

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 555  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Wood” and substitute “Wood, and Owings”; in line 2, after “Pollution” insert “- Nutrients”; in the same line, strike “The” and substitute “State Waters -”; in the same line, after “Watershed” insert “-”; in the same line, strike “Fund”; in line 3, after “of” insert “adding a certain alternative to requirements for nutrient management plans; altering requirements relating to filings concerning nutrient management plans; eliminating the requirement that a certain farm owner or operator grant the Department of Agriculture the right of entry for a certain purpose; altering the term and fee for the renewal of certain licenses and certificates; authorizing the Department of Agriculture to issue certain certificates for persons operating a farm under certain circumstances; authorizing the Department of Agriculture to procure the services of private certified nutrient management consultants to develop nutrient management plans; authorizing the Department of Agriculture to review certain plans and records under certain circumstances; providing for certain site visits under certain circumstances;”; in the same line, after “Fund” insert “as a special, continuing, nonlapsing fund”; strike beginning with “money” in line 6 down through “removal” in line 8 and substitute “uses of the Fund, including reducing the loading of nutrients into waters of the State; providing that certain wastewater facilities that do not receive certain money may not be required to upgrade the facilities to a certain standard except under certain circumstances”; in line 9, after “facilities;” insert “providing for certain exemptions from the environmental surcharge; providing for the collection of the environmental surcharge;”; in lines 5 and 11, in each instance, after “Department” insert “of the Environment”; strike beginning with “authorizing” in line 12 down through “surcharge;” in line 13; strike beginning with “establishment” in line 16 down through “Fund” in line 17 and substitute “reduction of nutrient water pollution in waters of the State, particularly the Chesapeake Bay”; after line 17, insert:

“BY repealing and reenacting, with amendments,

Article - Agriculture

Section 8-801.1, 8-803, 8-803.1, and 8-806

(Over)

Annotated Code of Maryland  
(1999 Replacement Volume and 2003 Supplement)”;

and in line 25, after “9-1605.2” insert “and 9-1605.3”.

AMENDMENT NO. 2

On page 2, after line 2, insert:

“Article - Agriculture

8-801.1.

(a) (1) Each nutrient management plan shall be developed considering factors including:

(i) Levels of bioavailable nitrogen and phosphorus in the soil;

(ii) Levels of bioavailable nitrogen and phosphorus in all fertilizer materials to be applied;

(iii) The amount of nitrogen and phosphorus necessary to achieve the expected crop yield for the land that is the subject of the nutrient management plan, as determined by:

1. The field’s actual yield record and soil productivity for that crop; or

2. If information concerning actual yield record and soil productivity for a crop is unavailable, relevant information concerning similar fields and soil;

(iv) Soil erodibility and nutrient retention capacity;

(v) 1. The best reasonable scientific methods accepted by the Department and the University of Maryland Cooperative Extension Service; OR

2. SCIENTIFICALLY VALIDATED DATA FOR THE DEVELOPMENT OF A NUTRIENT MANAGEMENT PLAN AS DEFINED BY THE DEPARTMENT IN REGULATION; and

(vi) Existing best management practices.

(2) Each nutrient management plan shall provide flexibility for management decisions that may be required by conditions beyond the control of the farmer.

(b) (1) [Each] A SUMMARY OF EACH nutrient management plan shall be filed AND UPDATED with the Department[:

(i) When it is developed; and

(ii) Each time it is updated] AT A TIME AND IN A FORM THAT THE DEPARTMENT REQUIRES BY REGULATION.

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

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

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

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

8-803.

(a) To apply for certification as a nutrient management consultant, an applicant shall:  
(1) Submit to the Department an application on the form the Department requires;  
and

(Over)

- (2) Pay to the Department the certification fee stated in § 8-806 of this subtitle.
- (b) The Department shall certify any individual who:
  - (1) Meets the requirements of this subtitle;
  - (2) Meets the Department's educational requirements, including a program on the proper application of nutrients;
  - (3) Passes a Department approved examination; and
  - (4) (i) Is employed by a person licensed under this subtitle; or
    - (ii) Holds a license as required by this subtitle.
- (c) To apply for a license an applicant shall:
  - (1) Submit to the Department an application on the form the Department requires;

and

  - (2) Pay to the Department the applicable license fee stated in § 8-806 of this subtitle.
- (d) The Department shall license a person who meets the requirements of this subtitle.
- (e) A certificate or license is issued for 1 year unless the certificate or license is renewed as provided by this subtitle.
- (f) The Department shall renew the certificate or license of any applicant for [an additional 1-year] A 3-YEAR term if the applicant:
  - (1) Submits a renewal application on the form that the Department requires;
  - (2) Pays to the Department the applicable fee stated in § 8-806 of this subtitle;

- (3) Complies with applicable continuing education requirements;
- (4) Complies with applicable record keeping and reporting requirements; and
- (5) Otherwise is entitled to be certified or licensed.

(G) (1) THE DEPARTMENT MAY ISSUE A FARM OPERATOR'S PLAN DEVELOPMENT CERTIFICATE TO A PERSON OPERATING A FARM FOR THE DEVELOPMENT OF THAT PERSON'S OWN NUTRIENT MANAGEMENT PLAN.

(2) THE CERTIFICATE IS VALID PROVIDED THE PERSON OPERATING THE FARM:

(I) HAS PAID THE ONE-TIME FEE PROVIDED IN § 8-806 OF THIS SUBTITLE;

(II) HAS PASSED AN EXAMINATION AS DETERMINED BY THE DEPARTMENT;

(III) COMPLIES WITH APPLICABLE CONTINUING EDUCATION REQUIREMENTS;

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

(V) OTHERWISE IS ENTITLED TO BE CERTIFIED.

8-803.1.

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

(b) This section does not apply to:

(Over)

- (1) An agricultural operation with less than \$2,500 in gross income; or
  - (2) A livestock operation with less than eight animal units defined as 1,000 pounds of live animal weight per animal unit.
- (c) The Governor shall provide sufficient funding in each fiscal year's budget to:
  - (1) Assist in the development of nutrient management plans;
  - (2) Meet the technical assistance and evaluation requirements of this section;
  - (3) Meet the State's requirements for the implementation of the Manure Transportation Project under § 8-704.2 of this title; and
  - (4) Provide State assistance under the Maryland Agricultural Water Quality Cost Share Program in the Department.
- (d)
  - (1) State cost sharing may be made available [to farmers] to help offset the costs of having a nutrient management plan prepared by a certified nutrient management consultant who is not employed by the federal, State, or a local government.
  - (2) The Secretary of Agriculture shall adopt regulations authorizing the disbursement of State cost sharing funds under this subsection.
  - (3) THE DEPARTMENT MAY PROCURE THE SERVICES OF A PRIVATE CERTIFIED NUTRIENT MANAGEMENT CONSULTANT TO DEVELOP NUTRIENT MANAGEMENT PLANS FOR PERSONS OPERATING A FARM.
- (e)
  - (1) By December 31, 2001, a person who, in operating a farm, uses chemical fertilizer, shall have a nutrient management plan for nitrogen and phosphorus that meets the requirements of this subtitle.
  - (2)
    - (i) By December 31, 2001, a person who, in operating a farm, uses sludge or animal manure, shall have a nutrient management plan for nitrogen.

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

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

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

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

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

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

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

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

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may be imposed by the Department of Agriculture.

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

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

(ii) Assessed with consideration given to:

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

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

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

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

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

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

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

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

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

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

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

(2) THE DEPARTMENT MAY REVIEW THE NUTRIENT MANAGEMENT PLAN AND RECORDS RELATING TO THE PLAN AT A LOCATION AGREED TO BY THE DEPARTMENT AND THE PERSON OPERATING THE FARM.

(3) IN CONDUCTING A SITE VISIT AND REVIEWING THE NUTRIENT MANAGEMENT PLAN AND RELATED RECORDS, THE DEPARTMENT'S EVALUATION SHALL BE LIMITED SOLELY TO DETERMINING WHETHER THE PERSON OPERATING THE FARM IS IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION AND THE REGULATIONS IMPLEMENTING THIS SECTION.

(4) IN CONDUCTING A SITE VISIT, THE DEPARTMENT SHALL:

(I) PROVIDE THE PERSON OPERATING THE FARM AT LEAST 48 HOURS ADVANCE NOTICE;

(II) ENTER THE PROPERTY AT A REASONABLE TIME THAT ALLOWS THE OPERATOR TO BE PRESENT; AND

(III) CONDUCT THE EVALUATION IN A MANNER THAT MINIMIZES ANY INCONVENIENCE TO THE PERSON OPERATING THE FARM.

(5) IF A PERSON OPERATING A FARM FAILS TO COOPERATE WITH THE DEPARTMENT'S REQUEST TO CONDUCT A SITE VISIT AND REVIEW OF A NUTRIENT MANAGEMENT PLAN AND RECORDS RELATING TO THE PLAN, THAT PERSON IS SUBJECT TO SUBSECTIONS (I) AND (J) OF THIS SECTION.

8-806.

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

- (1) Certificate (nutrient management consultant) \$50;
- (2) License (individual or sole proprietorship) \$50;
- (3) License (corporation or partnership) \$100; [and]
- (4) Renewal [\$50] \$150; AND
- (5) CERTIFICATE (FARM OPERATOR'S PLAN DEVELOPMENT) \$20.

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

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

AMENDMENT NO. 3

On page 2, in line 25, after "(E)" insert "AND (F)"; in line 27, strike "MEANS" and substitute "MEANS:

(1)";

in line 29, strike "4" and substitute "3"; in line 31, strike "BASIS" and substitute "BASIS; OR

(2) IF THE DEPARTMENT HAS DETERMINED THAT THE CONCENTRATIONS IN PARAGRAPH (1) OF THIS SUBSECTION ARE NOT FEASIBLE FOR A FACILITY, THE LOWEST AVERAGE ANNUAL WASTEWATER EFFLUENT NITROGEN AND PHOSPHORUS CONCENTRATIONS THAT THE DEPARTMENT DETERMINES ARE FEASIBLE FOR THE FACILITY";

in line 34, after "(1)" insert "IF A LOCAL GOVERNMENT OR BILLING AUTHORITY HAS NOT ESTABLISHED A DEFINITION OF "EQUIVALENT DWELLING UNIT" ON OR BEFORE

JANUARY 1, 2004.”;

and in the same line, strike “DAY.” and substitute “DAY; OR”.

On pages 2 and 3, strike in their entirety the lines beginning with line 35 on page 2 through line 2 on page 3, inclusive.

On page 3, in line 3, strike “THE TOTAL AVERAGE DAILY FLOW OF WASTEWATER EFFLUENT” and substitute “IF A LOCAL GOVERNMENT OR BILLING AUTHORITY HAS ESTABLISHED A DEFINITION OF “EQUIVALENT DWELLING UNIT” ON OR BEFORE JANUARY 1, 2004, THE FLOW”; in line 5, strike “DETERMINES” and substitute “HAS ESTABLISHED”; and in lines 6 and 7, strike “, AND WHICH MAY NOT EXCEED 250 GALLONS”.

AMENDMENT NO. 4

On page 4, in line 9, after “(BB)” insert ““PERSON” MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP, ASSOCIATION, THE STATE, COUNTY, MUNICIPAL CORPORATION, COMMISSION, OR OTHER POLITICAL SUBDIVISION OF THE STATE, OR ANY UNIT OF A POLITICAL SUBDIVISION OF THE STATE, OR THE FEDERAL GOVERNMENT.”

(CC)”;

after line 17, insert:

“(DD) “SINGLE SITE” MEANS A DISCRETE GROUPING OF BUILDINGS OR STRUCTURES LOCATED ON CONTIGUOUS OR ADJACENT PROPERTY THAT IS OWNED BY THE SAME USER.”;

and in lines 18, 21, 31, 33, and 35, strike “(CC)”, “(DD)”, “(EE)”, “(FF)”, and “(GG)”, respectively, and substitute “(EE)”, “(FF)”, “(GG)”, “(HH)”, and “(II)”, respectively.

AMENDMENT NO. 5

On page 5, in line 31, after “(2)” insert “IT IS THE INTENT OF THE GENERAL

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ASSEMBLY THAT THE WATERSHED RESTORATION FUND BE USED, IN PART, TO PROVIDE THE FUNDING NECESSARY TO UPGRADE ANY OF THE WASTEWATER TREATMENT FACILITIES, LOCATED IN THE STATE OR USED BY THE CITIZENS OF THE STATE, TO ACHIEVE ENHANCED NUTRIENT REMOVAL WHERE IT IS COST EFFECTIVE TO DO SO, WITH PRIORITY GIVEN TO FACILITIES DISCHARGING TO THE CHESAPEAKE BAY, BUT NOT EXCLUDING FACILITIES DISCHARGING TO THE MARYLAND COASTAL BAYS OR OTHER WATERS OF THE STATE.

(3)".

AMENDMENT NO. 6

On pages 6 and 7, strike in their entirety the lines beginning with line 1 on page 6 through line 12 on page 7, inclusive.

AMENDMENT NO. 7

On page 7, in line 13, after "(1)" insert "(I)"; in line 15, after "ARTICLE" insert "AND SHALL BE AVAILABLE IN PERPETUITY FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

(II) MONEY IN THE FUND MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE";

in line 18, after "FOR" insert ";

(I)";

in line 21, after "PERMIT" insert ";

(II) ELIGIBLE COSTS OF PROJECTS RELATING TO THE BEST AVAILABLE TECHNOLOGY FOR THE REMOVAL OF NITROGEN IN SEPTIC SYSTEMS";

and in line 33, strike "ONCE EVERY 2 YEARS".

AMENDMENT NO. 8

On page 8, in line 4, after "(1)" insert "EXCEPT AS PROVIDED IN § 9-1605.3(E)(4) OF

THIS SUBTITLE.”; in line 23, after “(2)” insert “EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION.”; in the same line, strike “MAY” and substitute “SHALL”; in lines 27 and 28, strike “WITH A DESIGN CAPACITY OF 500,000 GALLONS OR MORE PER DAY” and substitute “, FOR FLOWS UP TO THE DESIGN CAPACITY OF THE FACILITY AS APPROVED BY THE DEPARTMENT.”; in lines 28 and 29, strike “AS REQUIRED BY THE CONDITIONS OF A GRANT AGREEMENT AND A DISCHARGE PERMIT”; in line 30, strike “(3)” and substitute “(5)”; in the same line, strike “SUBSECTION.” and substitute “SUBSECTION.”; in line 31, after “(II)” insert “1. IN FISCAL YEARS 2005 THROUGH 2009, FOR A PORTION OF THE COSTS OF PROJECTS RELATING TO COMBINED SEWER OVERFLOWS ABATEMENT, REHABILITATION OF EXISTING SEWERS, AND UPGRADING CONVEYANCE SYSTEMS, INCLUDING PUMPING STATIONS, TO BE DISTRIBUTED TO FACILITIES BASED ON THE AVERAGE ANNUAL FLOW OF THE FACILITY AND THE EXTENT OF THE UPGRADES NEEDED, NOT TO EXCEED \$5,000,000 TOTAL ANNUALLY; AND

2. IN FISCAL YEARS 2010 AND THEREAFTER.”;

and in line 33, after “COLLECTED” insert “UNDER § 9-1605.3(B) OF THIS SUBTITLE”.

#### AMENDMENT NO. 9

On page 9, in line 11, strike “3%” and substitute “5%”; in lines 13 and 14, strike “WITH A DESIGN CAPACITY OF LESS THAN 500,000 GALLONS PER DAY” and substitute “TO ACHIEVE ADDITIONAL NUTRIENT REMOVAL OR WATER QUALITY IMPROVEMENT”; in line 15, strike “PARAGRAPH (4)” and substitute “PARAGRAPHS (6) AND (7)”; in line 17, after “(3)” insert “ALL FACILITIES THAT SERVE MARYLAND USERS THAT HAVE CONTRIBUTED TO THE WATERSHED RESTORATION FUND ARE ELIGIBLE FOR GRANTS UNDER THIS SECTION, INCLUDING THE BLUE PLAINS WASTEWATER TREATMENT PLANT IN THE DISTRICT OF COLUMBIA.

(4) GRANTS ISSUED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION FOR UPGRADES TO THE BLUE PLAINS WASTEWATER TREATMENT PLANT MAY BE AWARDED ONLY IF EACH USER OF THE BLUE PLAINS WASTEWATER TREATMENT PLANT CONTRIBUTES A PROPORTIONAL SHARE OF THE UPGRADE COSTS IN ACCORDANCE WITH THE BLUE PLAINS INTERMUNICIPAL AGREEMENT OF 1985, AS

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REVISED AND UPDATED.

(5)”;

in the same line, after “AND” insert “STATE”; in the same line, after “PERMIT” insert “, IF APPLICABLE,”; in line 20, after “FACILITY” insert “IN ORDER TO ACHIEVE ENHANCED NUTRIENT REMOVAL PERFORMANCE LEVELS”; in line 21, strike “(4) (I)” and substitute “(6) PRIORITY FOR FUNDING”; in line 22, strike “COMMENCED ONLY ON COMPLETION OF” and substitute “GIVEN TO”; in line 25, strike “(II)” and substitute “(7) (I)”; in the same line, after “ELIGIBILITY” insert “AND PRIORITY RANKING”; in line 27, strike “, IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION”; and after line 27, insert:

“(II) THE CRITERIA ADOPTED BY THE DEPARTMENT SHALL INCLUDE, AS APPROPRIATE, CONSIDERATION OF THE:

1. COST EFFECTIVENESS IN PROVIDING WATER QUALITY BENEFIT;

2. WATER QUALITY BENEFIT TO A WATER IDENTIFIED AS IMPAIRED UNDER SECTION 303(D) OF THE CLEAN WATER ACT;

3. READINESS TO PROCEED TO CONSTRUCTION; AND

4. THE NITROGEN LOAD DISCHARGED BY THE FACILITY.

(8) A WASTEWATER FACILITY THAT DOES NOT RECEIVE FUNDS FROM THE DEPARTMENT UNDER THIS SECTION OR FROM ANOTHER FUND IN THE DEPARTMENT MAY NOT BE REQUIRED TO UPGRADE TO ENHANCED NUTRIENT REMOVAL LEVELS, EXCEPT AS REQUIRED UNDER FEDERAL LAW.”.

AMENDMENT NO. 10

On page 9, in line 28, after “(F)” insert “(1) IN THIS SUBSECTION, “ELIGIBLE COSTS” MEANS:

(I) THE COSTS ATTRIBUTABLE TO UPGRADING A SEPTIC SYSTEM TO THE BEST AVAILABLE TECHNOLOGY FOR THE REMOVAL OF NITROGEN; OR

(II) THE COST DIFFERENCE BETWEEN A CONVENTIONAL SEPTIC SYSTEM AND A SEPTIC SYSTEM THAT UTILIZES THE BEST AVAILABLE TECHNOLOGY FOR THE REMOVAL OF NITROGEN.

(2) FUNDS IN THE WATERSHED RESTORATION FUND RECEIVED FROM THE ENVIRONMENTAL SURCHARGE ON WASTE FROM SEPTIC SYSTEMS SHALL BE USED ONLY:

(I) TO AWARD GRANTS OR PROVIDE LOANS FOR UP TO 100% OF ELIGIBLE COSTS; AND

(II) FOR THE ADMINISTRATIVE COSTS PROVIDED UNDER SUBSECTION (E)(2)(V) AND (VI) OF THIS SECTION.

(3) PRIORITY FOR THE GRANTS OR LOANS PROVIDED UNDER THIS SUBSECTION SHALL BE GIVEN TO FAILING SEPTIC SYSTEMS LOCATED IN THE CRITICAL AREAS OF THE STATE.

(G)”;

and in line 31, after the comma insert “AGRICULTURE,”.

On page 10, in line 9, strike “AND”; in line 12, after “GOVERNOR” insert “; AND”

(IX) ONE PERSON REPRESENTING A UNIVERSITY OR RESEARCH INSTITUTE WITH EXPERIENCE IN NUTRIENT POLLUTION”;

strike beginning with “, INCLUDING” in line 32 down through “OWNERS” in line 33; and in line 34, after “(III)” insert “STUDY ALTERNATIVE METHODS OF COLLECTING THE”

(Over)

ENVIRONMENTAL SURCHARGE FROM USERS OF SEPTIC SYSTEMS AND USES FOR THE MONEY COLLECTED FROM USERS OF SEPTIC SYSTEMS;

(IV)".

On page 11, in lines 1, 5, and 7, strike "(IV)", "(V)", and "(VI)", respectively, and substitute "(V)", "(VI)", and "(VII)", respectively; and in line 7, strike "2 YEARS" and substitute "YEAR".

AMENDMENT NO. 11

On page 11, in line 18, strike "(1)"; strike in their entirety lines 20 through 24, inclusive; and after line 24, insert:

"9-1605.3.

(A) THERE IS AN ENVIRONMENTAL SURCHARGE TO BE PAID BY ANY USER OF A WASTEWATER FACILITY THAT:

(1) IS LOCATED IN THE STATE; OR

(2) SERVES A MARYLAND USER AND IS ELIGIBLE FOR FUNDING UNDER THIS SUBTITLE.

(B) (1) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION AND PARAGRAPH (2) OF THIS SUBSECTION, THE ENVIRONMENTAL SURCHARGE IS:

(I) FOR EACH RESIDENTIAL DWELLING THAT RECEIVES AN INDIVIDUAL SEWER BILL, \$2.50 PER MONTH; AND

(II) FOR A BUILDING OR GROUP OF BUILDINGS UNDER SINGLE OWNERSHIP OR MANAGEMENT THAT CONTAIN MULTIPLE RESIDENTIAL DWELLINGS THAT DO NOT RECEIVE INDIVIDUAL SEWER BILLS OR A NONRESIDENTIAL USER:

1. FOR EACH EQUIVALENT DWELLING UNIT NOT EXCEEDING 2,000 EQUIVALENT DWELLING UNITS, \$2.50 PER MONTH;

2. FOR EACH EQUIVALENT DWELLING UNIT OVER 2,000 EQUIVALENT DWELLING UNITS AND NOT EXCEEDING 5,000 EQUIVALENT DWELLING UNITS, \$1.25 PER MONTH; AND

3. FOR EACH EQUIVALENT DWELLING UNIT OVER 5,000 EQUIVALENT DWELLING UNITS, THERE IS NO SURCHARGE.

(2) THE TOTAL SURCHARGE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT EXCEED \$105,000 FOR A SINGLE SITE.

(3) (I) FOR PURPOSES OF MEASURING AVERAGE DAILY WASTEWATER FLOW, THE LOCAL GOVERNMENT OR BILLING AUTHORITY FOR A WASTEWATER FACILITY SHALL USE EXISTING MEASURING METHODS, THAT MAY INCLUDE WATER USAGE OR OTHER ESTIMATION METHODS.

(II) THE AVERAGING PERIOD IS:

1. THE BILLING PERIOD ESTABLISHED BY THE LOCAL GOVERNMENT OR BILLING AUTHORITY; OR

2. IF A BILLING PERIOD IS NOT ESTABLISHED BY THE LOCAL GOVERNMENT OR BILLING AUTHORITY, A QUARTER OF A CALENDAR YEAR.

(C) A USER OF A WASTEWATER FACILITY SHALL BE EXEMPT FROM PAYING A SURCHARGE IF:

(1) (I) 1. THE USER'S WASTEWATER FACILITY'S AVERAGE ANNUAL EFFLUENT NITROGEN AND PHOSPHORUS CONCENTRATIONS, AS REPORTED IN THE FACILITY'S STATE DISCHARGE MONITORING REPORTS FOR THE PREVIOUS CALENDAR YEAR, DEMONSTRATE THAT THE FACILITY IS ACHIEVING ENHANCED NUTRIENT REMOVAL, AS DEFINED IN § 9-1601(K) OF THIS SUBTITLE; OR

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2. THE DEPARTMENT HAS DETERMINED THAT THE USER'S WASTEWATER FACILITY IS NOT REQUIRED TO MONITOR FOR NITROGEN OR PHOSPHORUS IN ITS DISCHARGE PERMIT; AND

(II) THE USER'S WASTEWATER FACILITY HAS NOT RECEIVED A STATE OR FEDERAL GRANT FOR THAT FACILITY;

(2) (I) THE USER'S WASTEWATER FACILITY DISCHARGES TO GROUNDWATER AND THE NUTRIENT CONCENTRATIONS IN THE WASTEWATER PRIOR TO DISCHARGE TO GROUNDWATER HAVE NOT EXCEEDED 3 MILLIGRAMS PER LITER TOTAL NITROGEN AND 0.3 MILLIGRAMS PER LITER TOTAL PHOSPHORUS AS DEMONSTRATED BY AN ANALYSIS OF THE GROUNDWATER FROM MONITORING WELLS LOCATED ON THE PROPERTY AND AS REPORTED IN DISCHARGE MONITORING REPORTS FOR THE PREVIOUS CALENDAR YEAR; AND

(II) THE USER'S WASTEWATER FACILITY HAS NOT RECEIVED A STATE OR FEDERAL GRANT FOR THAT FACILITY; OR

(3) THE DEPARTMENT DETERMINES THAT:

(I) THE USER'S WASTEWATER FACILITY DISCHARGES NONCONTACT COOLING WATER, WATER FROM DEWATERING OPERATIONS, OR RECLAIMED WASTEWATER FROM A FACILITY WHOSE USERS PAY INTO THE FUND; AND

(II) THE DISCHARGE DOES NOT RESULT IN A NET INCREASE IN LOADING OF NUTRIENTS COMPARED TO THE INTAKE WATER.

(D) THE ENVIRONMENTAL SURCHARGE ON SEPTIC SYSTEM WASTE THAT IS PUMPED OR DISCHARGED INTO A WASTEWATER FACILITY IS \$0.08 PER GALLON.

(E) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE ENVIRONMENTAL SURCHARGE SHALL BE COLLECTED BY THE WASTEWATER FACILITY OR THE BILLING AUTHORITY FOR THE WASTEWATER FACILITY, AS APPROPRIATE, ON BEHALF OF THE STATE.

(II) FOR A WASTEWATER FACILITY WITHOUT A BILLING AUTHORITY, THE COMPTROLLER MAY COLLECT THE SURCHARGE FROM THE FACILITY OWNER.

(2) A LOCAL GOVERNMENT OR A BILLING AUTHORITY FOR A WASTEWATER FACILITY IS AUTHORIZED TO USE ALL EXISTING PROCEDURES AND AUTHORITY FOR COLLECTING A WATER AND SEWER BILL TO ENFORCE THE COLLECTION OF THE ENVIRONMENTAL SURCHARGE.

(3) THE BILLING AUTHORITY FOR THE WASTEWATER FACILITY SHALL ADD THE FULL AMOUNT OF THE SURCHARGE TO EACH CUSTOMER'S BILL AND SHALL ESTABLISH A SEGREGATED ACCOUNT FOR THE DEPOSIT OF FUNDS COLLECTED UNDER THIS SECTION.

(4) (I) THE COMPTROLLER SHALL DETERMINE THE METHOD OF COLLECTION OF THE SURCHARGE FROM THE WASTEWATER FACILITY.

(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DEPOSIT THE MONEY IN THE WATERSHED RESTORATION FUND.

(III) WITH REGARD TO THE MONEY COLLECTED UNDER SUBSECTION (D) OF THIS SECTION, THE COMPTROLLER SHALL DEPOSIT:

1. 60% OF THE MONEY IN A SEPARATE ACCOUNT WITHIN THE WATERSHED RESTORATION FUND; AND

2. 40% OF THE MONEY WITH THE MARYLAND AGRICULTURE WATER QUALITY COST SHARE PROGRAM IN THE DEPARTMENT OF AGRICULTURE TO FUND COVER CROP ACTIVITIES.

(5) THE STATE CENTRAL COLLECTION UNIT MAY COLLECT DELINQUENT ACCOUNTS UNDER THIS SUBSECTION IN ACCORDANCE WITH § 3-302

(Over)

OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(F) SUBJECT TO THE APPROVAL OF THE ADMINISTRATION, A LOCAL GOVERNMENT MAY ESTABLISH A PROGRAM TO EXEMPT FROM THE ENVIRONMENTAL SURCHARGE A RESIDENTIAL DWELLING ABLE TO DEMONSTRATE SUBSTANTIAL FINANCIAL HARDSHIP AS A RESULT OF THE SURCHARGE.”.

AMENDMENT NO. 12

On page 13, in line 16, after “THE” insert “ACT ESTABLISHING THE”; in line 17, strike “ACT”; in lines 38 and 39, in each instance, strike “four” and substitute “three”; and in line 41, strike “July” and substitute “October”.