

Chapter 314

(Senate Bill 748)

AN ACT concerning

Agriculture – Nutrient Management – ~~Waters of the State~~ Limiting Applicability

FOR the purpose of ~~altering the definition of “waters of the State” as it relates to the~~ specifying that certain requirements of the nutrient management program administered by the Department of Agriculture apply to certain surface waters, the Chesapeake Bay and its tributaries, and other certain bodies of water; and generally relating to nutrient management.

~~BY repealing and reenacting, without amendments,
Article – Agriculture
Section 8–801(a), 8–803.6(a), and 8–803.7(e)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Agriculture
Section ~~8–801(n)~~ 8–803.4(e) and 8–803.5(d)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)
(As enacted by Chapters 484 and 485 of the Acts of the General Assembly of 2011)

BY repealing and reenacting, without amendments,
Article – Agriculture
Section ~~8–803.4(e) and (i) and 8–803.5(b) and (d)~~
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)
(As enacted by Chapters 484 and 485 of the Acts of the General Assembly of 2011)

BY repealing and reenacting, with amendments,
Article – Agriculture
Section 8–803.6(a)
Annotated Code of Maryland
(2007 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Agriculture

~~§ 801.~~~~(a) In this subtitle the following words have the meanings indicated.~~~~(n) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, “WATERS OF THE STATE” has the meaning stated in § 5-101 of the Environment Article.~~~~(2) “Waters of the State” DOES NOT INCLUDE:~~~~(I) UNDERGROUND WATERS WITHIN THE BOUNDARIES OF THE STATE THAT ARE SUBJECT TO ITS JURISDICTION; OR~~~~(II) A FLOODPLAIN OF FREE-FLOWING WATERS AS DETERMINED BY THE DEPARTMENT OF THE ENVIRONMENT ON THE BASIS OF THE 100-YEAR FLOOD FREQUENCY.~~

8-803.4.

(e) (1) Except as provided in paragraph (2) of this subsection, a professional fertilizer applicator may not apply fertilizer containing phosphorus or nitrogen to turf that is within 15 feet of ~~waters of the State~~:

(I) SURFACE WATER SUBJECT TO THE JURISDICTION OF THE STATE;

(II) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

(III) A POND WITHIN THE STATE;

(IV) A LAKE WITHIN THE STATE;

(V) A RIVER WITHIN THE STATE;

(VI) A STREAM WITHIN THE STATE;

(VII) A PUBLIC DITCH WITHIN THE STATE;

(VIII) A TAX DITCH WITHIN THE STATE; OR

(IX) A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE, OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE OF SANITARY SEWAGE.

(2) When a drop spreader, rotary spreader with a deflector, or targeted spray liquid is used for fertilizer application, the setback required under paragraph (1) of this subsection may be reduced to 10 feet.

(3) The establishment of setbacks for fertilizer application under this subsection does not preclude the establishment or applicability of, or compliance with, any other environmental standards established under any other State or federal law, rule, or regulation.

(i) The penalty imposed on a person under this section shall be assessed with consideration given to:

(1) The willfulness of the violation, the extent to which the existence of the violation was known to the violator but uncorrected by the violator, and the extent to which the violator exercised reasonable care;

(2) Any actual harm to human health or to the environment including injury to or impairment of the use of the waters of the State or the natural resources of the State;

(3) The cost of control;

(4) The nature and degree of injury to or interference with general welfare, health, and property;

(5) The extent to which the location of the violation, including location near areas of human population, creates the potential for harm to the environment or to human health or safety; and

(6) The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.

8-803.5.

(b) (1) This section applies to a person who applies fertilizer to:

(i) Property that is not used for agricultural purposes; or

(ii) State property that is not used for agricultural purposes.

(2) This section does not apply to the application of fertilizer on commercial farms.

(d) (1) Except as provided in paragraph (2) of this subsection, a person may not apply fertilizer containing phosphorus or nitrogen to turf that is within 15 feet of ~~waters of the State~~;

(I) SURFACE WATER SUBJECT TO THE JURISDICTION OF THE STATE;

(II) THE CHESAPEAKE BAY AND ITS TRIBUTARIES;

(III) A POND WITHIN THE STATE;

(IV) A LAKE WITHIN THE STATE;

(V) A RIVER WITHIN THE STATE;

(VI) A STREAM WITHIN THE STATE;

(VII) A PUBLIC DITCH WITHIN THE STATE;

(VIII) A TAX DITCH WITHIN THE STATE; OR

(IX) A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE, OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE OF SANITARY SEWAGE.

(2) When a drop spreader, rotary spreader with a deflector, or targeted spray liquid is used for fertilizer application, the setback required under paragraph (1) of this subsection may be reduced to 10 feet.

(3) The establishment of setbacks for fertilizer application under this subsection does not preclude the establishment or applicability of, or compliance with, any other environmental standards established under any other State or federal law, rule, or regulation.

8-803.6.

(a) (1) The Department shall, in consultation with the University of Maryland, establish a program to certify professional fertilizer applicators.

(2) The certification program shall provide professional fertilizer applicators with training and education in the following subject areas:

(i) The proper use and calibration of fertilizer application equipment;

(ii) The hazards involved in, and the environmental impact of, applying fertilizer, including nutrient pollution to ~~the waters of the State;~~

- 1. SURFACE WATER SUBJECT TO THE JURISDICTION OF THE STATE;**
- 2. THE CHESAPEAKE BAY AND ITS TRIBUTARIES;**
- 3. A POND WITHIN THE STATE;**
- 4. A LAKE WITHIN THE STATE;**
- 5. A RIVER WITHIN THE STATE;**
- 6. A STREAM WITHIN THE STATE;**
- 7. A PUBLIC DITCH WITHIN THE STATE;**
- 8. A TAX DITCH WITHIN THE STATE; AND**
- 9. A PUBLIC DRAINAGE SYSTEM WITHIN THE STATE, OTHER THAN THOSE DESIGNED AND USED TO COLLECT, CONVEY, OR DISPOSE OF SANITARY SEWAGE;**

(iii) All applicable State and federal laws, rules, and regulations;

(iv) The correct interpretation of fertilizer labeling information;

and

(v) The recommendations developed by the University of Maryland for nutrient management on turf, including the appropriate time to:

- 1. Apply fertilizer when rain is forecast; and
- 2. Apply fertilizer when soils are wet and the potential for fertilizer movement off-site exists.

~~§ 803.7.~~

~~(e) The University of Maryland shall review its fertilizer turf guidelines every 3 years and revise the guidelines as necessary, with consideration of plant nutrient requirements and established State goals to protect water quality in the waters of the State.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013, the effective date of Sections 4 and 5 of Chapters 484 and 485 of the Acts of the General Assembly of 2011. If the effective dates of Sections 4 and 5 of Chapters 484 and 485 are amended, this Act shall take effect on the taking effect of Sections 4 and 5 of Chapters 484 and 485.

Approved by the Governor, May 2, 2013.