Unofficial Copy M3 2002 Regular Session 2lr1375

By: Senator Baker

Introduced and read first time: January 24, 2002

Assigned to: Education, Health, and Environmental Affairs

#### A BILL ENTITLED

## 1 AN ACT concerning

# 2 Agriculture - Water Quality Improvement Act - Nutrient Management

- 3 FOR the purpose of establishing two classes of certified nutrient management
- 4 consultants; establishing the requirements for each class of certification;
- 5 requiring the University of Maryland Cooperative Extension Service, in
- 6 consultation with the Department of Agriculture, to develop and conduct certain
- 7 training and examinations; removing the requirement that a certain property
- 8 owner or operator grant the Department of Agriculture right of entry under
- 9 certain circumstances; providing for approval, without Department review, of a
- nutrient management plan prepared by a certified management consultant;
- extending the deadlines for implementation of certain nutrient management
- plans to certain dates; requiring the Department to adopt certain regulations;
- and generally relating to nutrient management plans.
- 14 BY repealing and reenacting, with amendments,
- 15 Article Agriculture
- Section 8-801, 8-801.1(b)(1) and (2), 8-802, 8-803, and 8-803.1(e) through (k)
- 17 Annotated Code of Maryland
- 18 (1999 Replacement Volume and 2001 Supplement)
- 19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 20 MARYLAND, That the Laws of Maryland read as follows:

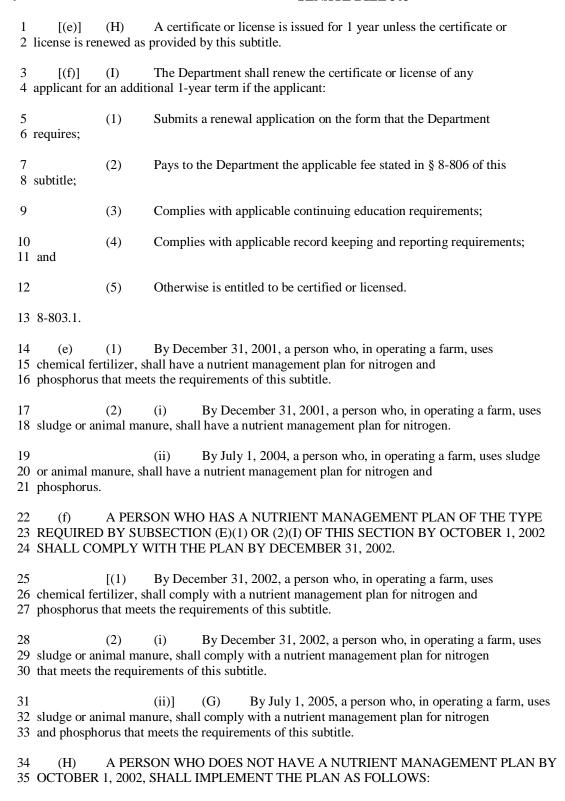
## 21 Article - Agriculture

- 22 8-801.
- 23 (a) In this subtitle the following words have the meanings indicated.
- 24 (b) "Certified nutrient management consultant" means [an individual
- 25 certified by the Department to prepare a nutrient management plan] A CLASS 1 OR
- 26 CLASS 2 CERTIFIED MANAGEMENT CONSULTANT.

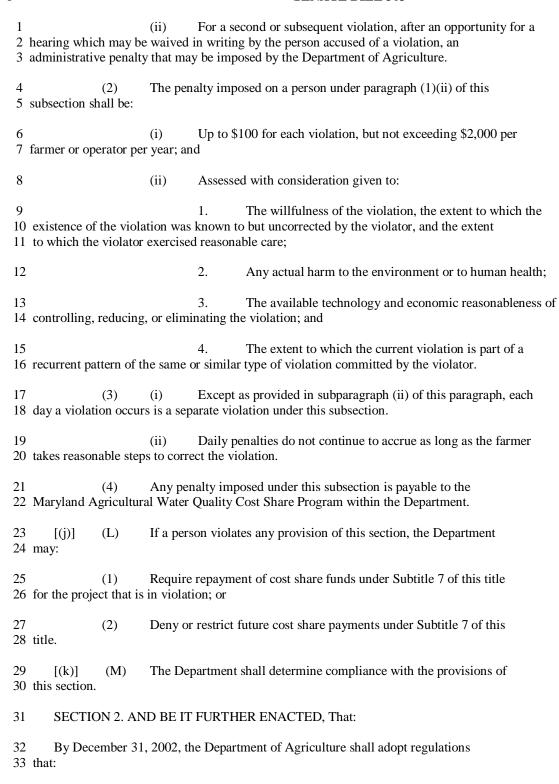
36 of the provisions of this section.

1 (2) "CLASS 1 CERTIFIED NUTRIENT MANAGEMENT CONSULTANT" 2 MEANS AN INDIVIDUAL WHO IS CERTIFIED BY THE DEPARTMENT TO PREPARE A 3 NUTRIENT MANAGEMENT PLAN FOR ANY FARM AFFECTED BY THIS SUBTITLE. 4 "CLASS 2 CERTIFIED NUTRIENT MANAGEMENT CONSULTANT" 5 MEANS A FARMER WHO IS CERTIFIED BY THE DEPARTMENT TO PREPARE A 6 NUTRIENT MANAGEMENT PLAN FOR ONLY THE FARMER'S SPECIFIC FARMING 7 OPERATION. 8 "Nutrient management plan" means a plan prepared under this subtitle by (c) 9 a certified nutrient management consultant to manage the amount, placement, 10 timing, and application of animal waste, commercial fertilizer, sludge, or other plant 11 nutrients to prevent pollution by transport of bioavailable nutrients and to maintain 12 productivity. 13 8-801.1. 14 (b) (1) Each nutrient management plan shall be filed with the Department: 15 When it is developed; and (i) Each time it is updated. 16 (ii) 17 Submission of the plan shall include a grant by the property owner or 18 operator to the Department of a right of entry on the property to evaluate compliance with the plan as long as the Department: 20 (i) Enters the property in daylight hours at a reasonable time that 21 allows the property owner or operator the opportunity to be present; and 22 Conducts its evaluation in a manner that minimizes any (ii) 23 inconvenience to the farmer.] 24 A PLAN PREPARED BY A CERTIFIED MANAGEMENT CONSULTANT 25 SHALL BE DEEMED APPROVED AND SHALL BE ACCEPTED BY THE DEPARTMENT 26 WITHOUT ANY REVIEW BY THE DEPARTMENT. 27 8-802. 28 A person may not prepare a nutrient management plan, for purposes of (a) 29 meeting the requirements of this subtitle, unless the person is certified or licensed by 30 the State. An individual may apply to the Department for certification as [a] EITHER 31 32 A CLASS 1 OR CLASS 2 certified nutrient management consultant. A person engaged in the business of providing a nutrient management plan 33 provided under this subtitle shall hold an annual license from the Department. 35 (d) The Department may impose a penalty not exceeding \$250 for a violation

1	8-803.							
2 3	(a) applicant sha		y for certi	fication as a CLASS 1 nutrient management consultant, an				
4 5	Department 1	(1) requires;		to the Department an application on the form the				
6 7	subtitle.	(2)	Pay to the Department the certification fee stated in § 8-806 of this					
8 9	(b) MANAGEM	The Department shall certify any individual AS A CLASS 1 NUTRIENT IENT CONSULTANT who:						
10		(1)	Meets th	ne requirements of this subtitle;				
11 12	1 (2) Meets the Department's educational requirements, including a 2 program on the proper application of nutrients;							
13		(3)	Passes a	Department approved examination; and				
14		(4)	(i)	Is employed by a person licensed under this subtitle; or				
15			(ii)	Holds a license as required by this subtitle.				
	CERTIFICA	ATION P	ROCESS	ENT SHALL ADOPT REGULATIONS PROVIDING FOR A THAT ALLOWS A FARMER SUBJECT TO THIS SUBTITLE TO S 2 NUTRIENT MANAGEMENT CONSULTANT.				
19 20	` /			ERTIFICATION PROCESS SHALL FOCUS ON THE INDIVIDUAL OF OPERATION AND SHALL CONSIST OF:				
21		(1)	ONE OF	R MORE TRAINING SESSIONS; AND				
22		(2)	A WRIT	TEN EXAMINATION.				
	CONSULTA	ATION V	VITH TH	TY OF MARYLAND COOPERATIVE EXTENSION SERVICE, IN E DEPARTMENT, SHALL DEVELOP AND CONDUCT THE WRITTEN EXAMINATIONS.				
26	(F)	To apply	y for a lic	ense an applicant shall:				
27 28	Department	(1) requires;		to the Department an application on the form the				
29 30	this subtitle.	(2)	Pay to th	ne Department the applicable license fee stated in § 8-806 of				
31 32	[(d)] of this subti	(G) tle.	The Dep	partment shall license a person who meets the requirements				



3	1 (1) A PERSON WHO, IN OPERATING A FARM, USES CHEMICAL 2 FERTILIZER, SHALL COMPLY WITH A NUTRIENT MANAGEMENT PLAN FOR NITROGEN 3 AND PHOSPHORUS THAT MEETS THE REQUIREMENTS OF THIS SUBTITLE BY THE 4 EARLIER OF:							
5		(I)	DECEM	MBER 31, 2004; OR				
6 7	PLAN.	(II)	WITHIN	N 1 YEAR AFTER HAVING A NUTRIENT MANAGEMENT				
10			COMPL	ON WHO, IN OPERATING A FARM, USES SLUDGE OR Y WITH A NUTRIENT MANAGEMENT PLAN FOR QUIREMENTS OF THIS SUBTITLE BY THE EARLIER				
12			1.	DECEMBER 31, 2004; OR				
13 14	MANAGEMENT PL	AN.	2.	WITHIN 1 YEAR AFTER HAVING A NUTRIENT				
17		HOSPHO	COMPI	ON WHO, IN OPERATING A FARM, USES SLUDGE OR LY WITH A NUTRIENT MANAGEMENT PLAN FOR IAT MEETS THE REQUIREMENTS OF THIS SUBTITLE				
19			1.	JULY 1, 2007; OR				
20 21	MANAGEMENT PL	AN.	2.	WITHIN 1 YEAR AFTER HAVING A NUTRIENT				
24	[(g)] (I) A person may meet the requirements of subsection (e) of this section by requesting, at least 60 days before the applicable date set forth in subsection (e) of this section, the development of a nutrient management plan by a certified nutrient management consultant.							
	[(h)] (J) (1) If a person violates the provisions of subsection (e) of this section, the Department shall notify the person that the person is in violation of the requirement to have a nutrient management plan.							
	(2) nutrient management exceed \$250.			e period of time, if the person fails to have a s subject to an administrative penalty not to				
	[(i)] (K) this section or of any subject to:	(1) rule, reg		n who violates any provision of subsection (f) OR (G) of or order adopted or issued under this section is				
35		(i)	For a fir	st violation, a warning; and				



- 1 (1) Grant all farmers equal access to all computer software programs 2 used by certified nutrient management planners;
- 3 (2) Authorize certified nutrient management planners to choose from a 4 number of accepted software programs, including the Purdue University system, to 5 assist in the writing of plans;
- 6 (3) Allow a farmer to identify the farmer's property using either the 7 farmer's Property Tax ID, which shall be obtained by the Department at the request 8 of the farmer, or Farm Service Agency ID number;
- 9 (4) Require annual plans to be submitted by March 1 of each year, unless 10 a farmer applies for a different date;
- 11 (5) Alter the planning process to make certain that crop yield-capping 12 does not occur and that farmers can plan to improve their yields as management
- 13 techniques and technology change;
- 14 (6) Require a farmer to maintain and keep records at the farmer's farm,
- 15 including documentation noting alterations to a plan due to weather, change in
- 16 operational size, or circumstances beyond the control of the farmer; and
- 17 (7) Require a farmer to report the alterations described in item (6) of this 18 section to the Department along with the farmer's annual nutrient management plan.
- 19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect 20 October 1, 2002.