset costs that farmers will need to incur for BMP implementation.

How does a municipal authority or builder invest in best management practices on a farm without some assurance of what the return will be in meeting environmental compliance? There is a natural lack of confidence among purchasers, who may need to rely on purchased nutrient credits to meet permit requirements, that the credits they purchase will actually be

generated. Most purchases of nutrient trading credits will be done to meet the purchaser's nutrient loading demands under federal or state water quality permits. Purchased credits will become a basis by which compliance with the purchaser's federal NPDES permit or state clean streams permit will be measured.

There is a fear among potential purchasers that reliance on nutrient trading to meet permit requirements will leave them vulnerable to the wrath of sanctions for permit violations if sellers do not follow through with their promise to implement BMPs. The existing nutrient trading program has tried to address this issue through a dedication by sellers of a percentage of credits to a "credit reserve" pool that would be tapped in the event any individual seller does not carry out the obligation to implement BMPs.

The reserve pool has not allayed the fear among purchasers. It is our understanding that many municipal officials have decided not to accept any plan for nutrient control offered by developers that involve the use nutrient credits. We understand the potential risk and consequences for permit violation that could befall a permit holder who tries to purchase nutrient credits in good faith only to find out later that the credits he or she relied on were not generated.

For any nutrient trading program to be viable, it must provide absolute assurance that permit holders who purchase nutrient credits in good faith to meet permit requirements will not be subject to sanctions in the event the

seller does not carry out the practices necessary for actual generation of credits.

Senate Bill 1439 establishes a Nutrient Credit Trading Board whose primary focus would be to adopt policies and implement programs to purchase and sell nutrient credits in the Chesapeake Bay watershed. In other words, create a dependable supply and demand for nutrient credits to be traded in the marketplace. The bill establishes oversight of the Department of Environmental Protection in approving, calculating, tracking and verifying nutrient and sediment credits to be traded. The Nutrient Credit Trading Board created by this legislation would set fees and payment schedules for the sale of credits. The fees collected would then be used to fund nutrient reduction projects that will generate the credits sold. It seems likely that some seed money will be needed to finance the initial credits that would be available for sale and in essence address the “chicken and egg” concern that impedes having a viable program.

Pennsylvania Farm Bureau continues to be optimistic that nutrient trading can work in the future with the passage of Senate Bill 1439, and can be helpful in moving Pennsylvania toward meeting the nutrient reduction goals outlined in Pennsylvania’s Chesapeake Bay Tributary Strategy.

Thank you again for this opportunity. I will try to answer any questions you may have.