

Chapter 485

(House Bill 573)

AN ACT concerning

Fertilizer Use Act of 2011

FOR the purpose of ~~altering~~ establishing certain ~~specialty fertilizer~~ labeling requirements for specialty fertilizer used on certain turf; removing the exemption for certain contractors, salespersons, employees, and other agents of certain contractors from a certain prohibition; exempting certain organic fertilizer sold to certain professional fertilizer applicators from a certain prohibition; requiring the Department of Agriculture, in consultation with the University of Maryland, to establish a professional fertilizer applicator certification program in accordance with certain requirements; requiring the Department to publish and maintain a certain list; requiring the Department, in consultation with the University of Maryland, to develop a certain public education program; requiring the University of Maryland to identify certain laboratories; requiring the University of Maryland to revise certain guidelines in accordance with a certain schedule; providing the Department with exclusive authority to establish certain standards; prohibiting a local government entity from adopting certain laws, regulations, rules, or ordinances; establishing certain maximum limits for nitrogen and phosphorus in certain ~~specialty~~ fertilizer under certain circumstances; prohibiting a person from selling ~~at retail~~ certain specialty ~~certain specialty~~ certain fertilizer; prohibiting a person from applying certain fertilizer to certain surfaces under certain circumstances; authorizing a person to apply certain fertilizer under certain circumstances; establishing certain penalties for certain violations; authorizing a county or municipality to enforce certain provisions of law; authorizing the Department to adopt certain regulations; requiring the Department to adopt certain regulations on or before a certain date; prohibiting a professional fertilizer applicator from applying certain fertilizer without first obtaining a certain certification; prohibiting a professional fertilizer applicator from using or applying certain fertilizer under certain circumstances; providing for delayed effective dates for certain provisions of this Act; making certain technical changes; and generally relating to the use of fertilizer in the State.

BY repealing and reenacting, with amendments,

Article – Agriculture

Section 6–201, 6–210(d) and (e), 6–219(a) and (b), 6–222(a) and (b), 8–801, and 8–803.4

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

BY repealingArticle – AgricultureSection 8–803.5Annotated Code of Maryland(2007 Replacement Volume and 2010 Supplement)

BY adding to

Article – Agriculture

Section ~~6–223, 6–224, 6–225, 6–226, 6–227, and 6–228~~ 8–803.5, 8–803.6,
8–803.7, 8–803.8, and 8–803.9

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

~~BY repealing~~~~Article – Agriculture~~~~Section 8–803.5~~~~Annotated Code of Maryland~~~~(2007 Replacement Volume and 2010 Supplement)~~

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

Article – Agriculture

6–201.

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

(b) A commercial fertilizer is “adulterated” if:

(1) Any poisonous, deleterious, or nonnutritive ingredient is added in sufficient amount to render it injurious to the health of plants, humans, or animal life or injurious to the environment;

(2) A valuable constituent is omitted or abstracted wholly or partially from it or any less valuable substance is substituted for it; or

(3) Its composition or quality falls below or differs from that which it is purported or is represented to contain by its labeling.

(c) “Brand” means the term, design, trademark, or other specific designation under which a commercial fertilizer or soil conditioner is distributed in the State.

(d) “Bulk fertilizer” means any commercial fertilizer distributed in a nonpackaged form.

(e) “Buyer’s mixture” means commercial fertilizer mixed on specific request of a purchaser according to a formula furnished by him.

~~(f) “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.~~

~~[(f)] (c)~~ “Commercial fertilizer” means any substance containing a recognized plant nutrient used for its plant nutrient content and designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manure, marl, lime, wood ashes, and gypsum.

~~[(g)] (H)~~ “Custom-mix” means commercial fertilizer mixed on specific request of a purchaser according to a formula furnished by him.

~~[(h)] (I)~~ “Distribute” means to import, manufacture, produce, compound, mix, blend, barter, sell, offer for sale, consign, furnish, provide, or otherwise supply commercial fertilizer or soil conditioners as part of a commercial enterprise.

(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.

~~[(i)] (J)~~ “Fertilizer material” means a commercial fertilizer containing a recognized plant nutrient, which is used primarily for its plant nutrient content.

~~[(j)] (K)~~ “Grade” means the percentage of total nitrogen (N), available ~~phosphoric acid (H_3PO_4)~~ **PHOSPHATE (P_2O_5)**, and soluble potash (K_2O) stated in whole numbers in the same terms, order, and percentages as in the “guaranteed analysis”. In the case of any “specialty fertilizer” or “mixed-to-order fertilizer” guarantees may be stated in decimal fractions of whole numbers.

~~[(k)] (L)~~ “Guaranteed analysis” means the minimum percentage of plant nutrient claimed as follows:

(1) Total nitrogen (N), available ~~phosphoric acid (H_3PO_4)~~ **PHOSPHATE (P_2O_5)**, soluble potash (K_2O);

(2) For unacidulated mineral phosphatic materials and basic slag, both total and available ~~phosphoric acid~~ **PHOSPHATE** and the degree of fineness;

(3) For bone, tankage, and other organic phosphatic materials, total ~~phosphoric acid~~ PHOSPHATE;

(4) Additional plant nutrients, when claimed, shall be expressed in elemental form; and

(5) Potential basicity or acidity may be expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton.

[(l)] (M) “Gypsum” means any product that consists chiefly of calcium sulfate intended for use for agricultural purposes.

~~**(N)** “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.~~

[(m)] ~~(O)~~ (N) “Label” means the display of all written, printed, or graphic matter on the immediate container or a statement accompanying a commercial fertilizer or soil conditioner.

[(n)] ~~(P)~~ (O) “Labeling” means all written, printed, or graphic matter on or accompanying any commercial fertilizer or soil conditioner, or the contents of any advertisement, brochure, poster or television or radio announcement used in promoting the sale of a commercial fertilizer or soil conditioner.

[(o)] ~~(Q)~~ (P) “Lot” means a definite quantity of commercial fertilizer or soil conditioner, identified by name, grade, or code designation as certified by the Secretary.

[(p)] ~~(R)~~ (Q) “Low phosphorous fertilizer” means fertilizer:

(1) Containing not more than 5% of available ~~phosphoric acid (H_3PO_4)~~ PHOSPHATE (P_2O_5); and

(2) That has an application rate not to exceed 0.25 pound of available ~~phosphoric acid (H_3PO_4)~~ PHOSPHATE (P_2O_5)/1,000 square feet/application and 0.5 pound of available ~~phosphoric acid (H_3PO_4)~~ PHOSPHATE (P_2O_5)/1,000 square feet/year.

[(q)] ~~(S)~~ (R) A commercial fertilizer or soil conditioner is “misbranded”, if:

(1) Its labeling is false or misleading in any particular;

(2) It is distributed under the name of another product;

(3) It is not labeled as required in § 6–210 of this subtitle and in rules and regulations prescribed under this subtitle;

(4) A fertilizer purports to be or is represented as a commercial fertilizer or if it purports to contain or is represented as containing a fertilizer material, unless the fertilizer material conforms to any definition of identity, prescribed by departmental rules and regulations which give due regard to commonly accepted definitions, such as those issued by the Association of American Plant Food Control Officials, Inc.; or

(5) Any word, statement, or other information, required to appear on the label or labeling, is not placed on it prominently and conspicuously as compared with other words, statements, designs, or devices in the labeling, and it is not in terms that render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

~~(T) “MANIPULATED ANIMAL OR VEGETABLE MANURE” MEANS MANURE THAT IS GROUND, PELLETIZED, MECHANICALLY DRIED, OR OTHERWISE TREATED TO ASSIST WITH THE USE OF MANURE AS A FERTILIZER.~~

[(r)] ~~(U)~~ (S) “Mixed fertilizer” means a commercial fertilizer containing any combination, blend, or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

[(s)] ~~(V)~~ (T) “Mixed-to-order” means commercial fertilizer mixed on a specific request of a purchaser according to a formula furnished by him.

(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.

[(t)] ~~(w)~~ (v) “Official sample” means any sample of fertilizer or soil conditioner taken and designated as “official” by the Secretary.

(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.

[(u)] (x) “Percent” or “percentage” means percentage by weight.

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

~~(i) IS CERTIFIED TO APPLY FERTILIZER IN ACCORDANCE WITH § 6-226 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 HAS THE MEANING STATED IN § 8-801 OF THIS ARTICLE.~~

[(v)] (z) “Registrant” means any person who registers a commercial fertilizer or soil conditioner pursuant to the provisions of this subtitle.

[(w)] (AA) “Retail establishment” has the meaning stated in § 5-401 of the Economic Development Article.

(BB) “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.

[(x)] (CC) (1) “Soil conditioner” means any substance or mixture of substances intended for sale, offered for sale, or sold for:

- (i) Manurial, soil enriching, or soil corrective purposes;
- (ii) Promoting or stimulating the growth of plants;
- (iii) Increasing the productivity of plants;
- (iv) Improving the quality of crops; or

(v) Producing any chemical or physical change in the soil, except a commercial fertilizer, unmanipulated animal and vegetable manures, agricultural liming material, and gypsum.

(2) “Soil conditioner” includes but is not limited to materials such as compost, peat, vermiculite, or perlite, that are incorporated into the soil.

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

[(y)] (EE) “Specialty fertilizer” means a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries, and may include commercial fertilizers used for any research or experimental purpose.

[(z)] (FF) “Ton” means a net weight of two thousand pounds avoirdupois.

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

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

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

(d) ~~(1)~~ ~~EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A~~ specialty fertilizer shall be labeled to contain ALL INFORMATION REQUIRED BY SUBSECTION (A) OF THIS SECTION.

(2) A SPECIALTY FERTILIZER USED ON TURF SHALL BE LABELED TO CONTAIN [all]:

(I) ALL OF THE information required by subsection (a) of this section;

(II) THE PERCENTAGE OF TOTAL NITROGEN, INCLUDING THE PERCENTAGE OF OTHER WATER SOLUBLE NITROGEN AND WATER INSOLUBLE NITROGEN;

(III) THE PERCENTAGE OF AVAILABLE PHOSPHATE;

(IV) THE PERCENTAGE OF SOLUBLE POTASH; AND

(V) 1. THE FOLLOWING STATEMENT: "DO NOT APPLY NEAR WATER, STORM DRAINS OR DRAINAGE DITCHES. DO NOT APPLY IF HEAVY RAIN IS EXPECTED. APPLY THIS PRODUCT ONLY TO YOUR LAWN, AND SWEEP ANY PRODUCT THAT LANDS ON THE DRIVEWAY, SIDEWALK, OR STREET BACK ONTO YOUR LAWN."; AND OR

~~(VI)~~ 2. THE ENVIRONMENTAL HAZARD STATEMENT RECOMMENDED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR THAT PRODUCT.

~~(2)~~ (3) THE INFORMATION REQUIRED UNDER ~~PARAGRAPH (1)~~ PARAGRAPHS (1) AND (2) OF THIS SUBSECTION SHALL BE PRINTED in a legible and conspicuous manner on at least one side of the container[. If], OR IF it does not appear on the face or display side of the container, it shall appear on the upper third of the side used.

(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.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Agriculture

6-222.

(a) ~~[(1)~~ Except as provided in paragraph (2) of this subsection, on or after April 1, 2011, ~~a] A~~ person may not sell or distribute for use or sale ~~at a retail establishment in the State~~ any fertilizer intended for use on established lawns or grass unless it is low phosphorous fertilizer.

[(2) This subsection does not apply to:

(i) A landscaping contractor who is licensed under Title 8 of the Business Regulation Article; or

(ii) A salesperson, employee, or other agent of a landscaping contractor who is licensed under Title 8 of the Business Regulation Article.]

(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.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Agriculture

~~6-223.~~

~~(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 ITS INTERNET WEB SITE.~~

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

~~6-224.~~

~~(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) PARTICIPATE IN THE NORTH AMERICAN PROFICIENCY TESTING PROGRAM OF THE SOIL SCIENCE SOCIETY OF AMERICA;~~

~~(2) FOLLOW THE RECOMMENDED SOIL TESTING PROCEDURES FOR THE NORTHEASTERN UNITED STATES; AND~~

~~(3) PROVIDE A FINAL REPORT TO THE REQUESTOR WITH THE RESULTS OF THE SOIL TEST.~~

~~(C) THE UNIVERSITY OF MARYLAND SHALL REVISE ITS FERTILIZER TURF GUIDELINES EVERY 3 YEARS.~~

~~6-225.~~

6-223.

(A) EXCEPT FOR ENFORCEMENT PROVIDED UNDER § 8-803.5(G) OF THIS ARTICLE, 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 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Agriculture

~~6-226.~~ 6-224.

(A) ~~ANY~~ EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,
ANY SPECIALTY FERTILIZER LABELED FOR USE ON TURF MAY NOT:

(1) ~~CONTAIN MORE THAN 0.7 POUNDS OF WATER SOLUBLE NITROGEN AND NO MORE 0.9 POUNDS OF TOTAL NITROGEN, AT LEAST 20% OF WHICH SHALL CONSIST OF SLOW RELEASE NITROGEN IF TOTAL NITROGEN IS IN EXCESS OF 0.5 POUNDS PER 1,000 SQUARE FEET WHEN APPLIED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE CONTAINER~~ 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;

(2) CONTAIN PHOSPHORUS, EXCEPT ~~WHEN:~~

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

(II) WHEN SPECIFICALLY LABELED FOR THE FOLLOWING PURPOSES:

~~(H)~~ 1. PROVIDING NUTRIENTS TO SPECIFIC SOILS AND TARGET VEGETATION AS DETERMINED TO BE NECESSARY ~~PURSUANT TO~~ IN ACCORDANCE WITH A SOIL TEST THAT WAS:

~~1.~~ A. CONDUCTED BY A LABORATORY IDENTIFIED UNDER § ~~6-224~~ 8-803.7 OF THIS ~~SUBTITLE~~ ARTICLE; AND

~~2.~~ B. PERFORMED NO MORE THAN 3 YEARS BEFORE THE APPLICATION;

~~(H)~~ 2. ESTABLISHING VEGETATION FOR THE FIRST TIME, SUCH AS AFTER LAND DISTURBANCE, PROVIDED THE APPLICATION IS CONDUCTED IN ACCORDANCE WITH THE RECOMMENDED APPLICATION RATES ESTABLISHED BY THE STATE; OR

~~(H)~~ 3. REESTABLISHING OR REPAIRING A TURF AREA;
AND

(3) BE LABELED FOR USE AS A DE-ICER.

(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.

~~(B)~~ (C) A EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, A PERSON MAY NOT OFFER TO SELL AT RETAIL SPECIALTY FERTILIZER FOR USE ON TURF THAT:

~~(1) CONTAINS MORE THAN 0.7 POUNDS OF WATER SOLUBLE NITROGEN OR MORE THAN 0.9 POUNDS OF TOTAL NITROGEN PER 1,000 SQUARE FEET, AT LEAST 20% OF WHICH SHALL CONSIST OF SLOW RELEASE NITROGEN IF TOTAL NITROGEN EXCEEDS 0.5 POUNDS WHEN APPLIED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE CONTAINER AND IS INTENDED FOR USE ON TURF~~
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; AND

(2) CONTAINS PHOSPHORUS AND IS INTENDED FOR USE ON TURF UNLESS THE INTENDED USE OF THE FERTILIZER IS:

(I) FOR APPLICATION TO SPECIFIC SOILS AND TURF AS DETERMINED TO BE NECESSARY PURSUANT TO A SOIL TEST CONDUCTED BY A LABORATORY IDENTIFIED IN § ~~6-224 OF THIS SUBTITLE~~ 8-803.7 OF THIS ARTICLE AND PERFORMED NO MORE THAN 3 YEARS BEFORE THE APPLICATION, PROVIDED THE APPLICATION COMPLIES WITH RECOMMENDED APPLICATION RATES ESTABLISHED BY THE UNIVERSITY OF MARYLAND;

(II) FOR THE ESTABLISHMENT OF TURF FOR THE FIRST TIME, SUCH AS AFTER LAND DISTURBANCE, PROVIDED THE APPLICATION COMPLIES WITH RECOMMENDED APPLICATION RATES ESTABLISHED BY THE UNIVERSITY OF MARYLAND; OR

(III) FOR THE REESTABLISHMENT OR REPAIR OF A TURF AREA.

(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.

~~(E)~~ (F) A PERSON MAY NOT OFFER TO SELL ~~AT RETAIL~~ A COMMERCIAL OR SPECIALTY FERTILIZER PRODUCT FOR USE AS A DE-ICER.

~~6-227.~~

~~(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) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, 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) WHERE 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) (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.~~

~~(2) A PERSON MAY APPLY FERTILIZER TO TURF IN EXCESS OF THE NITROGEN REQUIREMENTS IN § 6-226 OF THIS SUBTITLE, 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) IN ADDITION TO THE REQUIREMENTS SET FORTH IN THIS SECTION, A PERSON, OTHER THAN A PROFESSIONAL FERTILIZER APPLICATOR, MAY NOT:~~

~~(1) APPLY FERTILIZER TO TURF:~~

~~(i) IN AN AMOUNT THAT IS INCONSISTENT WITH THE ANNUAL RECOMMENDED RATE ESTABLISHED BY THE UNIVERSITY OF MARYLAND; AND~~

~~(ii) THAT CONTAINS NITROGEN THAT IS LESS THAN 20% SLOW RELEASE IF TOTAL NITROGEN EXCEEDS 0.5 POUNDS;~~

~~(2) APPLY NITROGEN TO TURF:~~

~~(i) AT A RATE OF MORE THAN 0.7 POUNDS OF WATER SOLUBLE NITROGEN PER 1,000 SQUARE FEET PER APPLICATION; AND~~

~~(ii) AT A RATE THAT IS MORE THAN 0.9 POUNDS OF TOTAL NITROGEN PER 1,000 SQUARE FEET PER APPLICATION; AND~~

~~(3) APPLY FERTILIZER TO A GOLF COURSE.~~

~~(G) A COUNTY OR MUNICIPALITY MAY ENFORCE THIS SUBSECTION.~~

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

~~6-228.~~

~~(A) IN THIS SECTION, "FERTILIZER" MEANS 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) A PROFESSIONAL FERTILIZER APPLICATOR MAY NOT 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 § 6-223 OF THIS SUBTITLE.~~

~~(D) A PROFESSIONAL FERTILIZER APPLICATOR MAY NOT:~~

~~(1) APPLY FERTILIZER TO TURF IN AN AMOUNT THAT IS INCONSISTENT WITH THE ANNUAL RECOMMENDED RATE ESTABLISHED BY THE UNIVERSITY OF MARYLAND; AND~~

~~(2) APPLY NITROGEN TO TURF:~~

~~(i) AT A RATE OF MORE THAN 0.7 POUNDS OF WATER SOLUBLE NITROGEN PER 1,000 SQUARE FEET PER APPLICATION; AND~~

~~(ii) AT A RATE THAT IS MORE THAN 0.9 POUNDS OF TOTAL NITROGEN PER 1,000 SQUARE FEET PER APPLICATION.~~

~~(E) (1) A PROFESSIONAL FERTILIZER APPLICATOR WHO VIOLATES THIS SECTION, OR ANY REGULATION ADOPTED UNDER THIS SECTION, IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR THE FIRST OFFENSE AND NOT EXCEEDING \$2,000 FOR A SECOND OR SUBSEQUENT OFFENSE, TO BE COLLECTED IN A CIVIL ACTION BY A SUMMARY PROCEEDING.~~

~~(2) EACH DAY ON WHICH A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER THIS SUBSECTION.~~

~~(3) A COUNTY OR MUNICIPALITY MAY ENFORCE THIS SUBSECTION.~~

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

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 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 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 15 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.

(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 ~~PARAGRAPH (2)~~ PARAGRAPHS (2), AND (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 ~~DEFICIENCY~~; AND

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

(II) ~~1. A SOIL TEST INDICATES A LOW OR MEDIUM LEVEL OF PHOSPHORUS; AND~~

~~2. AN ORGANIC OR NATURAL ORGANIC FERTILIZER CONTAINING PHOSPHORUS IS APPLIED AT A RATE RECOMMENDED BY THE UNIVERSITY OF MARYLAND; OR~~

(III) 1. BEGINNING ~~2015~~ OCTOBER 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;

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

~~(1)~~ (1) 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;

~~(2)~~ (2) 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

~~(H)~~ (3) IS REESTABLISHING OR REPAIRING A TURF AREA;
AND.

~~(2) A PERSON MAY APPLY FERTILIZER TO TURF IN EXCESS OF THE NITROGEN 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 ~~PROTECTION OF~~ 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:

Article – Agriculture

8-803.9.

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

SECTION ~~5~~ 8. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Department of Agriculture shall adopt regulations to require the annual reporting of the sale of commercial fertilizer and specialty fertilizer at retail by the following sectors:

- (1) lawn and turf;
- (2) golf course and athletic fields;
- (3) gardening; and
- (4) greenhouses and nurseries.

SECTION ~~6~~ 9. AND BE IT FURTHER ENACTED, That, Sections ~~2 and 4, 4, and 5~~ 4 and 5 of this Act shall take effect October 1, 2013.

SECTION ~~7~~ 10. AND BE IT FURTHER ENACTED, That, ~~Section 3~~ Sections 3 and 6 of this Act shall take effect October 1, 2012.

SECTION ~~8~~ 11. AND BE IT FURTHER ENACTED, That, except as provided in Sections ~~6 and 7~~ 9 and 10 of this Act, this Act shall take effect October 1, 2011.

Approved by the Governor, May 19, 2011.