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§8–803.4.

(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; 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) (1) Each place of business at which a person is employed to apply fertilizer to property specified under subsection (b)(1) of this section shall:

(i) Have a professional fertilizer applicator on staff who has obtained a fertilizer application certification in accordance with § 8–803.6 of this subtitle; and

(ii) Be licensed annually by the Department.

(2) An applicant for a license under this subsection shall:

(i) Submit to the Department an application on the form the Department requires; and

(ii) Pay to the Department an application fee set by the Department.

(d) 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.

(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:

(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 fertilizer containing nitrogen to turf at an application rate of no more than 0.5 pounds of nitrogen per 1,000 square feet of turf.

(f) (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:

(i) Surface water subject to the jurisdiction of the State;

(ii) The Chesapeake Bay and its tributaries;

(iii) A pond within the State;

(iv) A lake within the State;

(v) A river within the State;

(vi) A stream within the State;

(vii) A public ditch within the State;

(viii) A tax ditch within the State; or

(ix) A public drainage system within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage.

(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.

(g) (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 of water–soluble nitrogen per 1,000 square feet of turf; and

(ii) At an application rate of more than 0.9 pounds of nitrogen per 1,000 square feet of turf.

(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 of nitrogen per 1,000 square feet of turf; and

2. That has a release rate of no more than 0.7 pounds of total nitrogen per 1,000 square feet of turf 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.

(h) (1) Except as provided in paragraphs (2) and (4) 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) A soil test performed no more than 3 years before the fertilizer application indicates a low or medium level of phosphorus; and

(ii) The 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;

(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.

(i) (1) A person who violates any provision of this section or employs 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 or employs 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.

(j) 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.

(k) Penalties collected by the Secretary under this section shall be paid into the General Fund of the State.

(l) The Department may adopt regulations to implement this section.

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