

SB0487/324037/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 487
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Frosh” and substitute “Frosh, Young, Conway, Pinsky, Simonaire, Benson, Rosapepe, Ferguson, Montgomery, and Jennings”; in line 3, strike “altering” and substitute “establishing”; in the same line, strike “specialty fertilizer”; in the same line, after “requirements” insert “for specialty fertilizer used on certain turf”; in line 5, after “prohibition;” insert “exempting certain organic fertilizer sold to certain professional fertilizer applicators from a certain prohibition;”; in line 16, strike “specialty”; in line 17, strike “at retail certain specialty” and substitute “certain”; and in line 28, after “terms;” insert “making certain technical changes;”.

On page 2, in line 1, after “6-210(d)” insert “and (e), 6-219(a) and (b)”; in the same line, after “6-222(a)” insert “and (b), 8-801, and 8-803.4”; after line 3, insert:

“BY repealing

Article – Agriculture

Section 8-803.5

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)”;

in line 6, strike “6-225, 6-226, 6-227, and 6-228” and substitute “8-803.5, 8-803.6, 8-803.7, 8-803.8, and 8-803.9”; strike in their entirety lines 28 through 31, inclusive; in line 32, strike the brackets; and in the same line, strike “(G)”.

On page 3, in lines 3 and 5, in each instance, strike the brackets; in lines 3 and 5, strike “(H)” and “(I)”, respectively; after line 7, insert:

(Over)

“(I) “ENHANCED EFFICIENCY FERTILIZER” MEANS A FERTILIZER PRODUCT THAT INCREASES PLANT UPTAKE AND DECREASES THE POTENTIAL OF NUTRIENT LOSS TO THE ENVIRONMENT, INCLUDING GASEOUS LOSS, LEACHING, OR RUNOFF, WHEN COMPARED TO AN APPROPRIATE REFERENCE FERTILIZER PRODUCT.”;

in lines 11 and 17, in each instance, strike “phosphoric acid (H₃PO₄)” and substitute “**PHOSPHATE (P₂O₅)**”; in lines 20 and 22, in each instance, strike “phosphoric acid” and substitute “**PHOSPHATE**”; and strike in their entirety lines 29 through 33, inclusive.

On page 4, in lines 1, 4, 8, 11, and 17, strike “(O)”, “(P)”, “(Q)”, “(R)”, and “(S)”, respectively, and substitute “(N)”, “(O)”, “(P)”, “(Q)”, and “(R)”, respectively; in lines 12, 15, and 16, in each instance, strike “phosphoric acid (H₃PO₄)” and substitute “**PHOSPHATE (P₂O₅)**”; and strike in their entirety lines 33 through 35, inclusive.

On page 5, in lines 1, 4, and 6, strike “(U)”, “(V)”, and “(W)”, respectively, and substitute “(S)”, “(T)”, and “(V)”, respectively; after line 5, insert:

“(U) (1) “NATURAL ORGANIC FERTILIZER” MEANS A FERTILIZER PRODUCT THAT IS DERIVED FROM EITHER A PLANT OR ANIMAL PRODUCT CONTAINING CARBON, AND ONE OR MORE ELEMENTS, OTHER THAN HYDROGEN OR OXYGEN THAT ARE ESSENTIAL FOR PLANT GROWTH.

“(2) “NATURAL ORGANIC FERTILIZER” DOES NOT INCLUDE A FERTILIZER PRODUCT THAT CONTAINS:

(I) SYNTHETIC MATERIALS; OR

(II) MATERIALS THAT ARE CHANGED IN ANY PHYSICAL OR CHEMICAL MANNER FROM THEIR INITIAL STATE, EXCEPT BY PHYSICAL MANIPULATION, INCLUDING DRYING, COOKING, CHOPPING, GRINDING, SHREDDING, OR PELLETING.”;

after line 7, insert:

“(W) (1) “ORGANIC FERTILIZER” MEANS A FERTILIZER PRODUCT THAT IS DERIVED FROM EITHER A PLANT OR ANIMAL PRODUCT CONTAINING CARBON AND ONE OR MORE ELEMENTS, OTHER THAN HYDROGEN OR OXYGEN THAT ARE ESSENTIAL FOR PLANT GROWTH.

(2) “ORGANIC FERTILIZER” INCLUDES A FERTILIZER PRODUCT THAT CONTAINS:

(I) SYNTHETIC MATERIALS; OR

(II) MATERIALS THAT ARE CHANGED IN A PHYSICAL OR CHEMICAL MANNER FROM THEIR INITIAL STATE.”;

and strike beginning with “MEANS” in line 9 down through “EMPLOYMENT” in line 16 and substitute “HAS THE MEANING STATED IN § 8-801 OF THIS ARTICLE”.

On page 6, strike in their entirety lines 23 and 24, inclusive.

AMENDMENT NO. 2

On page 6, in line 26, strike “A” and substitute “EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A”; and in the same line, after “contain” insert “ALL INFORMATION REQUIRED BY SUBSECTION (A) OF THIS SECTION.

(Over)

(2) A SPECIALTY FERTILIZER USED ON TURF SHALL BE LABELED TO CONTAIN".

On page 7, in line 2, after "POTASH;" insert "AND"; in line 3, after "(V)" insert "1."; in line 7, strike "AND" and substitute "OR"; in line 8, strike "(VI)" and substitute "2."; in line 11, strike "(2)" and substitute "3"; in the same line, strike "PARAGRAPH (1)" and substitute "PARAGRAPHS (1) AND (2)"; after line 14, insert:

"(e) (1) Except as provided in paragraph (2) of this subsection, on or after April 1, 2011, a lawn fertilizer with an available [phosphoric acid (H₃PO₄)] PHOSPHATE (P₂O₅) content greater than 5%:

(i) May not be labeled for use on established lawns or grass;

(ii) May not be labeled with spreader settings; and

(iii) Shall be marked with the words "NOT FOR USE ON ESTABLISHED LAWNS OR GRASS" in at least a three-quarter inch font and in a legible and conspicuous manner on the front side of the container.

(2) This subsection does not apply to seed starter fertilizer for use on newly established lawns or turf.

6-219.

(a) To determine the commercial value to be applied in subsection (b) of this section, the Secretary shall determine and publish annually the values per pound of nitrogen, available [phosphoric acid] PHOSPHATE, soluble potash and other plant nutrients in commercial fertilizers in the State as determined by the Secretary.

(b) If an official analysis of a lot shows that a commercial fertilizer is deficient in a guaranteed primary plant nutrient, that is nitrogen, available [phosphoric acid] PHOSPHATE, and soluble potash, beyond the investigational allowance as established by rule or regulation, the Secretary shall assess against the registrant a penalty of three times the commercial value of the deficiency in the lot analyzed if the deficiency is confirmed in a hearing before him.”;

in lines 19 and 20, in each instance, strike the bracket; in line 20, strike “A”; in lines 20 and 21, strike “at a retail establishment in the State”; after line 27, insert:

“(2) THIS SUBSECTION DOES NOT APPLY TO ORGANIC OR NATURAL ORGANIC FERTILIZER THAT IS SOLD TO A PROFESSIONAL FERTILIZER APPLICATOR.

(b) (1) On or before April 1, 2011, a manufacturer of lawn fertilizer whose products are sold in the State shall reduce by 50% from 2006 levels the amount of available [phosphoric acid (H₃PO₄)] PHOSPHATE (P₂O₅) resulting from the application of its lawn care products within the State.

(2) The amount of available [phosphoric acid (H₃PO₄)] PHOSPHATE (P₂O₅) resulting from the application within the State of lawn care products sold or distributed by a manufacturer may not exceed an average of 1.5% available [phosphoric acid (H₃PO₄)] PHOSPHATE (P₂O₅) if, prior to April 1, 2010, the manufacturer did not sell or distribute fertilizer in the State intended for use on established lawns or grass.”;

and strike beginning with line 1 on page 8 through line 5 on page 10, inclusive.

AMENDMENT NO. 3

On page 10, after line 5, insert “**6-223.**”; in line 6, after “ENFORCEMENT” insert “**PROVIDED UNDER § 8-803.5(G) OF THIS ARTICLE**”; after line 11, insert:

(Over)

“(C) SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT EXEMPT A PERSON FROM COMPLYING WITH ANY PROVISION OF, OR ANY REGULATION ADOPTED IN ACCORDANCE WITH, THE ENVIRONMENT ARTICLE.”;

in line 15, strike “6-226.” and substitute “6-224.”; in line 16, strike “ANY” and substitute “EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY”; strike beginning with “CONTAIN” in line 17 down through “CONTAINER” in line 21 and substitute “RESULT IN AN APPLICATION OF MORE THAN 0.7 POUNDS PER 1,000 SQUARE FEET OF WATER-SOLUBLE NITROGEN AND NO MORE THAN 0.9 POUNDS PER 1,000 SQUARE FEET OF TOTAL NITROGEN, AT LEAST 20% OF WHICH SHALL CONSIST OF SLOW-RELEASE NITROGEN, WHEN APPLIED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE CONTAINER”; in line 22, strike “WHEN” and substitute “:

(I) FOR ORGANIC AND NATURAL ORGANIC FERTILIZER SOLD TO A PROFESSIONAL FERTILIZER APPLICATOR; AND

(II) WHEN”;

in lines 24, 27, and 29, strike “(I)”, “1.”, and “2.”, respectively, and substitute “1.”, “A.”, and “B.”, respectively; in line 25, strike “PURSUANT TO” and substitute “IN ACCORDANCE WITH”; in line 28, strike “6-224” and substitute “8-803.7”; and in the same line, strike “SUBTITLE” and substitute “ARTICLE”.

On page 11, in lines 1 and 5, strike “(II)” and “(III)”, respectively, and substitute “2.” and “3.”, respectively; after line 6, insert:

“(B) AN ENHANCED-EFFICIENCY FERTILIZER LABELED FOR USE ON TURF MAY NOT:

(1) RESULT IN AN ANNUAL APPLICATION OF MORE THAN 2.5 POUNDS PER 1,000 SQUARE FEET OF TOTAL NITROGEN;

(2) RESULT IN AN APPLICATION OF MORE THAN 80% OF THE ANNUAL RECOMMENDED RATE FOR TOTAL NITROGEN ESTABLISHED BY THE UNIVERSITY OF MARYLAND; OR

(3) HAVE A RELEASE RATE OF MORE THAN 0.7 POUNDS PER 1,000 SQUARE FEET OF TOTAL NITROGEN PER MONTH.”;

in line 7, strike “(B)” and substitute “(C)”; in the same line, strike “A” and substitute “EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, A”; in the same line, strike “AT RETAIL”; in line 8, after “FERTILIZER” insert “FOR USE ON TURF”; strike beginning with “CONTAINS” in line 9 down through “TURF” in line 13 and substitute “RESULTS IN AN APPLICATION OF MORE THAN 0.7 POUNDS PER 1,000 SQUARE FEET OF WATER-SOLUBLE NITROGEN AND NO MORE THAN 0.9 POUNDS PER 1,000 SQUARE FEET OF TOTAL NITROGEN, AT LEAST 20% OF WHICH SHALL CONSIST OF SLOW-RELEASE NITROGEN, WHEN APPLIED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE CONTAINER”; in line 19, strike “6-224 OF THIS SUBTITLE” and substitute “8-803.7 OF THIS ARTICLE”; after line 28, insert:

“(D) A PERSON MAY OFFER TO SELL AN ORGANIC OR NATURAL ORGANIC FERTILIZER CONTAINING PHOSPHORUS TO A PROFESSIONAL FERTILIZER APPLICATOR.

(E) A PERSON MAY NOT OFFER TO SELL ENHANCED-EFFICIENCY FERTILIZER FOR USE ON TURF THAT:

(1) RESULTS IN AN ANNUAL APPLICATION OF MORE THAN 2.5 POUNDS PER 1,000 SQUARE FEET OF TOTAL NITROGEN;

(2) RESULTS IN AN APPLICATION OF MORE THAN 80% OF THE ANNUAL RECOMMENDED RATE FOR TOTAL NITROGEN ESTABLISHED BY THE UNIVERSITY OF MARYLAND; OR

(3) HAS A RELEASE RATE OF MORE THAN 0.7 POUNDS PER 1,000 SQUARE FEET OF TOTAL NITROGEN PER MONTH.”;

in line 29, strike “(C)” and substitute “(F)”; in the same line, strike “AT RETAIL”; and on pages 11 through 15, strike beginning with line 31 on page 11 through line 8 on page 15, inclusive.

AMENDMENT NO. 4

On page 15, after line 8, insert:

“8-801.

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

(b) “Certified nutrient management consultant” means an individual certified by the Department to prepare a nutrient management plan.

(c) “COMMERCIAL FARM” MEANS A FARM THAT PERFORMS ACTIVITIES RELATED TO THE PRODUCTION AND SALE OF AGRICULTURAL COMMODITIES, INCLUDING ROW CROPS, FRUITS, VEGETABLES, HORTICULTURE, AND SILVACULTURE.

(d) “ENHANCED EFFICIENCY FERTILIZER” HAS THE MEANING STATED IN § 6-201 OF THIS ARTICLE.

(E) “IMPERVIOUS SURFACE” MEANS ANY STRUCTURE, SURFACE, OR IMPROVEMENT THAT REDUCES OR PREVENTS ABSORPTION OF STORMWATER INTO LAND, AND INCLUDES POROUS PAVING, PAVER BLOCKS, GRAVEL, CRUSHED STONE, DECKS, PATIOS, ELEVATED STRUCTURES, AND OTHER SIMILAR STRUCTURES, SURFACES, OR IMPROVEMENTS.

(F) “NATURAL ORGANIC FERTILIZER” HAS THE MEANING STATED IN § 6-201 OF THIS ARTICLE.

[(c)](G) “Nutrient management plan” means a plan prepared under this subtitle by a certified nutrient management consultant to manage the amount, placement, timing, and application of animal waste, commercial fertilizer, sludge, or other plant nutrients to prevent pollution by transport of bioavailable nutrients and to maintain productivity.

(H) “ORGANIC FERTILIZER” HAS THE MEANING STATED IN § 6-201 OF THIS ARTICLE.

(I) (1) “PROFESSIONAL FERTILIZER APPLICATOR” MEANS ANY PERSON WHO:

(I) IS CERTIFIED TO APPLY FERTILIZER IN ACCORDANCE WITH § 8-803.4 OF THIS SUBTITLE; AND

(II) APPLIES FERTILIZER FOR HIRE.

(2) “PROFESSIONAL FERTILIZER APPLICATOR” INCLUDES THE OWNER OR MANAGER OF PROPERTY, OR AN EMPLOYEE OF A GOVERNMENT ENTITY WHO APPLIES FERTILIZER WITHIN THE SCOPE OF EMPLOYMENT.

(J) “SLOW-RELEASE NITROGEN” MEANS NITROGEN IN A FORM THAT:

(1) DELAYS ITS AVAILABILITY FOR PLANT UPTAKE AND USE AFTER APPLICATION; OR

(2) EXTENDS ITS AVAILABILITY TO THE PLANT SIGNIFICANTLY LONGER THAN A REFERENCE “RAPIDLY AVAILABLE NUTRIENT” SUCH AS AMMONIUM NITRATE OR UREA, AMMONIUM PHOSPHATE, OR POTASSIUM CHLORIDE.

(K) “SOIL TEST” MEANS A TECHNICAL ANALYSIS OF SOIL CONDUCTED BY A LABORATORY USING STANDARDS RECOMMENDED BY THE UNIVERSITY OF MARYLAND.

(L) “TURF” MEANS LAND, INCLUDING RESIDENTIAL PROPERTY AND PUBLICLY OWNED LAND THAT IS PLANTED IN GRASS, EXCEPT LAND THAT IS USED IN THE SALE AND PRODUCTION OF SOD, AS DEFINED IN § 9-101 OF THIS ARTICLE.

(M) “WATER-SOLUBLE NITROGEN” MEANS NITROGEN THAT IS READILY SOLUBLE IN WATER.

(N) “WATERS OF THE STATE” HAS THE MEANING STATED IN § 5-101 OF THE ENVIRONMENT ARTICLE.

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

Article – Agriculture

8-803.4.

[(a) This section applies to an application of commercial fertilizer, as defined in § 6-201 of this article:

(1) That is performed by:

(i) A person who applies commercial fertilizer for hire; or

(ii) An employee of the owner or manager of the property; and

(2) To:

(i) Ten acres or more annually, whether one or multiple parcels, of property that is not used for agricultural purposes; or

(ii) State property that is not used for agricultural purposes.

(b) A person may apply commercial fertilizer only if the person applies the commercial fertilizer in a manner that is consistent with the recommendations of the University of Maryland Cooperative Extension Service.]

(A) IN THIS SECTION, “FERTILIZER” MEANS A COMMERCIAL FERTILIZER AND SPECIALTY FERTILIZER.

(B) (1) THIS SECTION APPLIES TO A PROFESSIONAL FERTILIZER APPLICATOR WHO APPLIES FERTILIZER TO:

(I) PROPERTY THAT IS NOT USED FOR AGRICULTURAL PURPOSES; AND

(Over)

(II) STATE PROPERTY THAT IS NOT USED FOR AGRICULTURAL PURPOSES.

(2) THIS SECTION DOES NOT APPLY TO THE APPLICATION OF FERTILIZER ON COMMERCIAL FARMS.

(C) A PROFESSIONAL FERTILIZER APPLICATOR MAY NOT:

(1) APPLY FERTILIZER TO TURF WITHOUT FIRST OBTAINING A FERTILIZER APPLICATION CERTIFICATION, UNLESS THE PERSON IS UNDER THE DIRECT SUPERVISION OF A CERTIFIED PROFESSIONAL FERTILIZER APPLICATOR, IN ACCORDANCE WITH § 8-803.6 OF THIS SUBTITLE; OR

(2) APPLY FERTILIZER INTENDED FOR USE ON TURF ON AN IMPERVIOUS SURFACE.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PROFESSIONAL FERTILIZER APPLICATOR MAY NOT APPLY FERTILIZER CONTAINING PHOSPHORUS OR NITROGEN TO TURF:

(I) BEFORE MARCH 1 OR AFTER NOVEMBER 15 OF ANY CALENDAR YEAR;

(II) ANY TIME THE GROUND IS FROZEN; OR

(III) IN AN AMOUNT THAT IS INCONSISTENT WITH THE ANNUAL RECOMMENDED RATE ESTABLISHED BY THE UNIVERSITY OF MARYLAND.

(2) FROM NOVEMBER 16 THROUGH DECEMBER 1 OF EACH CALENDAR YEAR, A PROFESSIONAL FERTILIZER APPLICATOR MAY APPLY WATER-SOLUBLE NITROGEN TO TURF AT AN APPLICATION RATE OF NO MORE THAN 0.5 POUNDS PER 1,000 SQUARE FEET OF WATER-SOLUBLE NITROGEN.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PROFESSIONAL FERTILIZER APPLICATOR MAY NOT APPLY FERTILIZER CONTAINING PHOSPHORUS OR NITROGEN TO TURF THAT IS WITHIN 15 FEET OF WATERS OF THE STATE.

(2) WHEN A DROP SPREADER, ROTARY SPREADER WITH A DEFLECTOR, OR TARGETED SPRAY LIQUID IS USED FOR FERTILIZER APPLICATION, THE SETBACK REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE REDUCED TO 10 FEET.

(3) THE ESTABLISHMENT OF SETBACKS FOR FERTILIZER APPLICATION UNDER THIS SUBSECTION DOES NOT PRECLUDE THE ESTABLISHMENT OR APPLICABILITY OF, OR COMPLIANCE WITH, ANY OTHER ENVIRONMENTAL STANDARDS ESTABLISHED UNDER ANY OTHER STATE OR FEDERAL LAW, RULE, OR REGULATION.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PROFESSIONAL FERTILIZER APPLICATOR MAY NOT APPLY FERTILIZER CONTAINING NITROGEN TO TURF:

(I) AT AN APPLICATION RATE OF MORE THAN 0.7 POUNDS PER 1,000 FEET OF WATER-SOLUBLE NITROGEN; AND

(II) AT AN APPLICATION RATE OF MORE THAN 0.9 POUNDS PER 1,000 SQUARE FEET OF TOTAL NITROGEN.

(Over)

(2) (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, A PROFESSIONAL FERTILIZER APPLICATOR MAY APPLY AN ENHANCED EFFICIENCY FERTILIZER:

1. AT AN ANNUAL APPLICATION RATE OF NO MORE THAN 2.5 POUNDS PER 1,000 SQUARE FEET OF NITROGEN; AND

2. THAT HAS A RELEASE RATE OF NO MORE THAN 0.7 POUNDS PER 1,000 SQUARE FEET OF TOTAL NITROGEN PER MONTH.

(II) THE ANNUAL TOTAL APPLICATION RATE OF AN ENHANCED EFFICIENCY FERTILIZER MAY NOT EXCEED 80% OF THE ANNUAL RECOMMENDED RATE FOR TOTAL NITROGEN ESTABLISHED BY THE UNIVERSITY OF MARYLAND.

(III) AN ENHANCED EFFICIENCY FERTILIZER MAY NOT BE APPLIED AFTER NOVEMBER 15 OR BEFORE MARCH 1 OF EACH CALENDAR YEAR.

(G) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2), (4), AND (5) OF THIS SUBSECTION, A PROFESSIONAL FERTILIZER APPLICATOR MAY NOT APPLY FERTILIZER CONTAINING PHOSPHORUS TO TURF.

(2) A PROFESSIONAL FERTILIZER APPLICATOR MAY APPLY ORGANIC OR NATURAL ORGANIC FERTILIZER CONTAINING PHOSPHORUS TO TURF WHEN:

(I) 1. A SOIL TEST PERFORMED NO MORE THAN 3 YEARS BEFORE THE FERTILIZER APPLICATION INDICATES A LOW OR MEDIUM LEVEL OF PHOSPHORUS; AND

2. THE FERTILIZER IS APPLIED AT A RATE RECOMMENDED BY THE UNIVERSITY OF MARYLAND; OR

(II) 1. BEGINNING JULY 1, 2013, A SOIL TEST PERFORMED NO MORE THAN 3 YEARS BEFORE THE FERTILIZER APPLICATION INDICATES A LOW OR MEDIUM LEVEL OF PHOSPHORUS; AND

2. A LOW PHOSPHORUS FERTILIZER, AS DEFINED UNDER § 6-201 OF THIS ARTICLE, THAT IS AN ORGANIC OR NATURAL ORGANIC FERTILIZER IS APPLIED AT A RATE RECOMMENDED BY THE UNIVERSITY OF MARYLAND.

(3) PARAGRAPH (2) OF THIS SUBSECTION DOES NOT AUTHORIZE A PROFESSIONAL FERTILIZER APPLICATOR TO APPLY FERTILIZER CONTAINING PHOSPHORUS WHEN A SOIL TEST INDICATES AN OPTIMUM OR EXCESSIVE LEVEL OF PHOSPHORUS.

(4) A PROFESSIONAL FERTILIZER APPLICATOR MAY APPLY FERTILIZER TO TURF CONTAINING PHOSPHORUS IF THE PROFESSIONAL FERTILIZER APPLICATOR:

(I) DETERMINES THAT THE FERTILIZER IS NECESSARY FOR THE SPECIFIC SOILS AND TARGET VEGETATION IN ACCORDANCE WITH A SOIL TEST PERFORMED NO MORE THAN 3 YEARS BEFORE THE FERTILIZER APPLICATION, PROVIDED THE APPLICATION COMPLIES WITH THE RECOMMENDATIONS ESTABLISHED BY THE UNIVERSITY OF MARYLAND;

(Over)

(II) IS ESTABLISHING VEGETATION FOR THE FIRST TIME, SUCH AS AFTER LAND DISTURBANCE, PROVIDED THE APPLICATION COMPLIES WITH THE RECOMMENDATIONS ESTABLISHED BY THE UNIVERSITY OF MARYLAND; OR

(III) IS REESTABLISHING OR REPAIRING A TURF AREA.

(5) A PROFESSIONAL FERTILIZER APPLICATOR MAY APPLY FERTILIZER TO TURF IN EXCESS OF THE PHOSPHORUS REQUIREMENTS IN § 6-224 OF THIS ARTICLE, IF THE PROFESSIONAL FERTILIZER APPLICATOR IS ESTABLISHING VEGETATION FOR THE FIRST TIME, SUCH AS AFTER LAND DISTURBANCE, PROVIDED THE APPLICATION COMPLIES WITH THE RECOMMENDATIONS OF THE UNIVERSITY OF MARYLAND.

[(c)](H) (1) A person who violates any provision of this section is subject to a civil penalty of not more than \$1,000 for a first violation.

(2) A person who violates any provision of this section is subject to a civil penalty of not more than \$2,000 for each subsequent violation.

(3) Each day a violation occurs under this section is a separate violation.

(4) The total penalties imposed on a person for violations of this section that result from the same set of facts and circumstances may not exceed \$10,000.

[(d)](I) The penalty imposed on a person under this section shall be assessed with consideration given to:

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

(2) Any actual harm to human health or to the environment including injury to or impairment of the use of the waters of the State or the natural resources of the State;

(3) The cost of control;

(4) The nature and degree of injury to or interference with general welfare, health, and property;

(5) The extent to which the location of the violation, including location near areas of human population, creates the potential for harm to the environment or to human health or safety; and

(6) 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.

[(e)](J) Penalties collected by the Secretary under this section shall be paid into the General Fund of the State.

(K) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

[8-803.5.

The Department may adopt regulations for agricultural research, education, and demonstration exemptions to this subtitle.]

8-803.5.

(A) IN THIS SECTION, "FERTILIZER" MEANS COMMERCIAL FERTILIZER AND SPECIALTY FERTILIZER.

(B) (1) THIS SECTION APPLIES TO A PERSON WHO APPLIES FERTILIZER TO:

(I) PROPERTY THAT IS NOT USED FOR AGRICULTURAL PURPOSES; OR

(II) STATE PROPERTY THAT IS NOT USED FOR AGRICULTURAL PURPOSES.

(2) THIS SECTION DOES NOT APPLY TO THE APPLICATION OF FERTILIZER ON COMMERCIAL FARMS.

(C) A PERSON MAY NOT:

(1) APPLY FERTILIZER INTENDED FOR USE ON TURF TO AN IMPERVIOUS SURFACE; AND

(2) APPLY FERTILIZER CONTAINING PHOSPHORUS OR NITROGEN TO TURF:

(I) BEFORE MARCH 1 OR AFTER NOVEMBER 15 OF ANY CALENDAR YEAR; OR

(II) AT ANY TIME WHEN THE GROUND IS FROZEN.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY NOT APPLY FERTILIZER CONTAINING PHOSPHORUS OR NITROGEN TO TURF THAT IS WITHIN 15 FEET OF WATERS OF THE STATE.

(2) WHEN A DROP SPREADER, ROTARY SPREADER WITH A DEFLECTOR, OR TARGETED SPRAY LIQUID IS USED FOR FERTILIZER APPLICATION, THE SETBACK REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE REDUCED TO 10 FEET.

(3) THE ESTABLISHMENT OF SETBACKS FOR FERTILIZER APPLICATION UNDER THIS SUBSECTION DOES NOT PRECLUDE THE ESTABLISHMENT OR APPLICABILITY OF, OR COMPLIANCE WITH, ANY OTHER ENVIRONMENTAL STANDARDS ESTABLISHED UNDER ANY OTHER STATE OR FEDERAL LAW, RULE, OR REGULATION.

(E) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION:

(1) A PERSON MAY APPLY FERTILIZER TO TURF CONTAINING PHOSPHORUS IF THE PERSON:

(I) DETERMINES THAT THE FERTILIZER IS NECESSARY FOR THE SPECIFIC SOILS AND TARGET VEGETATION IN ACCORDANCE WITH A SOIL TEST PERFORMED NO MORE THAN 3 YEARS BEFORE THE FERTILIZER APPLICATION, PROVIDED THE APPLICATION COMPLIES WITH THE RECOMMENDATIONS ESTABLISHED BY THE UNIVERSITY OF MARYLAND;

(II) IS ESTABLISHING VEGETATION FOR THE FIRST TIME, SUCH AS AFTER LAND DISTURBANCE, PROVIDED THE APPLICATION COMPLIES WITH THE RECOMMENDATIONS ESTABLISHED BY THE UNIVERSITY OF MARYLAND; OR

(III) IS REESTABLISHING OR REPAIRING A TURF AREA; AND

(2) A PERSON MAY APPLY FERTILIZER TO TURF IN EXCESS OF THE PHOSPHORUS REQUIREMENTS IN § 6-224 OF THIS ARTICLE, IF THE PERSON IS ESTABLISHING VEGETATION FOR THE FIRST TIME, SUCH AS AFTER LAND DISTURBANCE, PROVIDED THE APPLICATION COMPLIES WITH THE RECOMMENDATIONS OF THE UNIVERSITY OF MARYLAND.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND IN ADDITION TO THE REQUIREMENTS SET FORTH IN THIS SECTION, A PERSON, OTHER THAN A PROFESSIONAL FERTILIZER APPLICATOR, MAY NOT:

(I) APPLY FERTILIZER TO TURF:

1. IN AN AMOUNT THAT IS INCONSISTENT WITH THE ANNUAL RECOMMENDED RATE ESTABLISHED BY THE UNIVERSITY OF MARYLAND; AND

2. THAT CONTAINS NITROGEN THAT IS LESS THAN 20% SLOW RELEASE;

(II) APPLY NITROGEN TO TURF:

1. AT AN APPLICATION RATE OF MORE THAN 0.7 POUNDS PER 1,000 SQUARE FEET OF WATER-SOLUBLE NITROGEN; AND

2. AT AN APPLICATION RATE THAT IS MORE THAN 0.9 POUNDS PER 1,000 SQUARE FEET OF TOTAL NITROGEN; AND

(III) APPLY FERTILIZER TO A GOLF COURSE.

(2) (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, A PERSON MAY APPLY AN ENHANCED EFFICIENCY FERTILIZER:

1. AT AN ANNUAL APPLICATION RATE OF NO MORE THAN 2.5 POUNDS PER 1,000 SQUARE FEET OF NITROGEN; AND

2. THAT HAS A RELEASE RATE OF NO MORE THAN 0.7 POUNDS PER 1,000 SQUARE FEET OF NITROGEN PER MONTH.

(II) THE ANNUAL TOTAL APPLICATION RATE OF AN ENHANCED EFFICIENCY FERTILIZER MAY NOT EXCEED 80% OF THE ANNUAL RECOMMENDATION RATE ESTABLISHED BY THE UNIVERSITY OF MARYLAND.

(III) ENHANCED EFFICIENCY FERTILIZERS MAY NOT BE APPLIED AFTER NOVEMBER 15 OR BEFORE MARCH 1 OF EACH CALENDAR YEAR.

(G) A COUNTY OR MUNICIPALITY MAY ENFORCE THIS SECTION.

(H) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

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

Article – Agriculture

8-803.6.

(A) (1) THE DEPARTMENT SHALL, IN CONSULTATION WITH THE UNIVERSITY OF MARYLAND, ESTABLISH A PROGRAM TO CERTIFY PROFESSIONAL FERTILIZER APPLICATORS.

(2) THE CERTIFICATION PROGRAM SHALL PROVIDE PROFESSIONAL FERTILIZER APPLICATORS WITH TRAINING AND EDUCATION IN THE FOLLOWING SUBJECT AREAS:

(I) THE PROPER USE AND CALIBRATION OF FERTILIZER APPLICATION EQUIPMENT;

(II) THE HAZARDS INVOLVED IN, AND THE ENVIRONMENTAL IMPACT OF, APPLYING FERTILIZER, INCLUDING NUTRIENT POLLUTION TO THE WATERS OF THE STATE;

(III) ALL APPLICABLE STATE AND FEDERAL LAWS, RULES, AND REGULATIONS;

(IV) THE CORRECT INTERPRETATION OF FERTILIZER LABELING INFORMATION; AND

(V) THE RECOMMENDATIONS DEVELOPED BY THE UNIVERSITY OF MARYLAND FOR NUTRIENT MANAGEMENT ON TURF, INCLUDING THE APPROPRIATE TIME TO:

1. APPLY FERTILIZER WHEN RAIN IS FORECAST; AND
2. APPLY FERTILIZER WHEN SOILS ARE WET AND THE POTENTIAL FOR FERTILIZER MOVEMENT OFF-SITE EXISTS.

(B) IN ESTABLISHING THE CERTIFICATION PROGRAM, THE DEPARTMENT MAY:

(1) CHARGE REASONABLE FEES, INCLUDING AN ANNUAL RECERTIFICATION FEE, TO COVER COSTS ASSOCIATED WITH THE CERTIFICATION PROGRAM;

(2) REQUIRE CONTINUING EDUCATION OR TRAINING FOR PROFESSIONAL FERTILIZER APPLICATORS;

(3) DESIGNATE ONE OR MORE ENTITIES TO TRAIN, CERTIFY, AND RECERTIFY PROFESSIONAL FERTILIZER APPLICATORS, WHICH MAY CHARGE FEES TO COVER THE REASONABLE COSTS ASSOCIATED WITH THE CERTIFICATION TRAINING AND EDUCATION; AND

(4) RECOGNIZE THE TRAINING PROGRAM OF AN ENTITY EMPLOYING PROFESSIONAL FERTILIZER APPLICATORS IF THE PROGRAM MEETS THE CERTIFICATION AND RECERTIFICATION TRAINING AND EDUCATION STANDARDS ESTABLISHED BY THE DEPARTMENT UNDER THIS SECTION.

(C) THE DEPARTMENT SHALL PUBLISH AND MAINTAIN A LIST OF ALL CERTIFIED PROFESSIONAL FERTILIZER APPLICATORS AND MAKE THE LIST AVAILABLE ON THE DEPARTMENT'S INTERNET WEB SITE.

(D) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

8-803.7.

(A) THE DEPARTMENT, IN CONSULTATION WITH THE UNIVERSITY OF MARYLAND, SHALL DEVELOP A PROGRAM OF PUBLIC EDUCATION THAT SHALL INCLUDE:

(1) THE DISSEMINATION OF INFORMATION REGARDING NUTRIENT POLLUTION;

(2) BEST MANAGEMENT PRACTICES FOR FERTILIZER USE;

(3) SOIL TESTING;

(4) PROPER INTERPRETATION OF FERTILIZER LABEL INSTRUCTIONS; AND

(5) THE PROPER USE AND CALIBRATION OF FERTILIZER APPLICATION EQUIPMENT.

(B) THE UNIVERSITY OF MARYLAND SHALL IDENTIFY LABORATORIES THAT:

(1) FOLLOW THE RECOMMENDED SOIL TESTING PROCEDURES FOR THE MID-ATLANTIC UNITED STATES; AND

(2) PROVIDE A FINAL REPORT TO A REQUESTOR OF SOIL TESTING WITH THE RESULTS OF A SOIL TEST.

(C) THE UNIVERSITY OF MARYLAND SHALL REVIEW ITS FERTILIZER TURF GUIDELINES EVERY 3 YEARS AND REVISE THE GUIDELINES AS NECESSARY, WITH CONSIDERATION OF PLANT NUTRIENT REQUIREMENTS AND ESTABLISHED STATE GOALS TO PROTECT WATER QUALITY IN THE WATERS OF THE STATE.

8-803.8.

(A) EXCEPT FOR ENFORCEMENT AS AUTHORIZED UNDER § 8-803.5(G) OF THIS SUBTITLE, THE DEPARTMENT HAS THE EXCLUSIVE AUTHORITY TO ESTABLISH STANDARDS REGULATING FERTILIZER AND ITS APPLICATION TO TURF.

(B) A LOCAL GOVERNMENT ENTITY MAY NOT ADOPT LAWS, REGULATIONS, RULES, ORDINANCES, OR STANDARDS REGULATING FERTILIZER AND ITS APPLICATION TO TURF.

(C) SUBSECTIONS (A) AND (B) OF THIS SECTION DO NOT EXEMPT A PERSON FROM COMPLYING WITH ANY PROVISION OF, OR ANY REGULATION ADOPTED IN ACCORDANCE WITH, THE ENVIRONMENT ARTICLE.

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

(Over)

Article – Agriculture

8-803.9.

THE DEPARTMENT MAY ADOPT REGULATIONS FOR AGRICULTURAL RESEARCH, EDUCATION, AND DEMONSTRATION EXEMPTIONS TO THIS SUBTITLE.

AMENDMENT NO. 5

On page 15, in lines 9, 17, 19, and 21, strike “5.”, “6.”, “7.”, and “8.”, respectively, and substitute “8.”, “9.”, “10.”, and “11.”, respectively; in line 17, strike “2 and”; in the same line, after “4” insert “and 5”; in line 19, strike “Section 3” and substitute “Sections 3 and 6”; and in line 22, strike “6 and 7” and substitute “9 and 10”.