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By: **Delegates Conway, Amedori, Bartlett, Bohanan, Boutin, Bozman, Cadden, Cane, G. Clagett, DeBoy, Donoghue, Eckardt, Edwards, Elliott, Elmore, Glassman, Hogan, Hennessy, Impallaria, James, Jameson, Krebs, Love, McDonough, McKee, Mitchell, Myers, O'Donnell, Owings, Rudolph, Schisler, Shank, Stocksdale, Stull, F. Turner, and Wood**

Introduced and read first time: February 18, 2003  
Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Agriculture - Nutrient Management Plans - Suspension of Requirements**

3 FOR the purpose of suspending certain provisions and regulations regarding nutrient  
4 management plans for a certain period of time; requiring the Department of  
5 Agriculture to educate certain persons on the importance of nutrient  
6 management and seek certain cooperation; requiring the Nutrient Management  
7 Advisory Committee to study ways to educate certain persons on the importance  
8 of nutrient management and increase certain participation; requiring the  
9 Committee to submit a certain report on or before a certain date; providing for  
10 the termination of this Act; and generally relating to nutrient management  
11 plans.

12 BY repealing and reenacting, without amendments,  
13 Article - Agriculture  
14 Section 8-801(a) and (c), 8-801.1(b), and 8-803.1  
15 Annotated Code of Maryland  
16 (1999 Replacement Volume and 2002 Supplement)

17 BY adding to  
18 Article - Agriculture  
19 Section 8-808  
20 Annotated Code of Maryland  
21 (1999 Replacement Volume and 2002 Supplement)

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

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**Article - Agriculture**

2 8-801.

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

4 (c) "Nutrient management plan" means a plan prepared under this subtitle by  
5 a certified nutrient management consultant to manage the amount, placement,  
6 timing, and application of animal waste, commercial fertilizer, sludge, or other plant  
7 nutrients to prevent pollution by transport of bioavailable nutrients and to maintain  
8 productivity.

9 8-801.1.

10 (b) (1) Each nutrient management plan shall be filed with the Department:

11 (i) When it is developed; and

12 (ii) Each time it is updated.

13 (2) Submission of the plan shall include a grant by the property owner or  
14 operator to the Department of a right of entry on the property to evaluate compliance  
15 with the plan as long as the Department:

16 (i) Enters the property in daylight hours at a reasonable time that  
17 allows the property owner or operator the opportunity to be present; and

18 (ii) Conducts its evaluation in a manner that minimizes any  
19 inconvenience to the farmer.

20 (3) The Department shall maintain a copy of each nutrient management  
21 plan for 3 years in a manner that protects the identity of the individual for whom the  
22 nutrient management plan was prepared.

23 8-803.1.

24 (a) In this section, "gross income" means the actual income that is received in  
25 a calendar year that results directly from the farm or agricultural use of the land.

26 (b) This section does not apply to:

27 (1) An agricultural operation with less than \$2,500 in gross income; or

28 (2) A livestock operation with less than eight animal units defined as  
29 1,000 pounds of live animal weight per animal unit.

30 (c) The Governor shall provide sufficient funding in each fiscal year's budget  
31 to:

32 (1) Assist in the development of nutrient management plans;

1           (2)     Meet the technical assistance and evaluation requirements of this  
2 section;

3           (3)     Meet the State's requirements for the implementation of the Manure  
4 Transportation Project under § 8-704.2 of this title; and

5           (4)     Provide State assistance under the Maryland Agricultural Water  
6 Quality Cost Share Program in the Department.

7       (d)     (1)     State cost sharing may be made available to farmers to help offset the  
8 costs of having a nutrient management plan prepared by a certified nutrient  
9 management consultant who is not employed by the federal, State, or a local  
10 government.

11           (2)     The Secretary of Agriculture shall adopt regulations authorizing the  
12 disbursement of State cost sharing funds under this subsection.

13       (e)     (1)     By December 31, 2001, a person who, in operating a farm, uses  
14 chemical fertilizer, shall have a nutrient management plan for nitrogen and  
15 phosphorus that meets the requirements of this subtitle.

16           (2)     (i)     By December 31, 2001, a person who, in operating a farm, uses  
17 sludge or animal manure, shall have a nutrient management plan for nitrogen.

18                   (ii)     By July 1, 2004, a person who, in operating a farm, uses sludge  
19 or animal manure, shall have a nutrient management plan for nitrogen and  
20 phosphorus.

21       (f)     (1)     By December 31, 2002, a person who, in operating a farm, uses  
22 chemical fertilizer, shall comply with a nutrient management plan for nitrogen and  
23 phosphorus that meets the requirements of this subtitle.

24           (2)     (i)     By December 31, 2002, a person who, in operating a farm, uses  
25 sludge or animal manure, shall comply with a nutrient management plan for nitrogen  
26 that meets the requirements of this subtitle.

27                   (ii)     By July 1, 2005, a person who, in operating a farm, uses sludge  
28 or animal manure, shall comply with a nutrient management plan for nitrogen and  
29 phosphorus that meets the requirements of this subtitle.

30       (g)     A person may meet the requirements of subsection (e) of this section by  
31 requesting, at least 60 days before the applicable date set forth in subsection (e) of  
32 this section, the development of a nutrient management plan by a certified nutrient  
33 management consultant.

34       (h)     (1)     If a person violates the provisions of subsection (e) of this section, the  
35 Department shall notify the person that the person is in violation of the requirement  
36 to have a nutrient management plan.

1           (2)     After a reasonable period of time, if the person fails to have a  
2 nutrient management plan, the person is subject to an administrative penalty not to  
3 exceed \$250.

4       (i)     (1)     A person who violates any provision of subsection (f) of this section or  
5 of any rule, regulation, or order adopted or issued under this section is subject to:

6                   (i)     For a first violation, a warning; and

7                   (ii)    For a second or subsequent violation, after an opportunity for a  
8 hearing which may be waived in writing by the person accused of a violation, an  
9 administrative penalty that may be imposed by the Department of Agriculture.

10           (2)     The penalty imposed on a person under paragraph (1)(ii) of this  
11 subsection shall be:

12                   (i)     Up to \$100 for each violation, but not exceeding \$2,000 per  
13 farmer or operator per year; and

14                   (ii)    Assessed with consideration given to:

15                           1.     The willfulness of the violation, the extent to which the  
16 existence of the violation was known to but uncorrected by the violator, and the extent  
17 to which the violator exercised reasonable care;

18                           2.     Any actual harm to the environment or to human health;

19                           3.     The available technology and economic reasonableness of  
20 controlling, reducing, or eliminating the violation; and

21                           4.     The extent to which the current violation is part of a  
22 recurrent pattern of the same or similar type of violation committed by the violator.

23           (3)     (i)     Except as provided in subparagraph (ii) of this paragraph, each  
24 day a violation occurs is a separate violation under this subsection.

25                   (ii)    Daily penalties do not continue to accrue as long as the farmer  
26 takes reasonable steps to correct the violation.

27           (4)     Any penalty imposed under this subsection is payable to the  
28 Maryland Agricultural Water Quality Cost Share Program within the Department.

29       (j)     If a person violates any provision of this section, the Department may:

30                   (1)     Require repayment of cost share funds under Subtitle 7 of this title  
31 for the project that is in violation; or

32                   (2)     Deny or restrict future cost share payments under Subtitle 7 of this  
33 title.

1 (k) The Department shall determine compliance with the provisions of this  
2 section.

3 8-808.

4 THE PROVISIONS OF THIS SUBTITLE AND ANY REGULATIONS ADOPTED IN  
5 ACCORDANCE WITH THIS SUBTITLE ARE SUSPENDED AND MAY NOT BE ENFORCED  
6 FROM JUNE 1, 2003, THROUGH OCTOBER 1, 2004.

7 SECTION 2. AND BE IT FURTHER ENACTED, That from June 1, 2003,  
8 through October 1, 2004:

9 (1) the Department of Agriculture shall educate persons who operate a farm  
10 on the importance of nutrient management and seek their voluntary cooperation in  
11 having and implementing a nutrient management plan that meets the requirements  
12 of Title 8, Subtitle 8 of the Agriculture Article; and

13 (2) the Nutrient Management Advisory Committee shall:

14 (i) study ways to educate persons who operate a farm on the importance  
15 of nutrient management and increase the level of voluntary participation in meeting  
16 the requirements of Title 8, Subtitle 8 of the Agriculture Article; and

17 (ii) report its findings and recommendations to the Governor and, subject  
18 to § 2-1246 of the State Government Article, the General Assembly on or before  
19 October 1, 2004.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
21 effect June 1, 2003. It shall remain effective for a period of 1 year and 4 months and,  
22 at the end of September 30, 2004, with no further action required by the General  
23 Assembly, this Act shall be abrogated and of no further force and effect.