

SENATE BILL 178

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1998 Regular Session
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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**

Introduced and read first time: January 23, 1998
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 3, 1998

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; requiring the Governor to provide sufficient
8 funding to maintain a certain level of field personnel for soil conservation
9 districts; requiring each nutrient management plan to be developed considering
10 certain factors; authorizing certain State cost sharing for certain costs of having
11 nutrient management plans prepared; establishing certain limits for the cost
12 sharing program; authorizing the Secretary of Agriculture to adopt certain
13 regulations; requiring certain persons to have nutrient management plans and
14 comply with nutrient management plans by certain dates; establishing certain
15 penalties; authorizing the Department of the Environment to take certain action
16 against certain persons under certain circumstances; requiring certain persons
17 to be certified by the Department of Agriculture as nutrient applicators under
18 certain circumstances; establishing certain requirements for certification and
19 certain penalties for failure to be certified; altering the membership of the
20 Nutrient Management Advisory Committee; authorizing the Department of
21 Agriculture to adopt certain regulations; requiring the Department of
22 Agriculture to adopt certain regulations; authorizing the Department of
23 Agriculture to charge certain fees; requiring certain reports; authorizing the
24 Department of the Environment to adopt certain regulations to limit the size of
25 swine farm operations; providing a subtraction modification under the

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

16 BY adding to

17 Article 83A - Department of Business and Economic Development
18 Section 6-801 through 6-807, inclusive, to be under the new subtitle "Subtitle 8.
19 Animal Waste Technology Fund"
20 Annotated Code of Maryland
21 (1995 Replacement Volume and 1997 Supplement)

22 BY repealing and reenacting, without amendments,

23 Article - Agriculture
24 Section 6-101(a), (d), and (e), 6-102, 6-113, 6-201(f), and 8-805
25 Annotated Code of Maryland
26 (1985 Replacement Volume and 1997 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article - Agriculture
29 Section 6-106
30 Annotated Code of Maryland
31 (1985 Replacement Volume and 1997 Supplement)

32 BY adding to

33 Article - Agriculture
34 Section 6-107.1, ~~8-405~~, ~~8-704.1~~, ~~8-704.2~~, 8-801.1, 8-803.1, 8-803.2, 8-803.3,
35 8-803.4, ~~8-803.5~~, and 8-807
36 Annotated Code of Maryland
37 (1985 Replacement Volume and 1997 Supplement)

38 BY repealing and reenacting, with amendments,

39 Article - Agriculture
40 Section 8-801 through 8-804, inclusive, and 8-806 to be under the amended

1 subtitle "Subtitle 8. Nutrient Management"
2 Annotated Code of Maryland
3 (1985 Replacement Volume and 1997 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article - Environment
6 Section 9-313
7 Annotated Code of Maryland
8 (1996 Replacement Volume and 1997 Supplement)

9 BY adding to
10 Article - Environment
11 Section 9-325.1
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1997 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article - Tax - General
16 Section 10-208(a) and 10-308(a)
17 Annotated Code of Maryland
18 (1997 Replacement Volume)

19 BY adding to
20 Article - Tax - General
21 Section 10-208(m) and 10-704.9
22 Annotated Code of Maryland
23 (1997 Replacement Volume)

24 BY repealing and reenacting, with amendments,
25 Article - Tax - General
26 Section 10-308(b)
27 Annotated Code of Maryland
28 (1997 Replacement Volume)

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

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

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

33 6-801.

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

1 (B) "ANIMAL WASTE TECHNOLOGY PROJECT" MEANS THE RESEARCH,
2 DEVELOPMENT, IMPLEMENTATION, OR MARKET DEVELOPMENT OF TECHNOLOGY
3 THAT IS INTENDED TO:

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

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

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

11 6-802.

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

22 6-803.

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

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

26 (C) THE FUND MAY CONSIST OF:

- 27 (1) MONEYS APPROPRIATED BY THE STATE;
- 28 (2) MONEYS MADE AVAILABLE THROUGH FEDERAL PROGRAMS OR
29 PRIVATE CONTRIBUTIONS;
- 30 (3) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES
31 FROM MONEYS IN THE FUND;
- 32 (4) REPAYMENTS OF PRINCIPAL AND INTEREST FROM LOANS MADE
33 FROM THE FUND;

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

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

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

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

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

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

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

14 6-804.

15 FINANCIAL ASSISTANCE PROVIDED FROM THE FUND MAY BE:

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

18 (2) IN THE FORM OF:

19 (I) A GRANT;

20 (II) A LOAN;

21 (III) A LOAN GUARANTEE;

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

24 (V) AN EQUITY INVESTMENT.

25 6-805.

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

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

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

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

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

- 5 (1) IMPROVING THE PUBLIC HEALTH AND THE ENVIRONMENT;
6 (2) PRESERVING THE VIABILITY OF THE AGRICULTURAL INDUSTRY; AND
7 (3) HAVING A POSITIVE ECONOMIC DEVELOPMENT IMPACT IN THE
8 STATE.

9 6-806.

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

12 6-807.

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

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

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

19 **Article - Agriculture**

20 8-704.2.

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

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

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

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

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

32 (2) THE PILOT PROJECT SHALL ENCOURAGE VOLUNTARY
33 PARTICIPATION TO ACHIEVE THE REMOVAL OF POULTRY LITTER PRODUCED BY AT

1 LEAST 20% OF THE POULTRY IN THE FOUR LOWER EASTERN SHORE COUNTIES IN
2 MARYLAND; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

Article - Agriculture

1

2 6-101.

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

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

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

8 (2) Unground hay; or

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

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

13 6-102.

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

16 6-106.

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

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

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

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

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

1 6-107.1.

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

5 (B) THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH:

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

8 (2) APPROPRIATE LABELING AND DISTRIBUTION REQUIREMENTS.

9 6-113.

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

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

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

26 6-201.

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

31 8-405.

32 (A) THE GENERAL ASSEMBLY FINDS THAT, FROM FISCAL YEAR 1991 THROUGH
33 FISCAL YEAR 1998, INADEQUATE RESOURCES HAVE BEEN PROVIDED FOR THE SOIL
34 CONSERVATION DISTRICTS TO EMPLOY ADEQUATE FIELD PERSONNEL TO ASSIST
35 FARMERS IN THE PREPARATION OF SOIL CONSERVATION AND WATER QUALITY
36 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) 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) LEVELS OF POTENTIALLY BIOAVAILABLE NITROGEN AND
11 PHOSPHORUS IN THE SOIL;

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

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

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

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

22 (4) SOIL ERODIBILITY AND NUTRIENT RETENTION CAPACITY;

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

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

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

29 (6) EXISTING BEST MANAGEMENT PRACTICES;

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

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

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

3 (I) WHEN IT IS DEVELOPED; AND

4 (II) EACH TIME IT IS UPDATED.

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

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

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

13 8-802.

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

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

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

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

23 8-803.

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

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

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

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

31 (1) Meets the requirements of this subtitle;

32 (2) Meets the Department's educational requirements;

33 (3) Passes a Department approved examination; and

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

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

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

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

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

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

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

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

14 (1) Submits a renewal application on the form that the Department
15 requires;

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

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

19 (4) COMPLIES WITH APPLICABLE RECORDKEEPING AND REPORTING
20 REQUIREMENTS; AND

21 [(4)] (5) Otherwise is entitled to be certified or licensed.

22 8-803.1.

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

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

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

32 (B) (1) BY JULY 1, 2002, A PERSON WHO ~~OPERATES, IN OPERATING~~ A FARM,
33 USES CHEMICAL FERTILIZER, SHALL COMPLY WITH A NUTRIENT MANAGEMENT

1 PLAN FOR NITROGEN AND PHOSPHORUS THAT MEETS THE REQUIREMENTS OF THIS
 2 SUBTITLE.

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

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

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

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

20 ~~(D)~~ (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN
 21 EQUITY AND :

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

23 (II) FOR A SECOND OR SUBSEQUENT OFFENSE, AFTER AN
 24 OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN WRITING BY THE PERSON
 25 ACCUSED OF A VIOLATION, AN ADMINISTRATIVE PENALTY THAT MAY BE IMPOSED
 26 BY THE DEPARTMENT OF THE ENVIRONMENT IN CONSULTATION WITH THE
 27 DEPARTMENT OF AGRICULTURE MAY IMPOSE A PENALTY FOR VIOLATION OF ANY
 28 PROVISION OF THIS SECTION OR ANY RULE, REGULATION, ORDER, OR PERMIT
 29 ADOPTED OR ISSUED UNDER THIS SECTION.

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

32 (I) UP TO ~~\$250~~ \$100 FOR EACH VIOLATION, BUT NOT EXCEEDING
 33 ~~\$5,000~~ \$2,500 TOTAL; AND

34 (II) ASSESSED WITH CONSIDERATION GIVEN TO:

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

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

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

6 4. THE NATURE AND DEGREE OF INJURY TO OR
7 INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

8 5. THE EXTENT TO WHICH THE LOCATION OF THE
9 VIOLATION, INCLUDING LOCATION NEAR WATERS OF THIS STATE OR AREAS OF
10 HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT
11 OR TO HUMAN HEALTH OR SAFETY;

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

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

16 8. THE EXTENT TO WHICH THE CURRENT VIOLATION IS
17 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION
18 COMMITTED BY THE VIOLATOR.

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

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

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

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

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

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

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

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

1 (II) DENY OR RESTRICT FUTURE PAYMENT; AND

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

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

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

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

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

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

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

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

27 8-803.2.

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

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

35 (2) STATE COST SHARE FUNDS ARE TO BE MADE AVAILABLE FOR
36 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 8-803.4.

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

9 (1) THAT IS PERFORMED BY:

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

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

14 (2) TO PROPERTY THAT IS:

15 (I) NOT USED FOR AGRICULTURAL PURPOSES; AND

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

17 2. STATE PROPERTY.

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

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

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

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.

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

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

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

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

13 (2) ANY ACTUAL HARM TO HUMAN HEALTH OR TO THE ENVIRONMENT
14 INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF THE STATE
15 OR THE NATURAL RESOURCES OF THE STATE;

16 (3) THE COST OF CONTROL;

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

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

23 (6) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A
24 RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED
25 BY THE VIOLATOR.

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

28 8-803.5.

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

31 8-804.

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

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

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

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

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

10 [(3)] (4) Adopt guidelines and requirements for licensees, CERTIFIED
11 NUTRIENT MANAGEMENT CONSULTANTS, AND CERTIFIED NUTRIENT APPLICATORS
12 on record keeping and on reporting requirements to the Department on nutrient
13 management plans.

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

17 (1) FOR HIRE; AND

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

19 8-805.

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

23 8-806.

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

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

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

30 [(2)] (3) License (individual or sole proprietorship)\$50;

31 [(3)] (4) License (corporation or partnership) \$100; and

32 [(4)] (5) Renewal\$50.

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

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

3 8-807.

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

10 **Article - Environment**

11 9-313.

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

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

- 16 (1) Existing physical conditions;
- 17 (2) The character of the area involved, including surrounding land uses;
- 18 (3) Priority ranking of waters as to effluent limits;
- 19 (4) Zoning;
- 20 (5) The nature of the existing receiving body of water;
- 21 (6) The technical feasibility of measuring or reducing the particular type
22 of water pollution;
- 23 (7) The economic reasonableness of measuring or reducing the particular
24 type of water pollution; and
- 25 (8) The purposes of this subtitle.

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

- 28 (1) Impose, as circumstances require, different requirements for
29 different pollutant sources and for different geographical areas;
- 30 (2) Apply to sources located outside this State that cause, contribute to,
31 or threaten environmental damage in this State; and

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

4 9-325.1.

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

9 (B) THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL INCLUDE A
 10 PROVISION TO GRANDFATHER SWINE FARM OPERATIONS IN EXISTENCE AT THE
 11 TIME THE REGULATIONS TAKE EFFECT.

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

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

17 **Article - Tax - General**

18 10-208.

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

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

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

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

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

35 (I) PURCHASED THE SPREADING EQUIPMENT AFTER DECEMBER
 36 31, 1997; AND

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

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

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

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

16 10-308.

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

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

22 (1) § 10-208(d) of this title (conservation tillage equipment expenses);

23 (2) § 10-208(i) of this title (reforestation or timber stand expenses);
24 [and]

25 (3) § 10-208(k) of this title (wage expenses for targeted jobs); AND

26 (4) § 10-208(M) OF THIS TITLE (POULTRY OR LIVESTOCK MANURE
27 SPREADING EQUIPMENT).

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

30 **Article - Tax - General**

31 10-704.9.

32 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, AN INDIVIDUAL OR A
33 CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX FOR A
34 TAXABLE YEAR IN THE AMOUNT EQUAL TO 50% OF THE CERTIFIED ADDITIONAL
35 COMMERCIAL FERTILIZER COSTS NECESSARY TO CONVERT AGRICULTURAL

1 PRODUCTION TO A NUTRIENT MANAGEMENT PLAN UNDER TITLE 8, SUBTITLE 8 OF
2 THE AGRICULTURE ARTICLE.

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

6 (2) THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED
7 \$4,500 IN ANY TAXABLE YEAR.

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

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

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

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

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

24 (I) THAT THE INDIVIDUAL OR CORPORATION HAS SUBMITTED A
25 NUTRIENT MANAGEMENT PLAN TO THE DEPARTMENT IN ACCORDANCE WITH TITLE
26 8, SUBTITLE 8 OF THE AGRICULTURE ARTICLE;

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

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

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

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

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

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

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

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

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

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

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

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

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

