

FACTSHEET

Minnesota Department of Agriculture (MDA) Fails to Prevent Nitrate Contamination in Groundwater/Drinking Water

BACKGROUND

The Groundwater Protection Act of 1989 was adopted to prevent and minimize groundwater degradation. For agricultural chemicals, (in this case nitrogen fertilizer), it requires MDA, to identify and promote practicable voluntary practices that are capable of preventing and minimizing groundwater degradation – called BMPs. If BMP implementation proves ineffective, MDA is authorized to impose mandatory requirements. MDA has announced its intention to adopt such requirements and is seeking public comments on its draft rule language. It is important to weigh in now on this wholly inadequate proposal, which further limits MDA's ability to reduce nitrate contamination in groundwater.

MDA has promoted voluntary compliance with nitrogen fertilizer use recommendations (BMPs) for 26 years, but nitrate contamination is more widespread and severe than it was in 1985. Sadly, groundwater in all agricultural regions of the state is affected by nitrate levels that are unsafe for human consumption. (See Nitrogen Fertilizer Management Plan, link below, at p. 23). Measured evidence indicates the time is passed to adopt protections that will stop and reverse this trend! **Instead, MDA has proposed barriers to action.**

MDA Rulemaking. MDA's proposal would restrict fall and winter nitrogen fertilizer application in vulnerable areas – a good move, but inadequate, as MDA has found the vast majority of farmers already do this. Unfortunately, MDA proposes a lengthy, phased approach before it will move from voluntary compliance with its 26 year-old nitrogen fertilizer use recommendations to required compliance, even in areas where drinking water is severely contaminated. This unnecessarily complex and slow approach ignores existing risks to human health and lets the problem continue to get worse. MDA's proposal, based largely on the recommendations of the [2015 Nitrogen Fertilizer Management Plan](#) (NFMP), fails to require direct action to address groundwater contamination. MDA needs to hear from you now that its rule proposal is too little, too late. Here are a few points to make:

1) **Wrong Triggers to Action--Contaminating Drinking Water Shouldn't Be An Option.**

MDA's proposed rule prohibits the agency from requiring compliance with nitrogen fertilizer use recommendations in many areas with nitrate contaminated groundwater. First, MDA's proposal limits its ability to require mandatory action unless 10 % or more of private wells violate the safe drinking water standard, or public wells approach the health risk limit or an exceedance is imminent. But the Groundwater Protection Act charged MDA to prevent nitrate pollution in *all unconfined groundwaters*, not just in areas where many wells *are already contaminated*. Tell MDA to prevent nitrate contamination in ***all unconfined groundwater***, not just in areas where many wells *are already* contaminated. Second, MDA's rule precludes the agency from requiring farmers to do anything more to reduce groundwater contamination in areas where nitrogen fertilizer use recommendations are followed on 80% or more of cropland. It is unacceptable to allow nitrate contamination to continue in these severely polluted areas.

- 2) **Slow-walking Mandatory Action is Unacceptable.** Necessary actions will be further impeded by MDA's phased approach for requiring compliance with nitrogen fertilizer use recommendations. For example, after MDA has identified an area with nitrate contamination (using the above unacceptable triggers), MDA's proposal prohibits mandatory requirements for at least 3 years. Tell MDA that 26 years is already far too long and that mandatory requirements must begin now where nitrate is elevated in groundwater, wells, or drinking water source areas.

- 3) **We Need Clean Groundwater, not Adoption of Ineffective BMPs.** In many areas of the state, compliance with the nitrogen fertilizer management requirements alone isn't enough to protect groundwater from nitrate contamination. But the rule proposal prevents MDA from requiring anything beyond compliance with nitrogen fertilizer management requirements in areas where drinking water remains contaminated.

The Necessary Details: MDA is holding listening sessions in the coming weeks (click [here](#) for detailed schedule). Written comments are also accepted until August 11, 2017, and can be sent to Larry Gunderson at larry.gunderson@state.mn.us. Relevant materials can be found via the following links:

[MDA's Nitrogen Fertilizer Rule Webpage](#)

[MDA Request for Comments](#)

[MDA Rule FAQs](#)

[2015 Nitrogen Fertilizer Management Plan](#) (see page 23 for contamination info, and pages 74-82 for proposed actions and process).

[Groundwater Protection Law](#)