

SENATE BILL 178

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M4

1998 Regular Session
(8lr6190)

ENROLLED BILL

-- *Economic and Environmental Affairs/Environmental Matters* --

Introduced by **The President (Administration) and Senators Frosh, Blount, Hollinger, Collins, Conway, Pinsky, Van Hollen, Currie, Dorman, Forehand, Green, Hoffman, Kasemeyer, Kelley, Lawlah, McFadden, Ruben, Stone, and Teitelbaum**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Water Quality Improvement Act of 1998**

3 FOR the purpose of establishing an Animal Waste Technology Fund as a special,
4 continuing, nonlapsing fund; authorizing the Department of Business and
5 Economic Development to provide financial assistance from the Fund for certain
6 purposes; requiring certain commercial contract feed to contain certain
7 ingredients by a certain date and to a certain extent; requiring the Secretary of
8 Agriculture to suspend or recommend to the General Assembly the modification
9 or termination of the requirement under certain circumstances; requiring the
10 Governor to provide sufficient funding to maintain a certain level of field
11 personnel for soil conservation districts; requiring each nutrient management
12 plan to be developed considering certain factors; authorizing certain State cost
13 sharing for certain costs of having nutrient management plans prepared;
14 establishing certain limits for the cost sharing program; authorizing the

1 Secretary of Agriculture to adopt certain regulations; requiring certain persons
 2 to have nutrient management plans and comply with nutrient management
 3 plans by certain dates; establishing certain penalties; ~~authorizing the~~
 4 ~~Department of the Environment to take certain action against certain persons~~
 5 ~~under certain circumstances; requiring certain persons to be certified by the~~
 6 ~~Department of Agriculture as nutrient applicators under certain circumstances;~~
 7 ~~establishing certain requirements for certification and certain penalties for~~
 8 ~~failure to be certified~~ *establishing certain requirements for the certification of*
 9 *nutrient management consultants; establishing certain requirements for certain*
 10 *individuals receiving certain vouchers of completion from the Department of*
 11 *Agriculture; establishing certain requirements for persons applying commercial*
 12 *fertilizers under certain circumstances*; altering the membership *and*
 13 *responsibilities* of the Nutrient Management Advisory Committee; authorizing
 14 the Department of Agriculture to adopt certain regulations; requiring the
 15 Department of Agriculture to adopt certain regulations; authorizing the
 16 Department of Agriculture to charge certain fees; requiring certain reports;
 17 ~~authorizing the Department of the Environment to adopt certain regulations to~~
 18 ~~limit the size of swine farm operations~~; providing a subtraction modification
 19 under the Maryland individual and corporate income tax for certain expenses
 20 associated with the purchase of certain agricultural machinery under certain
 21 conditions; providing that the subtraction may be carried over to succeeding
 22 taxable years under certain circumstances; providing for a tax credit under the
 23 Maryland individual and corporate income tax for certain expenses associated
 24 with certain costs necessary to convert agricultural production to a certain
 25 nutrient management plan under certain circumstances; placing certain
 26 restrictions, conditions, and limits on the use of the tax credit; providing that
 27 the tax credit may be carried over to succeeding taxable years under certain
 28 circumstances; requiring an individual or corporation to receive a certain
 29 certification from the Department of Agriculture and file proof of the
 30 certification; defining certain terms; requiring the Governor to target and
 31 coordinate certain funding; requiring the Secretary of Agriculture to submit a
 32 certain report by a certain date; requiring the University of Maryland
 33 Cooperative Extension Service to submit a certain annual report to the Nutrient
 34 Management Advisory Committee, the Governor, and the General Assembly;
 35 requiring the Maryland Department of Agriculture to provide certain notice to
 36 farmers of the availability of certain assistance and of the requirements of this
 37 Act; authorizing the transfer between certain departments of certain
 38 appropriations and positions for fiscal year 1999; providing for the termination
 39 of certain provisions of this Act; and generally relating to nutrient management
 40 and water quality.

41 BY adding to

42 Article 83A - Department of Business and Economic Development
 43 Section 6-801 through 6-807, inclusive, to be under the new subtitle "Subtitle 8.
 44 Animal Waste Technology Fund"
 45 Annotated Code of Maryland
 46 (1995 Replacement Volume and 1997 Supplement)

- 1 BY repealing and reenacting, without amendments,
2 Article - Agriculture
3 Section 6-101(a), (d), and (e), 6-102, 6-113, 6-201(f), and 8-805
4 Annotated Code of Maryland
5 (1985 Replacement Volume and 1997 Supplement)
- 6 BY repealing and reenacting, with amendments,
7 Article - Agriculture
8 Section 6-106
9 Annotated Code of Maryland
10 (1985 Replacement Volume and 1997 Supplement)
- 11 BY adding to
12 Article - Agriculture
13 Section 6-107.1, ~~8-405~~, 8-704.1, 8-704.2, 8-801.1, 8-803.1, 8-803.2, 8-803.3,
14 8-803.4, 8-803.5, and 8-807
15 Annotated Code of Maryland
16 (1985 Replacement Volume and 1997 Supplement)
- 17 BY repealing and reenacting, with amendments,
18 Article - Agriculture
19 Section 8-801 through 8-804, inclusive, and 8-806 to be under the amended
20 subtitle "Subtitle 8. Nutrient Management"
21 Annotated Code of Maryland
22 (1985 Replacement Volume and 1997 Supplement)
- ~~23 BY repealing and reenacting, without amendments,
24 Article - Environment
25 Section 9-313
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 1997 Supplement)~~
- ~~28 BY adding to
29 Article - Environment
30 Section 9-325.1
31 Annotated Code of Maryland
32 (1996 Replacement Volume and 1997 Supplement)~~
- 33 BY repealing and reenacting, without amendments,
34 Article - Tax - General
35 Section 10-208(a) and 10-308(a)
36 Annotated Code of Maryland
37 (1997 Replacement Volume)

1 BY adding to
2 Article - Tax - General
3 Section 10-208(m) and 10-704.9
4 Annotated Code of Maryland
5 (1997 Replacement Volume)

6 BY repealing and reenacting, with amendments,
7 Article - Tax - General
8 Section 10-308(b)
9 Annotated Code of Maryland
10 (1997 Replacement Volume)

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

13 **Article 83A - Department of Business and Economic Development**

14 **SUBTITLE 8. ANIMAL WASTE TECHNOLOGY FUND.**

15 6-801.

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

18 (B) "ANIMAL WASTE TECHNOLOGY PROJECT" MEANS THE RESEARCH,
19 DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF TECHNOLOGY
20 THAT IS INTENDED TO:

- 21 (1) REDUCE THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE;
22 (2) ALTER THE COMPOSITION OF ANIMAL WASTE;
23 (3) DEVELOP ALTERNATIVE WASTE MANAGEMENT STRATEGIES; OR
24 (4) USE ANIMAL WASTE IN A PRODUCTION PROCESS.

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

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

28 6-802.

29 THE PURPOSE OF THE ANIMAL WASTE TECHNOLOGY FUND IS TO PROVIDE
30 FINANCIAL ASSISTANCE TO INDIVIDUALS AND BUSINESS ENTERPRISES THAT
31 CONDUCT RESEARCH OR DEVELOP TECHNOLOGIES THAT ARE INTENDED TO REDUCE
32 THE AMOUNT OF NUTRIENTS IN ANIMAL WASTE, ALTER THE COMPOSITION OF
33 ANIMAL WASTE, DEVELOP ALTERNATIVE ANIMAL WASTE MANAGEMENT

1 STRATEGIES, OR USE ANIMAL WASTE IN A PRODUCTION PROCESS. THE GOAL OF THE
2 FUND IS TO ENCOURAGE THE DEVELOPMENT AND IMPLEMENTATION OF
3 ECONOMICALLY FEASIBLE TECHNOLOGIES THAT HELP PROTECT THE PUBLIC
4 HEALTH AND THE ENVIRONMENT BY REDUCING THE AMOUNT OF NUTRIENTS FROM
5 ANIMAL WASTE THAT ARE RELEASED INTO STATE WATERS.

6 6-803.

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

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

10 (C) THE FUND MAY CONSIST OF:

11 (1) MONEYS APPROPRIATED BY THE STATE;

12 (2) MONEYS MADE AVAILABLE THROUGH FEDERAL PROGRAMS OR
13 PRIVATE CONTRIBUTIONS;

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

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

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

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

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

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

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

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

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

1 6-804.

2 FINANCIAL ASSISTANCE PROVIDED FROM THE FUND MAY BE:

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

5 (2) IN THE FORM OF:

6 (I) A GRANT;

7 (II) A LOAN;

8 (III) A LOAN GUARANTEE;

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

11 (V) AN EQUITY INVESTMENT.

12 6-805.

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

15 (1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;

16 (2) PRESERVING THE VIABILITY OF THE AGRICULTURAL INDUSTRY; AND

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

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

23 (1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;

24 (2) PRESERVING THE VIABILITY OF THE AGRICULTURAL INDUSTRY; AND

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

27 6-806.

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

1 6-807.

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

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

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

8 **Article - Agriculture**

9 8-704.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (2) SOIL NUTRIENT LEVELS OF ACREAGE RECEIVING MANURE;

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

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

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

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

23 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 24 shall read as follows:

25 **Article - Agriculture**

26 6-101.

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

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

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

32 (2) Unground hay; or

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

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

3 6-102.

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

6 6-106.

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

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

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

16 (d) When inspection and analysis of an official sample indicates a commercial
17 feed is adulterated [or], misbranded, OR DOES NOT CONTAIN AN ENZYME OR OTHER
18 ADDITIVE ~~OR BOTH~~ IN ACCORDANCE WITH § 6-107.1 OF THIS SUBTITLE, the Secretary
19 shall forward the results of the analysis to the person who registers the product and
20 the person from whom the sample is taken. The Secretary shall furnish the
21 distributor with a portion of the sample concerned within 30 days if he requests it.

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

25 6-107.1.

26 (A) ~~BY JANUARY 1, 2000~~ DECEMBER 31, 2000, ALL CONTRACT FEED THAT IS FED
27 TO CHICKENS MUST INCLUDE PHYTASE OR OTHER ENZYME OR ADDITIVE THAT
28 REDUCES PHOSPHORUS IN POULTRY WASTE, ~~OR BOTH~~ TO THE MAXIMUM EXTENT
29 THAT IS COMMERCIALY AND BIOLOGICALLY FEASIBLE.

30 (B) SUBJECT TO THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION, THE
31 SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH: TO MONITOR
32 COMPLIANCE WITH SUBSECTION (A) OF THIS SECTION.

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

35 ~~(2) APPROPRIATE LABELING AND DISTRIBUTION REQUIREMENTS.~~

1 (C) IF THE SECRETARY DETERMINES THAT THE REQUIREMENTS SET FORTH
2 IN SUBSECTION (A) OF THIS SECTION HAVE A SIGNIFICANT DETRIMENTAL EFFECT
3 ON POULTRY PRODUCTION OR THE POULTRY MARKET, THE SECRETARY SHALL:

4 (1) SUSPEND THE PROGRAM FOR A REASONABLE PERIOD OF TIME; OR

5 (2) RECOMMEND TO THE GENERAL ASSEMBLY THAT THE
6 REQUIREMENT BE MODIFIED OR TERMINATED.

7 (D) IN DEVELOPING REGULATIONS UNDER SUBSECTION (B) OF THIS SECTION
8 AND IN MAKING A DETERMINATION UNDER SUBSECTION (C) OF THIS SECTION, THE
9 SECRETARY SHALL CONSULT WITH THE DELMARVA POULTRY INDUSTRY, THE
10 MARYLAND FARM BUREAU, AND THE UNIVERSITY OF MARYLAND DEPARTMENT OF
11 ANIMAL AND AVIAN SCIENCE.

12 6-113.

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

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

21 (c) The Secretary may file a petition for condemnation in the circuit court of
22 the county in which the commercial feed is located. If the court finds the commercial
23 feed to be in violation of the provisions of this subtitle and orders the condemnation,
24 the commercial feed shall be disposed of in any manner consistent with the quality of
25 the commercial feed and the laws of the State. The court may not dispose of the
26 commercial feed without first giving the claimant an opportunity to apply to the court
27 for release of it or for permission to process or relabel the commercial feed so that it
28 complies with the provisions of this subtitle.

29 6-201.

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

34 8-405.

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

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

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

9 8-704.1.

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

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

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

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

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

22 Subtitle 8. Nutrient Management [Certification and Licensing].

23 8-801.

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

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

29 ~~{(b)}~~ ~~(C)~~ "Certified nutrient management consultant" means an individual
 30 certified by the Department to prepare a nutrient management plan.

31 ~~{(c)}~~ ~~(D)~~ "Nutrient management plan" means a plan prepared under this
 32 subtitle by a certified nutrient management consultant to manage the amount,
 33 placement, timing, and application of animal waste, commercial fertilizer, sludge, or
 34 other plant nutrients to prevent pollution BY TRANSPORT OF POTENTIALLY
 35 BIOAVAILABLE NUTRIENTS and to maintain productivity.

1 ~~(E)~~ "SOIL TEST" MEANS AN ANALYSIS OF THE SURFACE LAYER OF SOIL THAT
 2 ~~DETERMINES EXISTING LEVELS AND CHEMICAL FORMS OF PLANT NUTRIENTS IN~~
 3 ~~THE SOIL.~~

4 8-801.1.

5 (A) ~~(I)~~ EACH NUTRIENT MANAGEMENT PLAN SHALL BE DEVELOPED
 6 CONSIDERING FACTORS INCLUDING:

7 ~~(1)~~ EXISTING NITROGEN AND PHOSPHORUS LEVELS IN THE SOIL;

8 ~~(2)~~ LEVELS OF NITROGEN AND PHOSPHORUS IN ALL NUTRIENTS TO BE
 9 APPLIED;

10 ~~(1)~~ ~~(I)~~ LEVELS OF POTENTIALLY BIOAVAILABLE NITROGEN AND
 11 PHOSPHORUS IN THE SOIL;

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

14 ~~(3)~~ ~~(III)~~ REALISTIC CROP YIELD GOALS THE AMOUNT OF NITROGEN
 15 AND PHOSPHORUS NECESSARY TO ACHIEVE THE EXPECTED CROP YIELD FOR THE
 16 LAND THAT IS THE SUBJECT OF THE NUTRIENT MANAGEMENT PLAN, AS
 17 DETERMINED BY:

18 ~~(1)~~ 1. THE FIELD'S ACTUAL YIELD RECORD AND SOIL
 19 PRODUCTIVITY FOR THAT CROP; OR

20 ~~(2)~~ 2. IF INFORMATION CONCERNING ACTUAL YIELD RECORD
 21 AND SOIL PRODUCTIVITY FOR A CROP IS UNAVAILABLE, RELEVANT INFORMATION
 22 CONCERNING SIMILAR FIELDS AND SOIL;

23 ~~(4)~~ ~~(IV)~~ SOIL ERODIBILITY AND NUTRIENT RETENTION CAPACITY;

24 ~~(5)~~ DISTANCE FROM WATERS OF THE STATE; AND

25 ~~(6)~~ THE BEST REASONABLE SCIENTIFIC METHODS ACCEPTED BY THE
 26 DEPARTMENT AND THE UNIVERSITY OF MARYLAND COOPERATIVE EXTENSION
 27 SERVICE.

28 ~~(5)~~ PHYSICAL CHARACTERISTICS, INCLUDING DISTANCE AND
 29 TOPOGRAPHY;

30 ~~(V)~~ THE BEST REASONABLE SCIENTIFIC METHODS ACCEPTED BY
 31 THE DEPARTMENT AND THE UNIVERSITY OF MARYLAND COOPERATIVE EXTENSION
 32 SERVICE; AND

33 ~~(6)~~ ~~(VI)~~ EXISTING BEST MANAGEMENT PRACTICES;

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

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

6 (2) EACH NUTRIENT MANAGEMENT PLAN SHALL PROVIDE FLEXIBILITY
 7 FOR MANAGEMENT DECISIONS THAT MAY BE REQUIRED BY CONDITIONS BEYOND
 8 THE CONTROL OF THE FARMER.

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

11 (I) WHEN IT IS DEVELOPED; AND

12 (II) EACH TIME IT IS UPDATED.

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

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

18 (2) SUBMISSION OF THE PLAN SHALL INCLUDE A GRANT BY THE
 19 PROPERTY OWNER OR OPERATOR TO THE DEPARTMENT OF A RIGHT OF ENTRY ON
 20 THE PROPERTY TO EVALUATE COMPLIANCE WITH THE PLAN AS LONG AS THE
 21 DEPARTMENT:

22 (I) ENTERS THE PROPERTY IN DAYLIGHT HOURS AT A
 23 REASONABLE TIME THAT ALLOWS THE PROPERTY OWNER OR OPERATOR THE
 24 OPPORTUNITY TO BE PRESENT; AND

25 (II) CONDUCTS ITS EVALUATION IN A MANNER THAT MINIMIZES
 26 ANY INCONVENIENCE TO THE FARMER.

27 ~~(4)~~ (3) THE DEPARTMENT SHALL MAINTAIN A COPY OF EACH
 28 NUTRIENT MANAGEMENT PLAN FOR 3 YEARS IN A MANNER THAT PROTECTS THE
 29 IDENTITY OF THE INDIVIDUAL FOR WHOM THE NUTRIENT MANAGEMENT PLAN WAS
 30 PREPARED.

31 8-802.

32 (A) A PERSON MAY NOT PREPARE A NUTRIENT MANAGEMENT PLAN, FOR
 33 PURPOSES OF MEETING THE REQUIREMENTS OF THIS SUBTITLE, UNLESS THE
 34 PERSON IS CERTIFIED OR LICENSED BY THE STATE.

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

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

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

6 8-803.

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

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

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

13 (b) The Department shall certify any individual who:

14 (1) Meets the requirements of this subtitle;

15 (2) Meets the Department's educational requirements, INCLUDING A
16 PROGRAM ON THE PROPER APPLICATION OF NUTRIENTS;

17 (3) Passes a Department approved examination; and

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

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

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

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

23 (2) Pay to the Department the applicable license fee stated in § 8-806 of
24 this subtitle.

25 (d) The Department shall license a person who meets the requirements of this
26 subtitle.

27 (e) A certificate or license is issued for 1 year unless the certificate or license
28 is renewed as provided by this subtitle.

29 (f) The Department shall renew the certificate or license of any applicant for
30 an additional 1-year term if the applicant:

31 (1) Submits a renewal application on the form that the Department
32 requires;

1 (2) Pays to the Department the applicable fee stated in § 8-806 of this
2 subtitle;

3 (3) Complies with applicable continuing education requirements; [and]

4 (4) COMPLIES WITH APPLICABLE RECORDKEEPING AND REPORTING
5 REQUIREMENTS; AND

6 [(4)] (5) Otherwise is entitled to be certified or licensed.

7 8-803.1.

8 (A) IN THIS SECTION, "GROSS INCOME" MEANS THE ACTUAL INCOME THAT IS
9 RECEIVED IN A CALENDAR YEAR THAT RESULTS DIRECTLY FROM THE FARM OR
10 AGRICULTURAL USE OF THE LAND.

11 (B) THIS SECTION DOES NOT APPLY TO:

12 (1) AN AGRICULTURAL OPERATION WITH LESS THAN \$2,500 IN GROSS
13 INCOME; OR

14 (2) A LIVESTOCK OPERATION WITH LESS THAN EIGHT ANIMAL UNITS AS
15 DEFINED IN 40 C.F.R. PART 122, APPENDIX B.

16 (C) THE GOVERNOR SHALL PROVIDE SUFFICIENT FUNDING IN EACH FISCAL
17 YEAR'S BUDGET TO:

18 (1) ASSIST IN THE DEVELOPMENT OF NUTRIENT MANAGEMENT PLANS;

19 (2) MEET THE TECHNICAL ASSISTANCE AND EVALUATION
20 REQUIREMENTS OF THIS SECTION;

21 (3) MEET THE STATE'S REQUIREMENTS FOR THE IMPLEMENTATION OF
22 THE POULTRY LITTER TRANSPORTATION PILOT PROJECT UNDER § 8-704.2 OF THIS
23 TITLE; AND

24 (4) PROVIDE STATE ASSISTANCE UNDER THE MARYLAND
25 AGRICULTURAL WATER QUALITY COST SHARE PROGRAM IN THE DEPARTMENT.

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

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

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

1 ~~(A)~~ (E) (1) BY ~~JULY 1, 2000~~ DECEMBER 31, 2001, A PERSON WHO ~~OPERATES,~~
2 IN OPERATING A FARM, USES CHEMICAL FERTILIZER, SHALL HAVE A NUTRIENT
3 MANAGEMENT PLAN FOR NITROGEN AND PHOSPHORUS THAT MEETS THE
4 REQUIREMENTS OF THIS SUBTITLE.

5 (2) (I) BY ~~JULY 1, 2000~~ DECEMBER 31, 2001, A PERSON WHO, IN
6 OPERATING A FARM, USES SLUDGE OR ANIMAL MANURE, SHALL HAVE A NUTRIENT
7 MANAGEMENT PLAN FOR NITROGEN.

8 (II) BY ~~JULY 1, 2002~~ JULY 1, 2004, A PERSON WHO, IN OPERATING A
9 FARM, USES SLUDGE OR ANIMAL MANURE, SHALL HAVE A NUTRIENT MANAGEMENT
10 PLAN FOR NITROGEN AND PHOSPHORUS.

11 ~~(B)~~ (F) (1) BY ~~JULY 1, 2002~~ DECEMBER 31, 2002, A PERSON WHO ~~OPERATES,~~
12 IN OPERATING A FARM, USES CHEMICAL FERTILIZER, SHALL COMPLY WITH A
13 NUTRIENT MANAGEMENT PLAN FOR NITROGEN AND PHOSPHORUS THAT MEETS THE
14 REQUIREMENTS OF THIS SUBTITLE.

15 (2) (I) BY ~~JULY 1, 2002~~ DECEMBER 31, 2002, A PERSON WHO, IN
16 OPERATING A FARM, USES SLUDGE OR ANIMAL MANURE, SHALL COMPLY WITH A
17 NUTRIENT MANAGEMENT PLAN FOR NITROGEN THAT MEETS THE REQUIREMENTS
18 OF THIS SUBTITLE.

19 (II) BY ~~JULY 1, 2004~~ JULY 1, 2005, A PERSON WHO, IN OPERATING A
20 FARM, USES SLUDGE OR ANIMAL MANURE, SHALL COMPLY WITH A NUTRIENT
21 MANAGEMENT PLAN FOR NITROGEN AND PHOSPHORUS THAT MEETS THE
22 REQUIREMENTS OF THIS SUBTITLE.

23 ~~(C)~~ (G) A PERSON MAY MEET THE REQUIREMENTS OF SUBSECTION ~~(A)~~ (E) OF
24 THIS SECTION BY REQUESTING, AT LEAST 90 60 DAYS BEFORE THE APPLICABLE DATE
25 SET FORTH IN SUBSECTION ~~(A)~~ (E) OF THIS SECTION, THE DEVELOPMENT OF A
26 NUTRIENT MANAGEMENT PLAN BY A CERTIFIED NUTRIENT MANAGEMENT
27 CONSULTANT.

28 (H) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (E) AND (F) OF
29 THIS SECTION, IF A PERSON RECEIVES STATE FUNDS FOR THE DEVELOPMENT OF A
30 NUTRIENT MANAGEMENT PLAN FOR CHEMICAL FERTILIZER OR A NUTRIENT
31 MANAGEMENT PLAN FOR SLUDGE AND ANIMAL MANURE BASED ON NITROGEN, THE
32 PERSON SHALL IMPLEMENT THE PLAN UPON COMPLETION OF THE DEVELOPMENT
33 OF THE PLAN.

34 (I) (1) IF A PERSON VIOLATES THE PROVISIONS OF SUBSECTION (E) OF
35 THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE PERSON THAT THE PERSON IS
36 IN VIOLATION OF THE REQUIREMENT TO HAVE A NUTRIENT MANAGEMENT PLAN.

37 (2) AFTER A REASONABLE PERIOD OF TIME, IF THE PERSON FAILS TO
38 HAVE A NUTRIENT MANAGEMENT PLAN, THE PERSON IS SUBJECT TO AN
39 ADMINISTRATIVE PENALTY NOT TO EXCEED \$250.

1 ~~(C)~~ ~~(D)~~ ~~(J)~~ ~~(1)~~ A PERSON WHO VIOLATES ANY PROVISION OF SUBSECTION
 2 (F) OF THIS SECTION OR OF ANY RULE, REGULATION, OR ORDER ADOPTED OR ISSUED
 3 UNDER THIS SECTION IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$500 TO BE
 4 COLLECTED IN A CIVIL ACTION BROUGHT BY THE DEPARTMENT OF THE
 5 ENVIRONMENT IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE. EACH
 6 DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.

7 ~~(D)~~ ~~(4)~~ ~~IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN~~
 8 ~~EQUITY AND :~~

9 ~~(I)~~ ~~FOR A FIRST OFFENSE VIOLATION, A WARNING; AND~~

10 ~~(II)~~ ~~FOR A SECOND OR SUBSEQUENT OFFENSE VIOLATION, AFTER~~
 11 ~~AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN WRITING BY THE~~
 12 ~~PERSON ACCUSED OF A VIOLATION, AN ADMINISTRATIVE PENALTY THAT MAY BE~~
 13 ~~IMPOSED BY THE DEPARTMENT OF THE ENVIRONMENT IN CONSULTATION WITH THE~~
 14 ~~DEPARTMENT OF AGRICULTURE MAY IMPOSE A PENALTY FOR VIOLATION OF ANY~~
 15 ~~PROVISION OF THIS SECTION OR ANY RULE, REGULATION, ORDER, OR PERMIT~~
 16 ~~ADOPTED OR ISSUED UNDER THIS SECTION.~~

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

19 ~~(I)~~ ~~UP TO \$250 \$100 FOR EACH VIOLATION, BUT NOT EXCEEDING~~
 20 ~~\$5,000 \$2,500 TOTAL \$2,000 PER FARMER OR OPERATOR PER YEAR; AND~~

21 ~~(II)~~ ~~ASSESSED WITH CONSIDERATION GIVEN TO:~~

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

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

29 ~~3.~~ ~~THE COST OF CLEANUP AND THE COST OF RESTORATION~~
 30 ~~OF NATURAL RESOURCES;~~

31 ~~4.~~ ~~THE NATURE AND DEGREE OF INJURY TO OR~~
 32 ~~INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;~~

33 ~~5.~~ ~~THE EXTENT TO WHICH THE LOCATION OF THE~~
 34 ~~VIOLATION, INCLUDING LOCATION NEAR WATERS OF THIS STATE OR AREAS OF~~
 35 ~~HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT~~
 36 ~~OR TO HUMAN HEALTH OR SAFETY;~~

1 6. ~~3.~~ THE AVAILABLE TECHNOLOGY AND ECONOMIC
2 REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;
3 AND

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

6 8. ~~4.~~ THE EXTENT TO WHICH THE CURRENT VIOLATION IS
7 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION
8 COMMITTED BY THE VIOLATOR.

9 (3) ~~(I)~~ ~~EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS~~
10 ~~PARAGRAPH,~~ EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER
11 THIS SUBSECTION.

12 ~~(II)~~ ~~DAILY PENALTIES DO NOT CONTINUE TO ACCRUE AS LONG AS~~
13 ~~THE FARMER TAKES REASONABLE STEPS TO CORRECT THE VIOLATION.~~

14 (4) ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO
15 ~~THIS STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE~~
16 ~~COLLECTION OF DEBTS~~ THE MARYLAND AGRICULTURAL WATER QUALITY COST
17 SHARE PROGRAM WITHIN THE DEPARTMENT.

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

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

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

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

27 ~~(1)~~ ~~REGARDING ANY STATE COST SHARING FUNDS UNDER SUBTITLE 7~~
28 ~~OF THIS TITLE;~~

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

31 ~~(1)~~ ~~REQUIRE REPAYMENT OF COST SHARE FUNDS UNDER SUBTITLE 7~~
32 ~~OF THIS TITLE FOR THE PROJECT THAT IS IN VIOLATION; OR~~

33 ~~(2)~~ ~~DENY OR RESTRICT FUTURE COST SHARE PAYMENTS UNDER~~
34 ~~SUBTITLE 7 OF THIS TITLE.~~

35 ~~(H)~~ ~~DENY OR RESTRICT FUTURE PAYMENT; AND~~

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

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

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

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

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

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

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

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

26 (L) THE DEPARTMENT SHALL DETERMINE COMPLIANCE WITH THE
27 PROVISIONS OF THIS SECTION.

28 8-803.2.

29 (A) THE GOVERNOR SHALL PROVIDE SUFFICIENT FUNDING IN EACH FISCAL
30 YEAR'S BUDGET TO MEET THE TECHNICAL ASSISTANCE AND EVALUATION
31 REQUIREMENTS OF § 8-803.1 OF THIS SUBTITLE.

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

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

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

4 ~~8-803.3.~~

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

7 (1) ~~10 ACRES OR LESS OF LAND EACH YEAR; AND~~

8 (2) ~~PROPERTY THAT THE PERSON OWNS OR MANAGES.~~

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

10 (1) ~~A CERTIFIED NUTRIENT APPLICATOR; OR~~

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

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

14 (1) ~~SUBMIT TO THE DEPARTMENT AN APPLICATION ON THE FORM THE~~
15 ~~DEPARTMENT REQUIRES; AND~~

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

18 (D) ~~THE DEPARTMENT SHALL CERTIFY ANY PERSON WHO:~~

19 (1) ~~MEETS THE REQUIREMENTS OF THIS SUBTITLE;~~

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

22 (3) ~~PASSES AN EXAMINATION APPROVED BY THE DEPARTMENT.~~

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

25 (F) ~~THE DEPARTMENT SHALL RENEW A CERTIFICATE FOR AN ADDITIONAL~~
26 ~~2 YEAR TERM IF THE PERSON:~~

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

29 (2) ~~PAYS TO THE DEPARTMENT A RENEWAL FEE IN ACCORDANCE WITH §~~
30 ~~8-806 OF THIS SUBTITLE;~~

31 (3) ~~COMPLIES WITH APPLICABLE CONTINUING EDUCATION~~
32 ~~REQUIREMENTS;~~

1 (4) ~~COMPLIES WITH APPLICABLE RECORDKEEPING AND REPORTING~~
2 ~~REQUIREMENTS; AND~~

3 (5) ~~IS OTHERWISE ENTITLED TO BE CERTIFIED.~~

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

6 8-803.2.

7 (A) A PERSON WHO APPLIES NUTRIENTS FOR HIRE TO LAND USED FOR
8 AGRICULTURAL PURPOSES SHALL BE A CERTIFIED NUTRIENT MANAGEMENT
9 CONSULTANT OR WORK UNDER A NUTRIENT MANAGEMENT CONSULTANT
10 CERTIFIED UNDER § 8-803 OF THIS SUBTITLE.

11 (B) A PERSON WHO APPLIES NUTRIENTS FOR HIRE TO LAND USED FOR
12 AGRICULTURAL PURPOSES, WHO IS NOT A CERTIFIED NUTRIENT MANAGEMENT
13 CONSULTANT, SHALL MAKE AVAILABLE DOCUMENTATION, IN THE FORM OF A WORK
14 ORDER, BILL OF LADING, OR SIMILAR DOCUMENT, TO THE LANDOWNER OR LAND
15 MANAGER THAT THE PERSON IS WORKING UNDER A CERTIFIED NUTRIENT
16 MANAGEMENT CONSULTANT.

17 (C) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
18 SECTION.

19 8-803.3.

20 (A) THIS SECTION DOES NOT APPLY TO:

21 (1) A PERSON WHO APPLIES NUTRIENTS TO 10 ACRES OR LESS OF LAND
22 EACH YEAR; OR

23 (2) A PERSON WHO APPLIES NUTRIENTS FOR HIRE.

24 (B) A PERSON WHO ENGAGES IN THE ACTIVITY OF APPLYING NUTRIENTS TO
25 LAND WHICH THE PERSON OWNS OR MANAGES AND WHICH IS USED FOR
26 AGRICULTURAL PURPOSES SHALL COMPLETE AN EDUCATIONAL PROGRAM IN
27 NUTRIENT APPLICATION EVERY 3 YEARS.

28 (C) (1) THE SECRETARY, IN CONSULTATION WITH THE NUTRIENT
29 MANAGEMENT ADVISORY COMMITTEE UNDER § 8-804 OF THIS SUBTITLE, SHALL
30 CREATE OR APPROVE EDUCATIONAL PROGRAMS UNDER THIS SECTION.

31 (2) THE NUTRIENT APPLICATION EDUCATIONAL PROGRAMS ARE TO BE
32 OFFERED AT SITES DISTRIBUTED THROUGHOUT THE STATE.

33 (3) THE DEPARTMENT SHALL ISSUE TO A PARTICIPANT UPON
34 COMPLETION OF AN EDUCATION PROGRAM UNDER THIS SECTION, A VOUCHER OF
35 COMPLETION.

1 (4) THE DEPARTMENT SHALL MAINTAIN A REGISTRY OF PERSONS WHO
 2 HAVE RECEIVED VOUCHERS OF COMPLETION IN A NUTRIENT APPLICATION
 3 EDUCATIONAL PROGRAM UNDER THIS SECTION.

4 8-803.4.

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

7 (1) THAT IS PERFORMED BY:

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

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

12 (2) TO PROPERTY THAT IS:

13 (I) NOT USED FOR AGRICULTURAL PURPOSES; AND

14 (II) 1. THREE OR MORE ACRES; OR

15 2. STATE PROPERTY.

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

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

19 ~~(2) APPLIES THE COMMERCIAL FERTILIZER IN A MANNER THAT IS~~
 20 ~~CONSISTENT WITH THE NUTRIENT MANAGEMENT GUIDELINES AND CRITERIA~~
 21 ~~UNDER § 8-801.1 OF THIS SUBTITLE PERSON APPLIES THE COMMERCIAL FERTILIZER~~
 22 ~~IN A MANNER THAT IS CONSISTENT WITH THE RECOMMENDATIONS OF THE~~
 23 ~~UNIVERSITY OF MARYLAND COOPERATIVE EXTENSION SERVICE.~~

24 (C) (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS
 25 SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ~~\$1,500~~ \$1,000 FOR A FIRST
 26 VIOLATION.

27 (2) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS
 28 SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ~~\$2,500~~ \$2,000 FOR EACH
 29 SUBSEQUENT VIOLATION.

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

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

1 ~~(5)~~ (4) THE TOTAL PENALTIES IMPOSED ON A PERSON FOR
2 VIOLATIONS OF THIS SECTION THAT RESULT FROM THE SAME SET OF FACTS AND
3 CIRCUMSTANCES MAY NOT EXCEED ~~\$15,000~~ \$10,000.

4 (D) THE PENALTY IMPOSED ON A PERSON UNDER THIS SECTION SHALL BE
5 ASSESSED WITH CONSIDERATION GIVEN TO:

6 (1) THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO WHICH THE
7 EXISTENCE OF THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT UNCORRECTED
8 BY THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
9 REASONABLE CARE;

10 (2) ANY ACTUAL HARM TO HUMAN HEALTH OR TO THE ENVIRONMENT
11 INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF THE STATE
12 OR THE NATURAL RESOURCES OF THE STATE;

13 (3) THE COST OF CONTROL;

14 (4) THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE WITH
15 GENERAL WELFARE, HEALTH, AND PROPERTY;

16 (5) THE EXTENT TO WHICH THE LOCATION OF THE VIOLATION,
17 INCLUDING LOCATION NEAR AREAS OF HUMAN POPULATION, CREATES THE
18 POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY;
19 AND

20 (6) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A
21 RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED
22 BY THE VIOLATOR.

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

25 ~~8-803.5.~~

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

28 ~~8-803.5.~~

29 ~~*IF REQUESTED, THE DEPARTMENT SHALL ADOPT REGULATIONS PROVIDING*~~
30 ~~*FOR RELIGIOUS EXEMPTIONS TO THIS SUBTITLE IN THE EVENT THE*~~
31 ~~*REQUIREMENTS OF THIS SUBTITLE CONFLICT WITH THE BONA FIDE RELIGIOUS*~~
32 ~~*BELIEFS AND PRACTICES OF PERSONS SUBJECT TO THIS SUBTITLE.*~~

33 8-804.

34 (a) (1) The Department shall establish a Nutrient Management Advisory
35 Committee. The Secretary shall appoint to the Committee representatives of the
36 agricultural community, the environmental community, [industry] THE

1 COMMERCIAL LAWN CARE, BIOSOLIDS, AND AGRICULTURAL FERTILIZER
 2 INDUSTRIES, academia, and appropriate government units. THE SECRETARY ALSO
 3 SHALL APPOINT TO THE COMMITTEE A REPRESENTATIVE OF COUNTY GOVERNMENT
 4 FROM A LIST SUBMITTED BY THE MARYLAND ASSOCIATION OF COUNTIES. THE
 5 PRESIDENT OF THE SENATE OF MARYLAND SHALL APPOINT TO THE COMMITTEE
 6 ONE SENATOR AND THE SPEAKER OF THE HOUSE OF DELEGATES SHALL APPOINT TO
 7 THE COMMITTEE ONE DELEGATE.

8 (2) (1) THE NUTRIENT MANAGEMENT ADVISORY COMMITTEE SHALL
 9 REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §
 10 2-1246 OF THE STATE GOVERNMENT ARTICLE, BY JULY 1 OF EACH YEAR ON THE
 11 IMPLEMENTATION OF THE REQUIREMENTS OF THE WATER QUALITY IMPROVEMENT
 12 ACT OF 1998.

13 (II) THE REPORT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
 14 PARAGRAPH SHALL INCLUDE INFORMATION REGARDING:

15 1. THE LEVEL OF PARTICIPATION IN THE NUTRIENT
 16 MANAGEMENT PLAN PROGRAM;

17 2. ADDITIONAL RESOURCES THAT MAY BE NEEDED TO MEET
 18 THE REQUIREMENTS OF § 8-803.1 OF THIS SUBTITLE;

19 3. THE EFFECTIVENESS OF NUTRIENT APPLICATION
 20 EDUCATION PROGRAMS; AND

21 4. THE EFFECTIVENESS OF THE POULTRY LITTER
 22 TRANSPORTATION PILOT PROJECT SET FORTH IN § 8-704.2 OF THIS TITLE AND THE
 23 POTENTIAL ECONOMIC IMPACT ON FARMERS IF THE PILOT PROJECT IS
 24 TERMINATED.

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

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

29 (2) Establish continuing education requirements for [certificate
 30 holders] CERTIFIED NUTRIENT MANAGEMENT CONSULTANTS AND ~~CERTIFIED~~
 31 NUTRIENT APPLICATORS PERSONS RECEIVING VOUCHERS OF COMPLETION UNDER §
 32 8-803.3 OF THIS SUBTITLE; [and]

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

35 {3} (4) Adopt guidelines and requirements for licensees; AND
 36 CERTIFIED NUTRIENT MANAGEMENT CONSULTANTS, AND ~~CERTIFIED NUTRIENT~~
 37 APPLICATORS on record keeping and on reporting requirements to the Department on
 38 nutrient management plans.

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

4 ~~(1) FOR HIRE; AND~~

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

6 8-805.

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

10 8-806.

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

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

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

17 ~~{(2)}~~ ~~(3)~~ License (individual or sole proprietorship).....\$50;

18 ~~{(3)}~~ ~~(4)~~ License (corporation or partnership) \$100; and

19 ~~{(4)}~~ ~~(5)~~ Renewal\$50.

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

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

24 8-807.

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

1 **Article—Environment**

2 ~~9-313.~~

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

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

- 7 (1) Existing physical conditions;
- 8 (2) The character of the area involved, including surrounding land uses;
- 9 (3) Priority ranking of waters as to effluent limits;
- 10 (4) Zoning;
- 11 (5) The nature of the existing receiving body of water;
- 12 (6) The technical feasibility of measuring or reducing the particular type
13 of water pollution;
- 14 (7) The economic reasonableness of measuring or reducing the particular
15 type of water pollution; and
- 16 (8) The purposes of this subtitle.

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

- 19 (1) ~~Impose, as circumstances require, different requirements for
20 different pollutant sources and for different geographical areas;~~
- 21 (2) ~~Apply to sources located outside this State that cause, contribute to,
22 or threaten environmental damage in this State; and~~
- 23 (3) ~~Make special provisions for alert and abatement standards and
24 procedures for occurrences or emergencies of pollution or on other short term
25 conditions that are an acute danger to health or to the environment.~~

26 ~~9-325.1.~~

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

31 (B) ~~THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL INCLUDE A
32 PROVISION TO GRANDFATHER SWINE FARM OPERATIONS IN EXISTENCE AT THE
33 TIME THE REGULATIONS TAKE EFFECT.~~

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

4 SECTION ~~3~~, 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 5 read as follows:

6 **Article - Tax - General**

7 10-208.

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

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

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

20 (II) TO APPLY SOLID OR LIQUID LIVESTOCK WASTE.

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

24 (I) PURCHASED THE SPREADING EQUIPMENT AFTER DECEMBER
 25 31, 1997; AND

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

28 ~~(3) THE SUBTRACTION ALLOWED UNDER PARAGRAPH (2) OF THIS~~
 29 ~~SUBSECTION MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS, NOT TO~~
 30 ~~EXCEED 5 YEARS, UNTIL THE FULL AMOUNT OF THE SUBTRACTION IS USED.~~

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

35 (4) IF THE SUBTRACTION ALLOWED UNDER PARAGRAPH (2) OF THIS
 36 SUBSECTION EXCEEDS THE MARYLAND TAXABLE INCOME THAT IS COMPUTED
 37 WITHOUT THE MODIFICATION ALLOWED UNDER THIS SUBSECTION AND THE

1 SUBTRACTION IS NOT USED FOR THE TAXABLE YEAR, THE EXCESS MAY BE CARRIED
 2 OVER TO SUCCEEDING TAXABLE YEARS, NOT TO EXCEED 5, UNTIL THE FULL
 3 AMOUNT OF THE SUBTRACTION IS USED.

4 10-308.

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

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

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

11 (2) § 10-208(i) of this title (reforestation or timber stand expenses);

12 [and]

13 (3) § 10-208(k) of this title (wage expenses for targeted jobs); AND

14 (4) § 10-208(M) OF THIS TITLE (POULTRY OR LIVESTOCK MANURE
 15 SPREADING EQUIPMENT).

16 SECTION 4. 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 17 read as follows:

18 **Article - Tax - General**

19 10-704.9.

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

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

29 (2) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED
 30 \$4,500 IN ANY TAXABLE YEAR.

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

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

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

7 (C) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT BE EARNED FOR
 8 ANY CREDIT YEAR BEGINNING ON OR AFTER JANUARY 1, ~~2006~~ ~~2008~~ 2009.

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

12 (I) THAT THE INDIVIDUAL OR CORPORATION HAS SUBMITTED A
 13 NUTRIENT MANAGEMENT PLAN TO THE DEPARTMENT IN ACCORDANCE WITH TITLE
 14 8, SUBTITLE 8 OF THE AGRICULTURE ARTICLE;

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

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

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

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

27 SECTION ~~5- 6~~. AND BE IT FURTHER ENACTED, That Section 1 of this Act
 28 shall remain effective for a period of 3 years and, at the end of June 30, 2001, with no
 29 further action required by the General Assembly, Section 1 of this Act shall be
 30 abrogated and of no further force and effect. Any money remaining in the Animal
 31 Waste Technology Fund on June 30, 2001 or due to the Animal Waste Technology
 32 Fund after June 30, 2001 shall be paid into the General Fund.

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

37 SECTION ~~6- 8~~. AND BE IT FURTHER ENACTED, That Section ~~3 4~~ of this Act
 38 shall be applicable to all taxable years beginning after December 31, 1997.

1 SECTION 7. 9. AND BE IT FURTHER ENACTED, That Section 4- 5 of this Act
2 shall be applicable to all taxable years beginning after December 31, 1998.

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

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

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

13 SECTION 10. AND BE IT FURTHER ENACTED, That the Governor is
14 requested to take the steps necessary to target funding received by the State under the
15 Conservation Reserve Enhancement Program of the U.S. Department of Agriculture to
16 farms, located in watersheds that contribute to water bodies and basin segments listed
17 as impaired by nutrients by the State under § 303 of the federal Clean Water Act, that
18 implement nutrient management plans in accordance with this Act.

19 SECTION 11. AND BE IT FURTHER ENACTED, That the Governor is
20 requested to support and fund, in cooperation with the private sector and appropriate
21 public agencies, continuing research into management and remediation of
22 phosphorous as a nutrient derived from animal waste and as a pollutant, including:

23 (1) The development of a reliable phosphorous index;

24 (2) Composting and incineration of animal waste and litter;

25 (3) Marketing and transportation of products derived from animal waste
26 and litter; and

27 (4) Commercial animal feed management and additives that may reduce
28 phosphorus deposition in animal waste.

29 ~~SECTION 12.~~ 12. AND BE IT FURTHER ENACTED, That the Secretary of
30 Agriculture is requested to submit a report to the General Assembly, in accordance
31 with § 2-1246 of the State Government Article, by January 1, 2001 on the Poultry
32 Litter Transportation Pilot Project established under this Act. The report shall
33 include information on the participation levels in the Pilot Project, the amount of
34 litter transported, and the amount of funds raised and distributed. The report shall
35 also evaluate the potential economic impact on farmers if the Pilot Project is
36 terminated.

37 SECTION 13. AND BE IT FURTHER ENACTED, That:

1 (a) By December 1 of each year, the University System of Maryland shall report
2 to the Nutrient Management Advisory Committee, the Governor, and in accordance
3 with § 2-1246 of the State Government Article, the General Assembly on:

4 (1) The latest developments in phosphorus mitigation, including the
5 effectiveness of phytase and other enzymes, genetically engineered corn, soil additives,
6 and other innovations; and

7 (2) For targeted areas determined by the Secretary of Agriculture,
8 background levels of phosphorus in the soil, current levels of phosphorus in the soil,
9 and the movement of phosphorus in and on the land.

10 (b) In preparing the report, the University System of Maryland shall
11 coordinate the activities at member institutions and consult with the agricultural
12 industry. To the extent possible, the University System shall coordinate its efforts with
13 research projects conducted by the agricultural industry.

14 SECTION 14. AND BE IT FURTHER ENACTED, That the Maryland
15 Department of Agriculture shall provide written notice to farmers concerning the
16 requirements of this Act and explaining the State financial and technical assistance
17 that is available to assist farmers in complying with the requirements of the Act.

18 SECTION 15. AND BE IT FURTHER ENACTED, That under the provisions of
19 § 7-209(e)(2)(iv) of the State Finance and Procurement Article for fiscal year 1999 only,
20 appropriations and positions may be transferred between the Departments of
21 Agriculture, Business and Economic Development, and the Environment to carry out
22 the intent of this legislation.

23 SECTION ~~8. 12.~~ 16. AND BE IT FURTHER ENACTED, That this Act shall take
24 effect July 1, 1998.