

BY: Economic and Environmental Affairs Committee

AMENDMENTS TO HOUSE BILL NO. 599

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Nutrient Management Practices Improvement Act of 1998” and substitute “Water Quality Improvement Act of 1998”.

On pages 1 and 2, strike in their entirety the lines beginning with line 3 on page 1 through line 30, inclusive, on page 2 and substitute:

“FOR the purpose of establishing an Animal Waste Technology Fund as a special, continuing, nonlapsing fund; authorizing the Department of Business and Economic Development to provide financial assistance from the Fund for certain purposes; requiring certain commercial contract feed to contain certain ingredients by a certain date; requiring the Governor to provide sufficient funding to maintain a certain level of field personnel for soil conservation districts; requiring each nutrient management plan to be developed considering certain factors; authorizing certain State cost sharing for certain costs of having nutrient management plans prepared; establishing certain limits for the cost sharing program; authorizing the Secretary of Agriculture to adopt certain regulations; requiring certain persons to have nutrient management plans and comply with nutrient management plans by certain dates; establishing certain penalties; authorizing the Department of the Environment to take certain action against certain persons under certain circumstances; requiring certain persons to be certified by the Department of Agriculture as nutrient applicators under certain circumstances; establishing certain requirements for certification and certain penalties for failure to be certified; altering the membership of the Nutrient Management Advisory Committee; authorizing the Department of Agriculture to adopt certain regulations; requiring the Department of Agriculture to adopt certain regulations; authorizing the Department of Agriculture to charge certain fees; requiring certain reports; authorizing the Department of the Environment to adopt certain regulations to limit the size of swine farm operations; providing a subtraction modification under the Maryland individual and corporate income

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tax for certain expenses associated with the purchase of certain agricultural machinery under certain conditions; providing that the subtraction may be carried over to succeeding taxable years under certain circumstances; providing for a tax credit under the Maryland individual and corporate income tax for certain expenses associated with certain costs necessary to convert agricultural production to a certain nutrient management plan under certain circumstances; placing certain restrictions, conditions, and limits on the use of the tax credit; providing that the tax credit may be carried over to succeeding taxable years under certain circumstances; requiring an individual or corporation to receive a certain certification from the Department of Agriculture and file proof of the certification; defining certain terms; requiring the Governor to target and coordinate certain funding; requiring the Secretary of Agriculture to submit a certain report by a certain date; providing for the termination of certain provisions of this Act; and generally relating to nutrient management and water quality.”.

On pages 2 through 4, strike in their entirety the lines beginning with line 31 on page 2 through line 5 on page 4, inclusive, and substitute:

“BY adding to

Article 83A - Department of Business and Economic Development
Section 6-801 through 6-807, inclusive, to be under the new subtitle “Subtitle 8.
Animal Waste Technology Fund”
Annotated Code of Maryland
(1995 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, without amendments,

Article - Agriculture
Section 6-101(a), (d), and (e), 6-102, 6-113, 6-201(f), and 8-805
Annotated Code of Maryland
(1985 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, with amendments,

Article - Agriculture
Section 6-106
Annotated Code of Maryland

(1985 Replacement Volume and 1997 Supplement)

BY adding to

Article - Agriculture

Section 6-107.1, 8-405, 8-704.1, 8-704.2, 8-801.1, 8-803.1, 8-803.2, 8-803.3,
8-803.4, 8-803.5, and 8-807

Annotated Code of Maryland

(1985 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, with amendments,

Article - Agriculture

Section 8-801 through 8-804, inclusive, and 8-806 to be under the amended
subtitle “Subtitle 8. Nutrient Management”

Annotated Code of Maryland

(1985 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, without amendments,

Article - Environment

Section 9-313

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY adding to

Article - Environment

Section 9-325.1

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, without amendments,

Article - Tax - General

Section 10-208(a) and 10-308(a)

Annotated Code of Maryland

(1997 Replacement Volume)

BY adding to

Article - Tax - General
Section 10-208(m) and 10-704.9
Annotated Code of Maryland
(1997 Replacement Volume)

BY repealing and reenacting, with amendments,

Article - Tax - General
Section 10-308(b)
Annotated Code of Maryland
(1997 Replacement Volume)”.

AMENDMENT NO. 2

On pages 4 through 23, inclusive, strike in their entirety the lines beginning with line 8 on page 4 through line 36 on page 23, inclusive, and substitute:

“Article 83A - Department of Business and Economic Development

SUBTITLE 8. ANIMAL WASTE TECHNOLOGY FUND.

6-801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ANIMAL WASTE TECHNOLOGY PROJECT” MEANS THE RESEARCH, DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF TECHNOLOGY THAT IS INTENDED TO:

(1) REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;

(2) ALTER THE COMPOSITION OF ANIMAL WASTE;

(3) DEVELOP ALTERNATIVE WASTE MANAGEMENT STRATEGIES; OR

(4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

(C) "FUND" MEANS THE ANIMAL WASTE TECHNOLOGY FUND.

(D) "PROGRAM" MEANS THE ORGANIZATIONAL UNIT IN THE DEPARTMENT THAT ADMINISTERS THE ANIMAL WASTE TECHNOLOGY FUND.

6-802.

THE PURPOSE OF THE ANIMAL WASTE TECHNOLOGY FUND IS TO PROVIDE FINANCIAL ASSISTANCE TO INDIVIDUALS AND BUSINESS ENTERPRISES THAT CONDUCT RESEARCH OR DEVELOP TECHNOLOGIES THAT ARE INTENDED TO REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE, ALTER THE COMPOSITION OF ANIMAL WASTE, DEVELOP ALTERNATIVE ANIMAL WASTE MANAGEMENT STRATEGIES, OR USE ANIMAL WASTE IN A PRODUCTION PROCESS. THE GOAL OF THE FUND IS TO ENCOURAGE THE DEVELOPMENT AND IMPLEMENTATION OF ECONOMICALLY FEASIBLE TECHNOLOGIES THAT HELP PROTECT THE PUBLIC HEALTH AND THE ENVIRONMENT BY REDUCING THE AMOUNT OF NUTRIENTS FROM ANIMAL WASTE THAT ARE RELEASED INTO STATE WATERS.

6-803.

(A) THERE IS AN ANIMAL WASTE TECHNOLOGY FUND IN THE DEPARTMENT.

(B) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(C) THE FUND MAY CONSIST OF:

(1) MONEYS APPROPRIATED BY THE STATE;

(2) MONEYS MADE AVAILABLE THROUGH FEDERAL PROGRAMS OR

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PRIVATE CONTRIBUTIONS:

(3) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES FROM MONEYS IN THE FUND;

(4) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE FROM THE FUND;

(5) INCOME FROM EQUITY INVESTMENTS THAT THE DEPARTMENT MAKES FROM THE FUND;

(6) PROCEEDS FROM THE SALE, DISPOSITION, LEASE, OR RENTAL BY THE DEPARTMENT OF COLLATERAL RELATED TO ANY FINANCING PROVIDED BY THE DEPARTMENT UNDER THIS SUBTITLE;

(7) APPLICATION OR OTHER FEES PAID TO THE PROGRAM IN CONNECTION WITH THE PROCESSING OF REQUESTS FOR ASSISTANCE; AND

(8) ANY OTHER MONEYS MADE AVAILABLE TO THE FUND.

(D) THE PROGRAM MAY USE MONEYS IN THE FUND TO:

(1) PROVIDE FINANCIAL ASSISTANCE TO DEFRAY THE COSTS OF ANIMAL WASTE TECHNOLOGY PROJECTS; AND

(2) PAY EXPENSES FOR ADMINISTRATIVE, ACTUARIAL, LEGAL, AND TECHNICAL SERVICES ASSOCIATED WITH OPERATING THE FUND.

6-804.

FINANCIAL ASSISTANCE PROVIDED FROM THE FUND MAY BE:

(1) USED ONLY TO PAY THE COSTS OF CARRYING OUT AN ANIMAL WASTE TECHNOLOGY PROJECT; AND

(2) IN THE FORM OF:

(I) A GRANT;

(II) A LOAN;

(III) A LOAN GUARANTEE;

(IV) A LOAN THAT IS CONVERTIBLE IN WHOLE OR IN PART TO A GRANT ON THE SATISFACTION OF SPECIFIED CONDITIONS; OR

(V) AN EQUITY INVESTMENT.

6-805.

(A) TO BE ELIGIBLE FOR ASSISTANCE FROM THE FUND, AN ANIMAL WASTE TECHNOLOGY PROJECT MUST HAVE STRONG POTENTIAL FOR:

(1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;

(2) PRESERVING THE VIABILITY OF THE AGRICULTURAL INDUSTRY;

AND

(3) HAVING A POSITIVE ECONOMIC DEVELOPMENT IMPACT IN THE STATE.

(B) IF THE AMOUNT OF FINANCIAL ASSISTANCE REQUESTED EXCEEDS THE AMOUNT OF MONEYS AVAILABLE IN THE FUND, THE PROGRAM SHALL GIVE PREFERENCE TO THE ANIMAL WASTE TECHNOLOGY PROJECTS THAT DEMONSTRATE THE GREATEST POTENTIAL FOR:

(1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;

(2) PRESERVING THE VIABILITY OF THE AGRICULTURAL INDUSTRY;

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AND

(3) HAVING A POSITIVE ECONOMIC DEVELOPMENT IMPACT IN THE STATE.

6-806.

THE PROGRAM MAY IMPOSE TERMS AND CONDITIONS ON FINANCIAL ASSISTANCE PROVIDED FROM THE FUND.

6-807.

(A) THE STATE TREASURER SHALL HOLD THE FUND AND THE STATE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(B) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Agriculture

8-704.2.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COMMERCIAL POULTRY PRODUCER" MEANS ANY ENTITY THAT CONTRACTS WITH A FARMER TO RAISE POULTRY FOR THE PRODUCER ON PROPERTY OWNED OR LEASED BY THE FARMER.

(3) "PILOT PROJECT" MEANS THE POULTRY LITTER TRANSPORTATION PILOT PROJECT.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

(1) FOR A 4-YEAR PERIOD THE STATE AND THE COMMERCIAL POULTRY PRODUCERS SHALL FACILITATE THE PROMPT TRANSPORTATION OF POULTRY LITTER FROM FARMS THAT EXPERIENCE PHOSPHORUS OVERENRICHMENT;

(2) THE PILOT PROJECT SHALL ENCOURAGE VOLUNTARY PARTICIPATION TO ACHIEVE THE REMOVAL OF POULTRY LITTER PRODUCED BY AT LEAST 20% OF THE POULTRY IN THE FOUR LOWER EASTERN SHORE COUNTIES IN MARYLAND; AND

(3) THE PILOT PROJECT SHALL BE IMPLEMENTED IN CONJUNCTION WITH THE POULTRY LITTER MATCHING SERVICE SET FORTH IN § 8-704.1 OF THIS SUBTITLE.

(C) THE PURPOSE OF THE PILOT PROJECT IS TO ESTABLISH A COST-SHARE MATCHING PROGRAM TO ASSIST IN THE TRANSPORTATION OF POULTRY LITTER FROM FARMS OVER A PERIOD OF 4 YEARS:

(1) TO BE USED ON LAND WITH SOIL HAVING THE CAPACITY TO HOLD ADDITIONAL PHOSPHORUS; OR

(2) TO BE USED IN ENVIRONMENTALLY ACCEPTABLE WAYS OTHER THAN LAND APPLICATION.

(D) THE STATE SHALL PROVIDE FUNDING FOR THE PILOT PROJECT BY MATCHING THE AMOUNT OF FUNDS CONTRIBUTED BY THE COMMERCIAL POULTRY PRODUCER INDUSTRY FOR ELIGIBLE COSTS, AS DETERMINED BY THE DEPARTMENT, ASSOCIATED WITH THE TRANSPORTATION, HANDLING, AND APPLICATION OF POULTRY LITTER, NOT TO EXCEED \$10 PER TON.

(E) THE DEPARTMENT SHALL DEVELOP CRITERIA TO ESTABLISH AND PRIORITIZE ELIGIBILITY, INCLUDING:

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(1) THE EXISTING AVAILABILITY OF ACREAGE ON LANDS WHERE THE LITTER IS GENERATED;

(2) SOIL NUTRIENT LEVELS OF ACREAGE RECEIVING MANURE;

(3) ON THE LANDS WHERE THE LITTER IS GENERATED, THE OPERATOR'S ABILITY TO COMPLY AS APPLICABLE WITH EITHER A NITROGEN OR PHOSPHORUS-BASED NUTRIENT MANAGEMENT PLAN; AND

(4) BEST MANAGEMENT PRACTICES CURRENTLY AVAILABLE ON RECEIVING ACREAGE.

(F) THE DEPARTMENT OF AGRICULTURE SHALL ADOPT REGULATIONS AUTHORIZING THE DISBURSEMENT OF COST-SHARE MATCHING FUNDS CONSISTENT WITH THE PURPOSES OF THE PILOT PROGRAM.

(G) THE DEPARTMENT OF AGRICULTURE SHALL PROVIDE THE ASSISTANCE NECESSARY TO ENSURE THAT POULTRY LITTER IS TESTED IN ACCORDANCE WITH DEPARTMENTAL PROCEDURES BEFORE LAND APPLICATION OF TRANSPORTED LITTER OCCURS.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland shall read as follows:

Article - Agriculture

6-101.

(a) In this subtitle the following words have the meanings indicated.

(d) "Commercial feed" means a material which is distributed for use as feed or for mixing in feed for any animal, other than man, except:

(1) Unmixed and unprocessed whole seeds or meal made directly from the entire seeds;

(2) Unground hay; or

(3) Whole or ground straw, stover, silage, cobs, and hulls not mixed with any other material.

(e) "Contract feed" means a commercial feed which is formulated according to an agreement between a distributor and a contract feeder.

6-102.

The State Chemist shall administer the provisions of this subtitle subject to the supervision of the Secretary.

6-106.

(a) The Secretary shall sample, inspect, test and make analyses of commercial feed distributed in the State at any time and place and to the extent the Secretary considers necessary to ensure compliance with this subtitle.

(b) The Secretary shall adopt the methods of sampling and analysis from sources, such as the journal of the Association of Official Analytical Chemists, or methods that insure representative sampling and accurate examination.

(c) In determining for administrative purposes whether a commercial feed is deficient in any component, the Secretary shall be guided solely by the official sample obtained and analyzed as provided by this section.

(d) When inspection and analysis of an official sample indicates a commercial feed is adulterated [or], misbranded, OR DOES NOT CONTAIN AN ENZYME OR OTHER ADDITIVE OR BOTH IN ACCORDANCE WITH § 6-107.1 OF THIS SUBTITLE, the Secretary shall forward

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the results of the analysis to the person who registers the product and the person from whom the sample is taken. The Secretary shall furnish the distributor with a portion of the sample concerned within 30 days if he requests it.

(e) The Secretary may enter on any public or private premises, including any transportation vehicle, during regular business hours to obtain access to commercial feeds or to records relating to their distribution.

6-107.1.

(A) BY JANUARY 1, 2000, ALL CONTRACT FEED THAT IS FED TO CHICKENS MUST INCLUDE PHYTASE OR OTHER ENZYME OR ADDITIVE THAT REDUCES PHOSPHORUS IN POULTRY WASTE, OR BOTH.

(B) THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH:

(1) THE APPROPRIATE LEVEL OF PHYTASE OR OTHER ENZYME OR ADDITIVE TO BE INCLUDED IN CONTRACT FEED THAT IS FED TO CHICKENS; AND

(2) APPROPRIATE LABELING AND DISTRIBUTION REQUIREMENTS.

6-113.

(a) The Secretary may issue and enforce a written stop-sale order to the owner, custodian, or distributor of any commercial feed that the Secretary finds is in violation of any provision of this subtitle or regulation under this subtitle, or has been found by federal or State authorities to cause unreasonable adverse effects to humans, animals, or the environment.

(b) The order prohibits sale or distribution of the commercial feed until the Secretary has evidence that the feed is in compliance with the law and until the Secretary provides a written release from the stop-sale order.

(c) The Secretary may file a petition for condemnation in the circuit court of the county in which the commercial feed is located. If the court finds the commercial feed to be in violation of the

provisions of this subtitle and orders the condemnation, the commercial feed shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the State. The court may not dispose of the commercial feed without first giving the claimant an opportunity to apply to the court for release of it or for permission to process or relabel the commercial feed so that it complies with the provisions of this subtitle.

6-201.

(f) "Commercial fertilizer" means any substance containing a recognized plant nutrient used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manure, marl, lime, wood ashes, and gypsum.

8-405.

(A) THE GENERAL ASSEMBLY FINDS THAT, FROM FISCAL YEAR 1991 THROUGH FISCAL YEAR 1998, INADEQUATE RESOURCES HAVE BEEN PROVIDED FOR THE SOIL CONSERVATION DISTRICTS TO EMPLOY ADEQUATE FIELD PERSONNEL TO ASSIST FARMERS IN THE PREPARATION OF SOIL CONSERVATION AND WATER QUALITY PLANS.

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO PROVIDE SUFFICIENT TECHNICAL ASSISTANCE AND RESOURCES THROUGH THE SOIL CONSERVATION DISTRICTS TO ASSIST FARMERS IN PURSUIT OF SOIL CONSERVATION AND WATER QUALITY PLANS AND OTHER ACTIVITIES AUTHORIZED UNDER THIS TITLE.

(C) FOR FISCAL YEAR 2000 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN AMOUNT SUFFICIENT TO EMPLOY NOT LESS THAN 110 FIELD PERSONNEL IN THE SOIL CONSERVATION DISTRICTS UNDER THIS TITLE.

8-704.1.

(A) IN THIS SECTION, "SERVICE" MEANS THE POULTRY LITTER MATCHING

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SERVICE.

(B) THE DEPARTMENT SHALL CREATE A POULTRY LITTER MATCHING SERVICE.

(C) THE PURPOSE OF THE SERVICE IS TO DEVELOP TRANSFER PROGRAMS AND MARKETING TECHNIQUES TO PROMOTE AND FACILITATE THE TRANSFER OF POULTRY LITTER.

(D) THE SERVICE SHALL BE IMPLEMENTED IN CONJUNCTION WITH THE POULTRY LITTER TRANSPORTATION PILOT PROJECT SET FORTH IN § 8-704.2 OF THIS SUBTITLE.

(E) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL SUFFICIENT FUNDS TO CARRY OUT THIS SECTION.

Subtitle 8. Nutrient Management [Certification and Licensing].

8-801.

(a) In this subtitle the following words have the meanings indicated.

(B) “CERTIFIED NUTRIENT APPLICATOR” MEANS AN INDIVIDUAL WHO IS CERTIFIED BY THE DEPARTMENT TO MANAGE THE APPLICATION OF ANIMAL WASTE, COMMERCIAL FERTILIZER, SLUDGE, OR OTHER NUTRIENTS TO SOIL IN A MANNER THAT PREVENTS POLLUTION AND MAINTAINS AGRICULTURAL PRODUCTIVITY.

[(b)] (C) “Certified nutrient management consultant” means an individual certified by the Department to prepare a nutrient management plan.

[(c)] (D) “Nutrient management plan” means a plan prepared under this subtitle by a certified nutrient management consultant to manage the amount, placement, timing, and application of animal waste, commercial fertilizer, sludge, or other plant nutrients to prevent pollution BY TRANSPORT OF POTENTIALLY BIOAVAILABLE NUTRIENTS and to maintain productivity.

(E) “SOIL TEST” MEANS AN ANALYSIS OF THE SURFACE LAYER OF SOIL THAT DETERMINES EXISTING LEVELS AND CHEMICAL FORMS OF PLANT NUTRIENTS IN THE SOIL.

8-801.1.

(A) EACH NUTRIENT MANAGEMENT PLAN SHALL BE DEVELOPED CONSIDERING FACTORS INCLUDING:

(1) LEVELS OF POTENTIALLY BIOAVAILABLE NITROGEN AND PHOSPHORUS IN THE SOIL;

(2) LEVELS OF POTENTIALLY BIOAVAILABLE NITROGEN AND PHOSPHORUS IN ALL FERTILIZER MATERIALS TO BE APPLIED;

(3) THE AMOUNT OF NITROGEN AND PHOSPHORUS NECESSARY TO ACHIEVE THE EXPECTED CROP YIELD FOR THE LAND THAT IS THE SUBJECT OF THE NUTRIENT MANAGEMENT PLAN, AS DETERMINED BY:

(I) THE FIELD’S ACTUAL YIELD RECORD AND SOIL PRODUCTIVITY FOR THAT CROP; OR

(II) IF INFORMATION CONCERNING ACTUAL YIELD RECORD AND SOIL PRODUCTIVITY FOR A CROP IS UNAVAILABLE, RELEVANT INFORMATION CONCERNING SIMILAR FIELDS AND SOIL;

(4) SOIL ERODIBILITY AND NUTRIENT RETENTION CAPACITY;

(5) PHYSICAL CHARACTERISTICS, INCLUDING DISTANCE AND TOPOGRAPHY;

(6) EXISTING BEST MANAGEMENT PRACTICES;

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(7) THE BEST REASONABLE SCIENTIFIC METHODS ACCEPTED BY THE DEPARTMENT FROM RELIABLE SOURCES, INCLUDING THE UNIVERSITY OF MARYLAND, TO EVALUATE POTENTIAL WATER QUALITY IMPACTS; AND

(8) NUTRIENT CONTROLS PROVIDED BY OTHER IMPLEMENTED AGRICULTURAL BEST MANAGEMENT PRACTICES.

(B) (1) EACH NUTRIENT MANAGEMENT PLAN SHALL BE FILED WITH THE DEPARTMENT:

(I) WHEN IT IS DEVELOPED; AND

(II) EACH TIME IT IS UPDATED.

(2) THE DEPARTMENT SHALL APPROVE EACH NUTRIENT MANAGEMENT PLAN THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(3) IF THE DEPARTMENT DOES NOT DISAPPROVE A NUTRIENT MANAGEMENT PLAN WITHIN 45 DAYS AFTER THE NUTRIENT MANAGEMENT PLAN IS FILED, IT SHALL BE DEEMED APPROVED.

(4) THE DEPARTMENT SHALL MAINTAIN A COPY OF EACH NUTRIENT MANAGEMENT PLAN FOR 3 YEARS IN A MANNER THAT PROTECTS THE IDENTITY OF THE INDIVIDUAL FOR WHOM THE NUTRIENT MANAGEMENT PLAN WAS PREPARED.

8-802.

(A) A PERSON MAY NOT PREPARE A NUTRIENT MANAGEMENT PLAN UNLESS THE PERSON IS CERTIFIED OR LICENSED BY THE STATE.

[(a)] (B) An individual may apply to the Department for certification as a certified nutrient management consultant.

[(b)] (C) A person engaged in the business of providing a nutrient management plan provided under this subtitle shall hold an annual license from the Department.

(D) THE DEPARTMENT MAY IMPOSE A PENALTY NOT EXCEEDING \$250 FOR A VIOLATION OF THE PROVISIONS OF THIS SECTION.

8-803.

(a) To apply for certification AS A NUTRIENT MANAGEMENT CONSULTANT, an applicant shall:

(1) Submit to the Department an application on the form the Department requires;
and

(2) Pay to the Department the certification fee stated in § 8-806 of this subtitle.

(b) The Department shall certify any individual who:

(1) Meets the requirements of this subtitle;

(2) Meets the Department's educational requirements;

(3) Passes a Department approved examination; and

(4) (i) Is employed by a person licensed under this subtitle; or

(ii) Holds a license as required by this subtitle.

(c) To apply for a license an applicant shall:

(1) Submit to the Department an application on the form the Department requires;
and

(Over)

- (2) Pay to the Department the applicable license fee stated in § 8-806 of this subtitle.
- (d) The Department shall license a person who meets the requirements of this subtitle.
- (e) A certificate or license is issued for 1 year unless the certificate or license is renewed as provided by this subtitle.
- (f) The Department shall renew the certificate or license of any applicant for an additional 1-year term if the applicant:
- (1) Submits a renewal application on the form that the Department requires;
 - (2) Pays to the Department the applicable fee stated in § 8-806 of this subtitle;
 - (3) Complies with applicable continuing education requirements; [and]
 - (4) COMPLIES WITH APPLICABLE RECORD KEEPING AND REPORTING REQUIREMENTS; AND
- [(4)] (5) Otherwise is entitled to be certified or licensed.

8-803.1.

(A) (1) BY JULY 1, 2000, A PERSON WHO, IN OPERATING A FARM, USES CHEMICAL FERTILIZER, SHALL HAVE A NUTRIENT MANAGEMENT PLAN FOR NITROGEN AND PHOSPHORUS THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(2) (I) BY JULY 1, 2000, A PERSON WHO, IN OPERATING A FARM, USES SLUDGE OR ANIMAL MANURE, SHALL HAVE A NUTRIENT MANAGEMENT PLAN FOR NITROGEN.

(II) BY JULY 1, 2002, A PERSON WHO, IN OPERATING A FARM, USES SLUDGE OR ANIMAL MANURE, SHALL HAVE A NUTRIENT MANAGEMENT PLAN FOR NITROGEN AND PHOSPHORUS.

(B) (1) BY JULY 1, 2002, A PERSON WHO, IN OPERATING A FARM, USES CHEMICAL FERTILIZER, SHALL COMPLY WITH A NUTRIENT MANAGEMENT PLAN FOR NITROGEN AND PHOSPHORUS THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(2) (I) BY JULY 1, 2002, A PERSON WHO, IN OPERATING A FARM, USES SLUDGE OR ANIMAL MANURE, SHALL COMPLY WITH A NUTRIENT MANAGEMENT PLAN FOR NITROGEN THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(II) BY JULY 1, 2004, A PERSON WHO, IN OPERATING A FARM, USES SLUDGE OR ANIMAL MANURE, SHALL COMPLY WITH A NUTRIENT MANAGEMENT PLAN FOR NITROGEN AND PHOSPHORUS THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(C) A PERSON MAY MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION BY REQUESTING, AT LEAST 90 DAYS BEFORE THE APPLICABLE DATE SET FORTH IN SUBSECTION (A) OF THIS SECTION, THE DEVELOPMENT OF A NUTRIENT MANAGEMENT PLAN BY A CERTIFIED NUTRIENT MANAGEMENT CONSULTANT.

(D) (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION OR OF ANY RULE, REGULATION, OR ORDER ADOPTED OR ISSUED UNDER THIS SECTION IS SUBJECT TO:

(I) FOR A FIRST OFFENSE, A WARNING; AND

(II) FOR A SECOND OR SUBSEQUENT OFFENSE, AFTER AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN WRITING BY THE PERSON ACCUSED OF A VIOLATION, AN ADMINISTRATIVE PENALTY THAT MAY BE IMPOSED BY THE DEPARTMENT OF THE ENVIRONMENT IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE.

(2) THE PENALTY IMPOSED ON A PERSON UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE:

(I) UP TO \$100 FOR EACH VIOLATION, BUT NOT EXCEEDING \$2,500
TOTAL; AND

(II) ASSESSED WITH CONSIDERATION GIVEN TO:

1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED REASONABLE CARE;

2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF THIS STATE OR THE NATURAL RESOURCES OF THIS STATE;

3. THE COST OF CLEANUP AND THE COST OF RESTORATION OF NATURAL RESOURCES;

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 WATERS OF THIS STATE OR AREAS OF HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY;

6. THE AVAILABLE TECHNOLOGY AND ECONOMIC REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;

7. THE DEGREE OF HAZARD POSED BY THE PARTICULAR POLLUTANT OR POLLUTANTS INVOLVED; AND

8. 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.

(3) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.

(4) ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO THIS STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE COLLECTION OF DEBTS.

(5) IF ANY PERSON WHO IS LIABLE TO PAY A PENALTY IMPOSED UNDER THIS SUBSECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

(I) A LIEN IN FAVOR OF THIS STATE ON ANY PROPERTY, REAL OR PERSONAL, OF THE PERSON; AND

(II) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

(E) IF A PERSON VIOLATES ANY PROVISION OF THIS SECTION, THE DEPARTMENT MAY:

(1) REGARDING ANY STATE COST-SHARING FUNDS UNDER SUBTITLE 7 OF THIS TITLE:

(I) REQUIRE REPAYMENT OF ANY FUNDS FOR A PROJECT STARTED ON OR AFTER JULY 1, 1998; OR

(II) DENY OR RESTRICT FUTURE PAYMENT; AND

(2) LIMIT THE EXTENT OF THE PERSON'S FARM OPERATIONS TO WHAT THEY WERE AT THE TIME OF THE VIOLATION.

(Over)

(F) (1) IN ADDITION TO THE POWERS AND DUTIES SET FORTH ELSEWHERE IN THIS SECTION, THE DEPARTMENT OF THE ENVIRONMENT, IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE, MAY:

(I) ISSUE, MODIFY, OR REVOKE A COMPLAINT OR ORDER REQUIRING CORRECTIVE ACTION, COLLECT A PENALTY, AND ADOPT ANY OTHER REASONABLE REMEDIAL MEASURES IN ORDER TO ACHIEVE COMPLIANCE WITH THIS SECTION;

(II) REQUIRE PAYMENT OF A PENALTY ASSESSED UNDER THIS SECTION TO THE MARYLAND CLEAN WATER FUND; AND

(III) GIVE NOTICE AND HOLD A HEARING UNDER THIS SECTION IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(2) WITHIN 10 DAYS OF BEING ISSUED AN ORDER UNDER THIS SUBSECTION, THE PERSON SERVED MAY REQUEST IN WRITING A HEARING BEFORE THE DEPARTMENT OF THE ENVIRONMENT.

(3) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE DEPARTMENT OF THE ENVIRONMENT IN CONNECTION WITH THE ISSUANCE OF AN ORDER UNDER THIS SUBSECTION MAY TAKE A DIRECT JUDICIAL APPEAL IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(G) APPROVAL OF A NUTRIENT MANAGEMENT PLAN IS CONTINGENT ON THE PROPERTY OWNER GRANTING TO THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF THE ENVIRONMENT A RIGHT OF ENTRY ONTO THE PROPERTY AT ANY REASONABLE TIME TO EVALUATE IF THE PROPERTY OWNER OR OPERATOR OF THE FARM IS COMPLYING WITH THE NUTRIENT MANAGEMENT PLAN.

8-803.2.

(A) THE GOVERNOR SHALL PROVIDE SUFFICIENT FUNDING IN EACH FISCAL YEAR'S BUDGET TO MEET THE TECHNICAL ASSISTANCE AND EVALUATION

REQUIREMENTS OF § 8-803.1 OF THIS SUBTITLE.

(B) (1) STATE COST SHARING MAY BE MADE AVAILABLE TO FARMERS TO HELP OFFSET THE COSTS OF HAVING A NUTRIENT MANAGEMENT PLAN PREPARED BY A CERTIFIED NUTRIENT MANAGEMENT CONSULTANT WHO IS NOT EMPLOYED BY THE STATE OR A LOCAL GOVERNMENT.

(2) STATE COST SHARE FUNDS ARE TO BE MADE AVAILABLE FOR ELIGIBLE COSTS UP TO 50% PER ACRE, NOT TO EXCEED \$3 PER ACRE.

(3) THE SECRETARY OF AGRICULTURE SHALL ADOPT REGULATIONS AUTHORIZING THE DISBURSEMENT OF STATE COST SHARING FUNDS UNDER THIS SUBSECTION.

8-803.3.

(A) THIS SECTION DOES NOT APPLY TO A PERSON WHO APPLIES NUTRIENTS TO:

(1) 10 ACRES OR LESS OF LAND EACH YEAR; AND

(2) PROPERTY THAT THE PERSON OWNS OR MANAGES.

(B) A PERSON MAY NOT APPLY NUTRIENTS TO LAND UNLESS THE PERSON IS:

(1) A CERTIFIED NUTRIENT APPLICATOR; OR

(2) UNDER THE SUPERVISION OF A CERTIFIED NUTRIENT APPLICATOR.

(C) TO APPLY FOR CERTIFICATION AS A NUTRIENT APPLICATOR, A PERSON SHALL:

(1) SUBMIT TO THE DEPARTMENT AN APPLICATION ON THE FORM THE

(Over)

DEPARTMENT REQUIRES; AND

(2) PAY TO THE DEPARTMENT A CERTIFICATION FEE IN ACCORDANCE WITH § 8-806 OF THIS SUBTITLE.

(D) THE DEPARTMENT SHALL CERTIFY ANY PERSON WHO:

(1) MEETS THE REQUIREMENTS OF THIS SUBTITLE;

(2) MEETS EDUCATIONAL REQUIREMENTS ESTABLISHED BY THE DEPARTMENT; AND

(3) PASSES AN EXAMINATION APPROVED BY THE DEPARTMENT.

(E) A CERTIFICATE IS VALID FOR 2 YEARS UNLESS IT IS RENEWED BY THE DEPARTMENT.

(F) THE DEPARTMENT SHALL RENEW A CERTIFICATE FOR AN ADDITIONAL 2-YEAR TERM IF THE PERSON:

(1) SUBMITS A RENEWAL APPLICATION ON THE FORM THE DEPARTMENT REQUIRES;

(2) PAYS TO THE DEPARTMENT A RENEWAL FEE IN ACCORDANCE WITH § 8-806 OF THIS SUBTITLE;

(3) COMPLIES WITH APPLICABLE CONTINUING EDUCATION REQUIREMENTS;

(4) COMPLIES WITH APPLICABLE RECORD KEEPING AND REPORTING REQUIREMENTS; AND

(5) IS OTHERWISE ENTITLED TO BE CERTIFIED.

(G) THE DEPARTMENT MAY IMPOSE A PENALTY NOT EXCEEDING \$250 FOR A VIOLATION OF THE PROVISIONS OF THIS SECTION.

8-803.4.

(A) THIS SECTION APPLIES TO AN APPLICATION OF COMMERCIAL FERTILIZER, AS DEFINED IN § 6-201 OF THIS ARTICLE:

(1) THAT IS PERFORMED BY:

(I) A PERSON WHO APPLIES COMMERCIAL FERTILIZER FOR HIRE;

OR

(II) AN EMPLOYEE OF THE OWNER OR MANAGER OF THE PROPERTY; AND

(2) TO PROPERTY THAT IS:

(I) NOT USED FOR AGRICULTURAL PURPOSES; AND

(II) 1. THREE OR MORE ACRES; OR

2. STATE PROPERTY.

(B) A PERSON MAY APPLY COMMERCIAL FERTILIZER ONLY IF THE PERSON:

(1) CONDUCTS A SOIL TEST BEFORE APPLYING THE COMMERCIAL FERTILIZER; AND

(2) APPLIES THE COMMERCIAL FERTILIZER IN A MANNER THAT IS CONSISTENT WITH THE NUTRIENT MANAGEMENT GUIDELINES AND CRITERIA UNDER § 8-801.1 OF THIS SUBTITLE.

(Over)

(C) (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN \$1,000 FOR A FIRST VIOLATION.

(2) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN \$2,000 FOR EACH SUBSEQUENT VIOLATION.

(3) EACH DAY A VIOLATION OCCURS UNDER THIS SECTION IS A SEPARATE VIOLATION.

(4) IN ADDITION TO THE DENIAL, SUSPENSION, OR REVOCATION OF THE CERTIFICATE, THE SECRETARY MAY IMPOSE A CIVIL PENALTY ON THE HOLDER OF A CERTIFICATE.

(5) THE TOTAL PENALTIES IMPOSED ON A PERSON FOR VIOLATIONS OF THIS SECTION THAT RESULT FROM THE SAME SET OF FACTS AND CIRCUMSTANCES MAY NOT EXCEED \$10,000.

(D) 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.

(E) PENALTIES COLLECTED BY THE SECRETARY UNDER THIS SECTION SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.

8-803.5.

THE DEPARTMENT SHALL ADOPT REGULATIONS PROVIDING FOR RELIGIOUS EXEMPTIONS UNDER THIS SUBTITLE.

8-804.

(a) The Department shall establish a Nutrient Management Advisory Committee. The Secretary shall appoint to the Committee representatives of the agricultural community, the environmental community, [industry] THE COMMERCIAL LAWN CARE, BIOSOLIDS, AND AGRICULTURAL FERTILIZER INDUSTRIES, academia, and appropriate government units.

(b) In consultation with the Nutrient Management Advisory Committee, the Department shall by regulation:

(1) Prescribe the criteria, form, and content for certified nutrient management plans applicable to licensees and certificate holders;

(2) Establish continuing education requirements for [certificate holders] CERTIFIED NUTRIENT MANAGEMENT CONSULTANTS AND CERTIFIED NUTRIENT APPLICATORS; [and]

(Over)

(3) ESTABLISH GUIDELINES AND CRITERIA RELATED TO THE CERTIFICATION OF NUTRIENT APPLICATORS; AND

[3] (4) Adopt guidelines and requirements for licensees, CERTIFIED NUTRIENT MANAGEMENT CONSULTANTS, AND CERTIFIED NUTRIENT APPLICATORS on record keeping and on reporting requirements to the Department on nutrient management plans.

(C) IN DEVELOPING STANDARDS AND REQUIREMENTS UNDER THIS SECTION, THE DEPARTMENT MAY ADOPT DIFFERENT STANDARDS FOR NUTRIENT APPLICATORS WHO APPLY NUTRIENTS:

(1) FOR HIRE; AND

(2) ONLY TO PROPERTY OWNED OR MANAGED BY THE PERSON.

8-805.

Subject to the provisions of the Administrative Procedure Act, the Department may deny, suspend, or revoke a certificate or license for a violation of this subtitle or for a violation of any regulation adopted under this subtitle by the Department.

8-806.

(a) Except for a government agency, the Department shall charge the following fees under this subtitle:

(1) Certificate (NUTRIENT MANAGEMENT CONSULTANT AND NUTRIENT APPLICATOR) \$50;

(2) NUTRIENT APPLICATOR CERTIFICATE FOR A PERSON WHO APPLIES NUTRIENTS FOR HIRE \$100;

[2] (3) License (individual or sole proprietorship) \$50;

[(3)] (4) License (corporation or partnership) \$100; and

[(4)] (5) Renewal \$50.

(b) The Department shall charge an applicant for the full cost of any training provided by the Department under this subtitle.

(c) All moneys collected under this subtitle shall be deposited in the General Fund of the State.

8-807.

OR BEFORE DECEMBER 31 OF EACH YEAR, THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF THE ENVIRONMENT SHALL REPORT TO THE GOVERNOR, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON THE FARM ACREAGE COVERED BY NUTRIENT MANAGEMENT PLANS AND THE IMPLEMENTATION AND EVALUATION OF THOSE PLANS.

Article - Environment

9-313.

(a) The Department may adopt rules and regulations to carry out the provisions of this subtitle.

(b) In adopting any rule or regulation under this subtitle, the Department shall consider:

(1) Existing physical conditions;

(2) The character of the area involved, including surrounding land uses;

(3) Priority ranking of waters as to effluent limits;

(Over)

(4) Zoning;

(5) The nature of the existing receiving body of water;

(6) The technical feasibility of measuring or reducing the particular type of water pollution;

(7) The economic reasonableness of measuring or reducing the particular type of water pollution; and

(8) The purposes of this subtitle.

(c) Except as this subtitle otherwise provides for a particular type of rule or regulation, a rule or regulation adopted under this subtitle may:

(1) Impose, as circumstances require, different requirements for different pollutant sources and for different geographical areas;

(2) Apply to sources located outside this State that cause, contribute to, or threaten environmental damage in this State; and

(3) Make special provisions for alert and abatement standards and procedures for occurrences or emergencies of pollution or on other short term conditions that are an acute danger to health or to the environment.

9-325.1.

(A) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE, SHALL ADOPT REGULATIONS TO LIMIT THE SIZE OF SWINE FARM OPERATIONS TO MINIMIZE POTENTIAL WATER QUALITY IMPACT TO THE WATERS OF THE STATE.

(B) THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL INCLUDE A PROVISION TO GRANDFATHER SWINE FARM OPERATIONS IN EXISTENCE AT THE

TIME THE REGULATIONS TAKE EFFECT.

(C) THE DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE SHALL CONSULT WITH LOCAL GOVERNMENTS AND REPRESENTATIVES OF THE AGRICULTURAL COMMUNITY BEFORE DEVELOPING THE REGULATIONS.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Tax - General

10-208.

(a) In addition to the modification under § 10-207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(M)(1) IN THIS SUBSECTION, "POULTRY OR LIVESTOCK MANURE SPREADING EQUIPMENT" MEANS EQUIPMENT THAT IS USED BY A FARM OWNER OR TENANT ON FARMLAND IN ACCORDANCE WITH A NUTRIENT MANAGEMENT PLAN PREPARED BY AN INDIVIDUAL LICENSED BY THE SECRETARY OF AGRICULTURE IN ACCORDANCE WITH TITLE 8, SUBTITLE 8 OF THE AGRICULTURE ARTICLE IF THE MANURE SPREADING EQUIPMENT IS USED:

(I) TO SPREAD POULTRY MANURE AND BEDDING FROM NORMAL POULTRY PRODUCTION WITH A CAPABILITY OF BEING CALIBRATED TO 1.0 TON PER ACRE; OR

(II) TO APPLY SOLID OR LIQUID LIVESTOCK WASTE.

(2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES 100% OF THE EXPENSE THAT A TAXPAYER INCURS TO BUY POULTRY OR LIVESTOCK MANURE SPREADING EQUIPMENT IF THE TAXPAYER:

(Over)

(I) PURCHASED THE SPREADING EQUIPMENT AFTER DECEMBER 31, 1997; AND

(II) OWNS THE SPREADING EQUIPMENT FOR AT LEAST 3 YEARS AFTER THE TAXABLE YEAR IN WHICH THE SUBTRACTION IS MADE.

(3) TO QUALIFY FOR THE SUBTRACTION UNDER PARAGRAPH (2) OF THIS SUBSECTION, A TAXPAYER SHALL FILE A STATEMENT FROM THE DEPARTMENT OF AGRICULTURE CERTIFYING COMPLIANCE WITH THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION.

(4) IF THE SUBTRACTION ALLOWED UNDER PARAGRAPH (2) OF THIS SUBSECTION EXCEEDS THE MARYLAND TAXABLE INCOME THAT IS COMPUTED WITHOUT THE MODIFICATION ALLOWED UNDER THIS SUBSECTION AND THE SUBTRACTION IS NOT USED FOR THE TAXABLE YEAR, THE EXCESS MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS, NOT TO EXCEED 5, UNTIL THE FULL AMOUNT OF THE SUBTRACTION IS USED.

10-308.

(a) In addition to the modification under § 10-307 of this subtitle, the amounts under this section are subtracted from the federal taxable income of a corporation to determine Maryland modified income.

(b) The subtraction under subsection (a) of this section includes the amounts allowed to be subtracted for an individual under:

(1) § 10-208(d) of this title (conservation tillage equipment expenses);

(2) § 10-208(i) of this title (reforestation or timber stand expenses); [and]

(3) § 10-208(k) of this title (wage expenses for targeted jobs); AND

(4) § 10-208(M) OF THIS TITLE (POULTRY OR LIVESTOCK MANURE

SPREADING EQUIPMENT).

SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Tax - General

10-704.9.

(A) SUBJECT TO THE PROVISIONS OF THIS SECTION, AN INDIVIDUAL OR A CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR A TAXABLE YEAR IN THE AMOUNT EQUAL TO 50% OF THE CERTIFIED ADDITIONAL COMMERCIAL FERTILIZER COSTS NECESSARY TO CONVERT AGRICULTURAL PRODUCTION TO A NUTRIENT MANAGEMENT PLAN UNDER TITLE 8, SUBTITLE 8 OF THE AGRICULTURE ARTICLE.

(B) (1) THE CREDIT ALLOWED UNDER THIS SECTION MAY ONLY BE CLAIMED BY AN INDIVIDUAL OR A CORPORATION FOR UP TO 3 CONSECUTIVE TAXABLE YEARS.

(2) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED \$4,500 IN ANY TAXABLE YEAR.

(3) (I) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE INDIVIDUAL OR CORPORATION FOR THAT TAXABLE YEAR, THE INDIVIDUAL OR CORPORATION MAY APPLY THE EXCESS AS A CREDIT FOR SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

1. THE FULL AMOUNT OF THE EXCESS IS USED; OR
2. THE EXPIRATION OF THE 5TH SUCCEEDING TAXABLE YEAR.

(Over)

(II) ANY EXCESS CREDIT CARRIED FORWARD UNDER THIS PARAGRAPH DOES NOT APPLY TO THE CREDIT LIMIT SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION.

(C) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT BE EARNED FOR ANY CREDIT YEAR BEGINNING ON OR AFTER JANUARY 1, 2008.

(D) (1) TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, AN INDIVIDUAL OR A CORPORATION MUST RECEIVE A STATEMENT FROM THE DEPARTMENT OF AGRICULTURE CERTIFYING:

(I) THAT THE INDIVIDUAL OR CORPORATION HAS SUBMITTED A NUTRIENT MANAGEMENT PLAN TO THE DEPARTMENT IN ACCORDANCE WITH TITLE 8, SUBTITLE 8 OF THE AGRICULTURE ARTICLE;

(II) THAT THE ADDITIONAL COMMERCIAL FERTILIZER COSTS ARE NECESSARY TO CONVERT AGRICULTURAL PRODUCTION TO COMPLY WITH A NUTRIENT MANAGEMENT PLAN UNDER TITLE 8, SUBTITLE 8 OF THE AGRICULTURE ARTICLE; AND

(III) THE AMOUNT OF THE CREDIT THAT THE INDIVIDUAL OR CORPORATION IS ELIGIBLE TO TAKE FOR THE TAXABLE YEAR.

(2) AN INDIVIDUAL OR A CORPORATION MUST FILE PROOF OF CERTIFICATION BY THE DEPARTMENT OF AGRICULTURE IN A MANNER PRESCRIBED BY THE COMPTROLLER.

(E) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE STATE DEPARTMENT OF AGRICULTURE SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

SECTION 6. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall remain effective for a period of 3 years and, at the end of June 30, 2001, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

Any money remaining in the Animal Waste Technology Fund on June 30, 2001 or due to the Animal Waste Technology Fund after June 30, 2001 shall be paid into the General Fund.

SECTION 7. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall remain effective for a period of 4 years and, at the end of June 30, 2002, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 8. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall be applicable to all taxable years beginning after December 31, 1997.

SECTION 9. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall be applicable to all taxable years beginning after December 31, 1998.

SECTION 10. AND BE IT FURTHER ENACTED, That the Governor is requested to take the steps necessary to:

(1) target funding received by the State under the Conservation Reserve Enhancement Program of the U.S. Department of Agriculture to farms, located in critical watersheds, that implement nutrient management plans in accordance with this Act; and

(2) coordinate Program funds with Maryland Agricultural Cost share funds and other appropriate State funds in order best to leverage federal funds for water quality improvement and nutrient removal, and for habitat restoration and buffer creation on the shore of the Chesapeake Bay.

SECTION 11. AND BE IT FURTHER ENACTED, That the Secretary of Agriculture is requested to submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, by January 1, 2001 on the Poultry Litter Transportation Pilot Project established under this Act. The report shall include information on the participation levels in the Pilot Project, the amount of litter transported, and the amount of funds raised and distributed. The report shall also evaluate the potential economic impact on farmers if the Pilot Project is terminated.

SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1998.”.