

SENATE BILL 546

M4, M3, M1

9lr0734
CF HB 904

By: **Senators Pinsky, Ellis, Kagan, Lam, Lee, Nathan-Pulliam, Patterson, Smith, and Young**

Introduced and read first time: February 4, 2019

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 2019

CHAPTER _____

1 AN ACT concerning

2 **Agriculture – Nutrient Management – Monitoring and Enforcement**

3 FOR the purpose of authorizing the Department of Agriculture to require a certain
4 summary to take the form of an annual implementation report; requiring a certain
5 person to include certain information in an annual implementation report under
6 certain circumstances; requiring a manure broker to provide certain information to
7 a certain person; requiring a person who holds a certain certificate or license to
8 comply with certain reporting requirements and deadlines, including deadlines
9 related to implementation of the Phosphorus Management Tool and the submission
10 of certain soil test phosphorus levels; requiring the State Department of Agriculture,
11 in determining where to focus certain enforcement efforts, to prioritize farms for
12 which the Department of Agriculture has not received certain soil test phosphorus
13 levels; ~~requiring the Department of Agriculture to establish a voluntary certification~~
14 ~~program for certain commercial manure haulers and brokers; requiring the~~
15 ~~Department of Agriculture, in consultation with a certain body, to adopt certain~~
16 ~~regulations relating to the certification of commercial manure haulers and brokers;~~
17 ~~requiring an applicant for certification as a commercial manure hauler or broker to~~
18 ~~submit a certain application and pay a certain fee; requiring the Department of~~
19 ~~Agriculture to certify any person that meets certain requirements; requiring a~~
20 ~~certified commercial manure hauler or broker to employ certain best management~~
21 ~~practices, land apply manure in a certain manner, maintain certain records, allow~~
22 ~~the Department of Agriculture to review certain records at certain times, and submit~~
23 ~~a certain annual report; requiring the operator of a certain animal feeding operation~~
24 ~~to arrange for the removal of manure generated at the operation only through a~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~certified commercial manure hauler or broker; establishing a certain fee for a certain certificate; requiring the Department of Agriculture, beginning in a certain year, to include certain information on the production and use of animal manure by farm operations in a certain annual report; requiring a person to hold a certain discharge permit before the person may begin construction, including the clearing or grading of land, on any part of a new concentrated animal feeding operation (CAFO); prohibiting the Department of the Environment from issuing a discharge permit to a person that violates a certain provision of this Act; requiring the Department of the Environment to charge a certain minimum one-time permit application fee for a certain proposed new CAFO; requiring the Department of the Environment to charge a certain minimum annual permit fee for a certain existing CAFO continued coverage of a certain CAFO under a CAFO General Discharge permit; prohibiting the Department of the Environment from waiving the permit fee for a certain user permit; requiring the Department of the Environment to impose certain conditions in a permit for the discharge of pollutants from a certain CAFO; expanding the authorized uses of the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund to include continuous water quality monitoring by the Department of Natural Resources at certain sites; requiring the Department of Natural Resources to deploy continuous water quality monitoring stations conduct long-term sample collection in certain tributaries as part of a certain program; requiring continuous water quality monitoring stations to be deployed at the Department of Natural Resources to regularly collect samples from certain locations, at a minimum; requiring certain continuous water quality monitoring stations to be located at sites where continuous water quality monitoring stations previously existed certain water quality monitoring to be done in certain locations, to the extent practicable; establishing certain penalties; altering certain penalties; requiring the Department of the Environment to study and make recommendations regarding certain matters and to make a certain report on or before a certain date; defining certain terms; and generally relating to the monitoring and enforcement of laws and regulations relating to nutrient management.~~

31 BY repealing and reenacting, with amendments,

32 Article – Agriculture

33 Section 8–801.1(b), 8–803.1, and 8–807

34 Annotated Code of Maryland

35 (2016 Replacement Volume and 2018 Supplement)

36 BY repealing and reenacting, without amendments,

37 Article – Agriculture

38 Section 8–803(f) and (g) and 8–805

39 Annotated Code of Maryland

40 (2016 Replacement Volume and 2018 Supplement)

41 BY adding to

42 Article – Agriculture

43 Section 8–803(h) and (i) and ~~8–803.10~~ 8–801.1(c)

44 Annotated Code of Maryland

1 (2016 Replacement Volume and 2018 Supplement)

2 ~~BY repealing and reenacting, with amendments,~~
 3 ~~Article – Agriculture~~
 4 ~~Section 8–803.1 and 8–806~~
 5 ~~Annotated Code of Maryland~~
 6 ~~(2016 Replacement Volume and 2018 Supplement)~~

7 BY repealing and reenacting, with amendments,
 8 Article – Environment
 9 Section 9–301, 9–323, and 9–325, ~~and 9–326~~
 10 Annotated Code of Maryland
 11 (2014 Replacement Volume and 2018 Supplement)

12 BY repealing and reenacting, without amendments,
 13 Article – Natural Resources
 14 Section 8–2A–01(a)
 15 Annotated Code of Maryland
 16 (2012 Replacement Volume and 2018 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article – Natural Resources
 19 Section 8–2A–01(c)(2)
 20 Annotated Code of Maryland
 21 (2012 Replacement Volume and 2018 Supplement)

22 BY adding to
 23 Article – Natural Resources
 24 Section 8–2A–05
 25 Annotated Code of Maryland
 26 (2012 Replacement Volume and 2018 Supplement)

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

29 **Article – Agriculture**

30 8–801.1.

31 (b) (1) [A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A summary
 32 of each nutrient management plan shall be filed and updated with the Department at a
 33 time and in a form that the Department requires by regulation.

34 (2) (1) THE DEPARTMENT MAY REQUIRE AN UPDATED SUMMARY
 35 UNDER THIS SUBSECTION TO TAKE THE FORM OF AN ANNUAL IMPLEMENTATION
 36 REPORT.

1 (II) IF A PERSON, IN OPERATING A FARM, USES OR PRODUCES
2 ANIMAL MANURE, THE PERSON'S ANNUAL IMPLEMENTATION REPORT SHALL
3 INCLUDE:

4 1. THE AMOUNT OF ANIMAL MANURE IMPORTED TO OR
5 EXPORTED FROM THE PERSON'S FARM;

6 2. FOR ANY ANIMAL MANURE THAT WAS IMPORTED, THE
7 NAME AND LOCATION OF THE SENDING FARM; AND

8 3. FOR ANY ANIMAL MANURE THAT WAS EXPORTED, THE
9 NAME AND LOCATION OF THE FARM, ALTERNATIVE USE FACILITY, OR MANURE
10 BROKER THAT RECEIVED THE MANURE.

11 (III) IF A PERSON RECEIVES ANIMAL MANURE THROUGH A
12 MANURE BROKER, THE BROKER SHALL PROVIDE THE PERSON WITH THE NAME AND
13 LOCATION OF THE SENDING FARM.

14 [(2)] (3) The Department shall maintain a copy of each summary for 3
15 years in a manner that protects the identity of the individual for whom the nutrient
16 management plan was prepared.

17 (C) (1) IF A PERSON FAILS TO FILE A SUMMARY OR ANNUAL
18 IMPLEMENTATION REPORT AS REQUIRED BY THE DEPARTMENT UNDER
19 SUBSECTION (B) OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE PERSON
20 THAT:

21 (I) THE PERSON IS IN VIOLATION OF THE REQUIREMENT TO
22 FILE A SUMMARY OR ANNUAL IMPLEMENTATION REPORT; AND

23 (II) THE PERSON IS SUBJECT TO:

24 1. AFTER 30 DAYS FROM ISSUANCE OF THE NOTICE, AN
25 ADMINISTRATIVE PENALTY OF NOT LESS THAN \$100 AND NOT MORE THAN \$250;

26 2. AFTER 90 DAYS FROM ISSUANCE OF THE NOTICE, AN
27 ADMINISTRATIVE PENALTY OF NOT LESS THAN \$250 AND NOT MORE THAN \$1,000;
28 AND

29 3. AFTER 90 DAYS FROM ISSUANCE OF THE NOTICE, AN
30 ADMINISTRATIVE PENALTY OF NOT MORE THAN \$1,000.

31 (2) A PENALTY IMPOSED ON A PERSON UNDER PARAGRAPH (1) OF
32 THIS SUBSECTION SHALL BE ASSESSED WITH CONSIDERATION GIVEN TO:

1 **(I) THE WILLFULNESS OF THE VIOLATION; AND**

2 **(II) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART**
3 **OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION**
4 **COMMITTED BY THE VIOLATOR.**

5 8–803.

6 (f) The Department shall renew the certificate or license of any applicant for a
7 3–year term if the applicant:

8 (1) Submits a renewal application on the form that the Department
9 requires;

10 (2) Pays to the Department the applicable fee stated in § 8–806 of this
11 subtitle;

12 (3) Complies with applicable continuing education requirements;

13 (4) Complies with applicable record keeping and reporting requirements;
14 and

15 (5) Otherwise is entitled to be certified or licensed.

16 (g) (1) The Department may issue a farm operator’s plan development
17 certificate to a person operating a farm for the development of that person’s own nutrient
18 management plan.

19 (2) The certificate is valid provided the person operating the farm:

20 (i) Has paid the one–time fee provided in § 8–806 of this subtitle;

21 (ii) Has passed an examination as determined by the Department;

22 (iii) Complies with applicable continuing education requirements;

23 (iv) Complies with applicable record keeping and reporting
24 requirements; and

25 (v) Otherwise is entitled to be certified.

26 **(H) A PERSON THAT HOLDS A LICENSE OR ~~PERMIT~~ CERTIFICATE ISSUED**
27 **UNDER THIS SECTION SHALL COMPLY WITH ALL APPLICABLE REPORTING**
28 **REQUIREMENTS AND DEADLINES ESTABLISHED BY THE DEPARTMENT, INCLUDING**
29 **DEADLINES RELATED TO:**

1 **(1) IMPLEMENTATION OF THE PHOSPHORUS MANAGEMENT TOOL**
2 **DEVELOPED BY THE UNIVERSITY OF MARYLAND; AND**

3 **(2) SUBMISSION OF SOIL TEST PHOSPHORUS LEVELS RELATED TO**
4 **NUTRIENT MANAGEMENT PLANS DEVELOPED IN ACCORDANCE WITH THIS SUBTITLE.**

5 **(I) IN ADDITION TO ANY PENALTY AUTHORIZED UNDER § 8-805 OF THIS**
6 **SUBTITLE, A PERSON THAT VIOLATES SUBSECTION (H) OF THIS SECTION IS SUBJECT**
7 **TO AN ADMINISTRATIVE PENALTY NOT EXCEEDING \$250.**

8 8-803.1.

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

11 (b) This section does not apply to:

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

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

15 (c) The Governor shall provide sufficient funding in each fiscal year’s budget to:

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

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

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

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

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

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

28 (3) The Department may procure the services of a private certified nutrient
29 management consultant to develop nutrient management plans for persons operating a
30 farm.

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

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

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

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

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

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

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

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

24 (2) After a reasonable period of time, if the person fails to have a nutrient
25 management plan, the person is subject to an administrative penalty [not to exceed] **OF**
26 **NOT LESS THAN \$100 AND NOT MORE THAN \$250.**

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

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

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

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

1 (i) [Up to \$100] **SUBJECT TO PARAGRAPH (3) OF THIS**
 2 **SUBSECTION, ~~NOT LESS THAN \$100 AND~~ NOT MORE THAN \$500** for each violation, but
 3 not exceeding [~~\$2,000~~] **\$5,000** per farmer or operator per year; and

4 (ii) Assessed with consideration given to:

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

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

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

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

13 **(3) IF THE VIOLATION INVOLVED THE KNOWING APPLICATION OF**
 14 **PHOSPHORUS TO A SITE WHERE, BECAUSE OF THE SITE'S SOIL CHARACTERISTICS,**
 15 **DEPARTMENT REGULATIONS PROHIBIT THE APPLICATION OF PHOSPHORUS, THE**
 16 **PENALTY IMPOSED ON A PERSON UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION**
 17 **SHALL BE NOT LESS THAN \$250.**

18 ~~[(3)](4)~~ (i) Except as provided in subparagraph (ii) of this paragraph,
 19 each day a violation occurs is a separate violation under this subsection.

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

22 ~~[(4)] (5)~~ Any penalty imposed under this subsection is payable to the
 23 Maryland Agricultural Water Quality Cost Share Program within the Department.

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

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

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

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

1 (2) The Department may review the nutrient management plan and
2 records relating to the plan at a location agreed to by the Department and the person
3 operating the farm.

4 (3) In conducting a site visit and reviewing the nutrient management plan
5 and related records, the Department's evaluation shall be limited solely to determining
6 whether the person operating the farm is in compliance with the provisions of this section
7 or the regulations implementing this section.

8 (4) In conducting a site visit, the Department shall:

9 (i) Provide the person operating the farm at least 48 hours advance
10 notice;

11 (ii) Enter the property at a reasonable time that allows the person
12 operating the farm to be present; and

13 (iii) Conduct the evaluation in a manner that minimizes any
14 inconvenience to the person operating the farm.

15 (5) If a person operating a farm fails to cooperate with the Department's
16 request to conduct a site visit and review of a nutrient management plan and records
17 relating to the plan, that person is subject to subsections (i) and (j) of this section.

18 **(6) IN DETERMINING WHERE TO FOCUS ENFORCEMENT EFFORTS
19 UNDER THIS SUBSECTION, THE DEPARTMENT SHALL PRIORITIZE FARMS FOR WHICH
20 THE DEPARTMENT HAS NOT RECEIVED SOIL TEST PHOSPHORUS LEVELS, AS
21 REQUIRED BY DEPARTMENT REGULATIONS.**

22 ~~**§ 803.10.**~~

23 ~~**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
24 INDICATED.**~~

25 ~~**(2) "CERTIFIED COMMERCIAL MANURE HAULER OR BROKER" MEANS
26 A COMMERCIAL MANURE HAULER OR COMMERCIAL MANURE BROKER CERTIFIED BY
27 THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION.**~~

28 ~~**(3) "COMMERCIAL MANURE BROKER" MEANS A PERSON OTHER THAN
29 AN OPERATOR THAT:**~~

30 ~~**(I) ASSUMES TEMPORARY CONTROL OR OWNERSHIP OF
31 MANURE FROM A PRODUCING FARM; AND**~~

32 ~~**(II) ARRANGES FOR THE TRANSPORT AND USE OF THE MANURE
33 AT A RECEIVING FARM OR ALTERNATIVE USE FACILITY.**~~

1 ~~(4) "COMMERCIAL MANURE HAULER" MEANS A PERSON THAT~~
2 ~~TRANSPORTS MANURE;~~

3 ~~(I) AS A CONTRACT AGENT FOR AN OPERATOR OR A~~
4 ~~COMMERCIAL MANURE BROKER; AND~~

5 ~~(II) UNDER THE DIRECTION OF THE OPERATOR OR~~
6 ~~COMMERCIAL MANURE BROKER.~~

7 ~~(5) "MANURE" MEANS THE FECAL AND URINARY EXCRETION OF~~
8 ~~POULTRY AND LIVESTOCK, INCLUDING POULTRY LITTER AND MATERIALS USED AS~~
9 ~~BEDDING.~~

10 ~~(6) "OPERATOR" MEANS A PERSON THAT OWNS OR OPERATES A~~
11 ~~FARM.~~

12 ~~(B) (1) THE DEPARTMENT SHALL ESTABLISH A VOLUNTARY~~
13 ~~CERTIFICATION PROGRAM FOR COMMERCIAL MANURE HAULERS AND BROKERS.~~

14 ~~(2) THE DEPARTMENT, IN CONSULTATION WITH THE NUTRIENT~~
15 ~~MANAGEMENT ADVISORY COMMITTEE ESTABLISHED UNDER § 8-804 OF THIS~~
16 ~~SUBTITLE, SHALL ADOPT REGULATIONS ESTABLISHING:~~

17 ~~(I) ELIGIBILITY AND TRAINING REQUIREMENTS FOR~~
18 ~~CERTIFIED COMMERCIAL MANURE HAULERS AND BROKERS;~~

19 ~~(II) BEST MANAGEMENT PRACTICES FOR CERTIFIED~~
20 ~~COMMERCIAL MANURE HAULERS AND BROKERS; AND~~

21 ~~(III) RECORD KEEPING AND REPORTING REQUIREMENTS FOR~~
22 ~~CERTIFIED COMMERCIAL MANURE HAULERS AND BROKERS, CONSISTENT WITH~~
23 ~~SUBSECTION (D) OF THIS SECTION.~~

24 ~~(C) (1) TO APPLY FOR CERTIFICATION AS A COMMERCIAL MANURE~~
25 ~~HAULER OR BROKER, AN APPLICANT SHALL:~~

26 ~~(I) SUBMIT TO THE DEPARTMENT AN APPLICATION ON A FORM~~
27 ~~THE DEPARTMENT REQUIRES; AND~~

28 ~~(II) PAY TO THE DEPARTMENT THE APPLICATION FEE~~
29 ~~SPECIFIED IN § 8-805 OF THIS SUBTITLE.~~

1 ~~(2) THE DEPARTMENT SHALL CERTIFY ANY PERSON THAT MEETS~~
2 ~~THE REQUIREMENTS OF THIS SECTION AND ANY REGULATIONS ADOPTED UNDER~~
3 ~~THIS SECTION.~~

4 ~~(3) THE DEPARTMENT SHALL BY REGULATION ESTABLISH THE TERM~~
5 ~~OF A CERTIFICATE ISSUED UNDER THIS SECTION.~~

6 ~~(D) A CERTIFIED COMMERCIAL MANURE HAULER OR BROKER SHALL:~~

7 ~~(1) EMPLOY BEST MANAGEMENT PRACTICES, AS IDENTIFIED BY THE~~
8 ~~DEPARTMENT, WHEN TRANSPORTING, STORING, OR LAND APPLYING MANURE;~~

9 ~~(2) LAND APPLY MANURE ONLY IN ACCORDANCE WITH AN APPROVED~~
10 ~~NUTRIENT MANAGEMENT PLAN;~~

11 ~~(3) MAINTAIN, FOR A MINIMUM OF 3 YEARS, TRANSPORT AND~~
12 ~~INVENTORY RECORDS THAT SHOW:~~

13 ~~(I) THE NAME OF EACH PRODUCING FARM AND THE AMOUNT~~
14 ~~OF MANURE OBTAINED FROM THE PRODUCING FARM;~~

15 ~~(II) THE NAME OF EACH RECEIVING FARM OR ALTERNATIVE~~
16 ~~USE FACILITY AND THE AMOUNT OF MANURE TRANSPORTED TO THE RECEIVING~~
17 ~~FARM OR ALTERNATIVE USE FACILITY; AND~~

18 ~~(III) THE AMOUNT OF ANY MANURE STORED OR STOCKPILED BY~~
19 ~~THE CERTIFIED COMMERCIAL MANURE HAULER OR BROKER;~~

20 ~~(4) ALLOW THE DEPARTMENT TO REVIEW TRANSPORT AND~~
21 ~~INVENTORY RECORDS DURING NORMAL BUSINESS HOURS; AND~~

22 ~~(5) SUBMIT TO THE DEPARTMENT, ON THE FORM THE DEPARTMENT~~
23 ~~REQUIRES, AN ANNUAL REPORT SUFFICIENT TO:~~

24 ~~(I) TRACK THE QUANTITY AND LOCATION OF THE MANURE~~
25 ~~HAULED OR BROKERED BY THE CERTIFIED COMMERCIAL HAULER OR BROKER~~
26 ~~DURING THE PREVIOUS CALENDAR YEAR; AND~~

27 ~~(II) DEMONSTRATE COMPLIANCE WITH THIS SECTION AND~~
28 ~~REGULATIONS ADOPTED UNDER THIS SECTION.~~

29 ~~(E) (1) THIS SUBSECTION APPLIES ONLY TO A MARYLAND ANIMAL~~
30 ~~FEEDING OPERATION (MAFO) OR A CONCENTRATED ANIMAL FEEDING OPERATION~~

1 ~~(CAFO) AS DEFINED IN REGULATIONS ADOPTED BY THE MARYLAND DEPARTMENT~~
2 ~~OF THE ENVIRONMENT.~~

3 ~~(2) THE OPERATOR OF AN OPERATION DESCRIBED IN PARAGRAPH (1)~~
4 ~~OF THIS SUBSECTION SHALL ARRANGE FOR THE REMOVAL OF MANURE GENERATED~~
5 ~~AT THE OPERATION ONLY THROUGH A COMMERCIAL MANURE HAULER OR BROKER~~
6 ~~CERTIFIED UNDER THIS SECTION.~~

7 ~~(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A~~
8 ~~PERSON WHO VIOLATES A PROVISION OF THIS SECTION OR ANY REGULATION~~
9 ~~ADOPTED UNDER THIS SECTION IS SUBJECT TO AN ADMINISTRATIVE PENALTY NOT~~
10 ~~EXCEEDING \$500 PER VIOLATION.~~

11 ~~(2) A PERSON WHO VIOLATES SUBSECTION (E)(2) OF THIS SECTION IS~~
12 ~~SUBJECT TO AN ADMINISTRATIVE PENALTY OF \$1,000 PER VIOLATION.~~

13 ~~§ 805.~~

14 ~~Subject to the provisions of the Administrative Procedure Act, the Department may~~
15 ~~deny, suspend, or revoke a certificate or license for a violation of this subtitle or for a~~
16 ~~violation of any regulation adopted under this subtitle by the Department.~~

17 ~~§ 806.~~

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

20 ~~(1) Certificate (nutrient management consultant) \$50;~~

21 ~~(2) License (individual or sole proprietorship) \$50;~~

22 ~~(3) License (corporation or partnership) \$100;~~

23 ~~(4) Renewal \$150; [and]~~

24 ~~(5) Certificate (farm operator's plan development) \$20; AND~~

25 ~~(6) CERTIFICATE (COMMERCIAL MANURE HAULER OR~~
26 ~~BROKER).....\$100.~~

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

29 ~~(c) All money collected under this subtitle shall be deposited in the General Fund~~
30 ~~of the State.~~

1 8-807.

2 (A) On or before December 31 of each year, the Department of Agriculture shall
3 report to the Governor, and, in accordance with § 2-1246 of the State Government Article,
4 the General Assembly, on the farm acreage covered by nutrient management plans and the
5 implementation and evaluation of those plans.

6 (B) (1) BEGINNING IN 2020, THE REPORT REQUIRED UNDER THIS
7 SECTION SHALL INCLUDE INFORMATION ON THE PRODUCTION AND USE OF ANIMAL
8 MANURE BY FARM OPERATIONS COVERED BY NUTRIENT MANAGEMENT PLANS
9 DURING THE PREVIOUS YEAR, INCLUDING:

10 (I) THE AMOUNT OF ANIMAL MANURE EXPORTED BY FARM
11 OPERATIONS TO ALTERNATIVE USE FACILITIES OR OTHER FARM OPERATIONS IN
12 THE STATE;

13 (II) THE AMOUNT OF ANIMAL MANURE EXPORTED OUT OF THE
14 STATE BY FARM OPERATIONS; AND

15 (III) THE AMOUNT OF ANIMAL MANURE LAND APPLIED BY FARM
16 OPERATIONS IN THE STATE AND THE SOURCE OF THAT MANURE.

17 (2) THE INFORMATION REQUIRED UNDER THIS SUBSECTION SHALL
18 BE REPORTED:

19 (I) BY GEOGRAPHIC AREA, INCLUDING BY COUNTY OR LOCAL
20 WATERSHED; AND

21 (II) IN A MANNER THAT PROTECTS THE IDENTITY OF
22 INDIVIDUAL FARM OPERATION.

23 Article – Environment

24 9-301.

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

26 (b) “Board” means the Water Science Advisory Board.

27 (c) “CAFO” MEANS A CONCENTRATED ANIMAL FEEDING OPERATION, AS
28 DEFINED IN DEPARTMENT REGULATIONS.

29 (D) “Discharge permit” means a permit issued by the Department for the
30 discharge of any pollutant or combination of pollutants into the waters of this State.

1 **[(d)] (E)** “Person” includes the federal government, this State, any county,
2 municipal corporation, or other political subdivision of this State, or any of their units.

3 **[(e)] (F)** “Reclaimed water” means sewage that:

4 (1) Has been treated to a high quality suitable for various reuses; and

5 (2) Has a concentration of less than:

6 (i) 3 fecal coliform colonies per 100 milliliters;

7 (ii) 10 milligrams per liter of 5–day biological oxygen demand; and

8 (iii) 10 milligrams per liter of total suspended solids.

9 **[(f)] (G)** “Sewage” means any human or animal excretion, domestic waste, or
10 industrial waste.

11 **[(g)] (H)** (1) “Sewerage system” means:

12 (i) The channels used or intended to be used to collect and dispose
13 of sewage; and

14 (ii) Any structure and appurtenance used or intended to be used to
15 collect or prepare sewage for discharge into the waters of this State.

16 (2) “Sewerage system” includes any sewer of any size.

17 (3) “Sewerage system” does not include the plumbing system inside any
18 building served by the sewerage system.

19 9–323.

20 (a) **(1)** A person shall hold a discharge permit issued by the Department before
21 the person may construct, install, modify, extend, alter, or operate any of the following if
22 its operation could cause or increase the discharge of pollutants into the waters of this
23 State:

24 **[(1)] (I)** An industrial, commercial, or recreational facility or disposal
25 system;

26 **[(2)] (II)** A State–owned treatment facility; or

27 **[(3)] (III)** Any other outlet or establishment.

1 **(2) A PERSON SHALL HOLD A ~~DISCHARGE~~ CAFO GENERAL**
 2 **DISCHARGE PERMIT ISSUED BY THE DEPARTMENT BEFORE THE PERSON MAY BEGIN**
 3 **CONSTRUCTION, ~~INCLUDING THE CLEARING OR GRADING OF LAND,~~ ON ANY PART OF**
 4 **A NEW CAFO.**

5 (b) By rule or regulation, the Department may require a discharge permit for any
 6 other activity.

7 **(C) THE DEPARTMENT MAY NOT ISSUE A ~~DISCHARGE~~ CAFO GENERAL**
 8 **DISCHARGE PERMIT TO A PERSON THAT VIOLATES SUBSECTION (A)(2) OF THIS**
 9 **SECTION.**

10 9-325.

11 (a) **(1)** The Department may adopt rules and regulations that relate to
 12 application for, issuance of, revocation of, or modification of discharge permits.

13 **(2)** The rules and regulations may require submission of plans,
 14 specifications, and other information.

15 (b) **[The] SUBJECT TO SUBSECTION (C)(2) OF THIS SECTION, THE** rules and
 16 regulations adopted under this section shall set a reasonable application fee in an amount
 17 designed to cover the cost of the permit procedure.

18 (c) **(1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
 19 rules and regulations adopted under this section shall set a reasonable permit fee schedule
 20 for industrial users based on:

21 (i) The anticipated cost of monitoring and regulating the permitted
 22 facility;

23 (ii) The flow of effluent discharge from the permitted facility; and

24 (iii) The anticipated needs for program development activities that
 25 relate to management of the discharge of pollutants into the waters of this State.

26 **~~(2) (1) THE DEPARTMENT SHALL CHARGE AN APPLICATION FEE OF~~**
 27 **~~AT LEAST \$5,000 FOR A PROPOSED NEW CAFO THAT WILL:~~**

28 ~~1. HOUSE 200,000 OR MORE ANIMALS; OR~~

29 ~~2. HAVE A HOUSE CAPACITY GREATER THAN OR EQUAL~~
 30 **~~TO 200,000 SQUARE FEET.~~**

~~(H) THE DEPARTMENT SHALL CHARGE AN ANNUAL PERMIT FEE OF AT LEAST \$1,500 FOR AN EXISTING CAFO THAT:~~

~~1. HOUSES 200,000 OR MORE ANIMALS; OR~~

~~2. HAS A HOUSE CAPACITY GREATER THAN OR EQUAL TO 200,000 SQUARE FEET.~~

(2) (I) THE DEPARTMENT SHALL CHARGE A ONE-TIME PERMIT APPLICATION FEE OF AT LEAST \$2,000 ON RECEIPT OF A NOTICE OF INTENT TO SEEK COVERAGE UNDER A CAFO GENERAL DISCHARGE PERMIT FOR:

1. A PROPOSED NEW CAFO THAT WILL HAVE A HOUSE CAPACITY OF 350,000 SQUARE FEET OR MORE; OR

2. MODIFICATION OF AN EXISTING CAFO TO EXPAND THE HOUSE CAPACITY TO 350,000 SQUARE FEET OR MORE.

(II) THE DEPARTMENT SHALL CHARGE AN ANNUAL FEE OF AT LEAST \$1,200 FOR THE CONTINUED COVERAGE UNDER A CAFO GENERAL DISCHARGE PERMIT OF A CAFO WITH A HOUSE CAPACITY OF 350,000 SQUARE FEET OR MORE.

~~[(2)] (3)~~ In adopting the rules and regulations under this subsection, the Department shall consult with industry and provide that the permit fee not exceed a certain dollar amount.

~~(4) THE DEPARTMENT MAY NOT WAIVE THE PERMIT FEE FOR A USER DEFINED IN DEPARTMENT REGULATIONS AS A CAFO~~ CAFO GENERAL DISCHARGE PERMIT.

~~9-326.~~

~~(a) (1) The Department may make the issuance of a discharge permit contingent on any conditions the Department considers necessary to prevent violation of this subtitle.~~

~~(2) In permits for the discharge of pollutants from publicly owned treatment works, the Department:~~

~~(i) May impose as conditions appropriate measures to establish and insure compliance by industrial users with any system of user charges required by State or federal law or by any rule, regulation, or guideline adopted under State or federal law; and~~

~~(ii) Shall impose as conditions requirements for the permit holder to provide information about new introductions of pollutants or substantial changes in the volume or character of pollutants being introduced into the treatment works.~~

~~(3) (i) THIS PARAGRAPH APPLIES ONLY TO A CAFO THAT:~~

~~1. HOUSES 200,000 OR MORE ANIMALS; OR~~

~~2. HAS A HOUSE CAPACITY GREATER THAN OR EQUAL TO 200,000 SQUARE FEET.~~

~~(ii) IN A PERMIT FOR THE DISCHARGE OF POLLUTANTS FROM A CAFO DESCRIBED IN SUBPARAGRAPH (i) OF THIS PARAGRAPH, THE DEPARTMENT SHALL REQUIRE THE PERMIT HOLDER TO:~~

~~1. INSTALL, USE, AND MAINTAIN ON-SITE MONITORING EQUIPMENT; AND~~

~~2. SUBMIT MONITORING RESULTS TO THE DEPARTMENT ON THE APPROPRIATE MONITORING REPORT FORM.~~

~~(b) Issuance of a discharge permit is contingent on the grant by the permit holder to the Department of a right of entry on the permit site at any reasonable time to inspect and investigate for violation or potential violation of any condition of the permit.~~

Article – Natural Resources

8–2A–01.

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

(c) (2) “Nonpoint source pollution control project” includes:

(i) An agricultural best management implementation practice, including cover crops, riparian forested buffer, manure processing, grassed waterways, animal waste storage structures, and livestock fencing;

(ii) An urban or suburban stormwater practice;

(iii) A sustainable forest management practice, including a forest stewardship plan or a nonornamental urban and suburban tree planting project;

(iv) Stream and wetland restoration;

(v) Riparian buffer planting;

1 (vi) A project that demonstrates the effectiveness of an innovative
 2 nonpoint source pollution reduction measure provided that the measure is capable of
 3 integration into existing nonpoint source pollution programs;

4 (vii) Technical assistance necessary to implement a nonpoint source
 5 pollution control project;

6 (viii) Improvement of a municipal park located on or adjacent to a
 7 waterway, provided that the improvement is limited to state-of-the-art and sustainable
 8 nonpoint source pollution control measures that demonstrably improve water quality by
 9 reducing nitrogen, phosphorus, and sediment pollution; [and]

10 (ix) ~~CONTINUOUS WATER~~ WATER QUALITY MONITORING AT
 11 SITES ON THE LOWER EASTERN SHORE CONDUCTED BY THE DEPARTMENT UNDER
 12 § 8-2A-05 OF THIS SUBTITLE; AND

13 (X) Strategic monitoring of water quality improvements from
 14 nonpoint source pollution control projects that have been funded, in whole or in part, with
 15 grants from the Trust Fund.

16 **8-2A-05.**

17 (A) AS PART OF THE DEPARTMENT'S CHESAPEAKE BAY ~~SHALLOW~~
 18 MAINSTEM AND TIDAL WATER QUALITY MONITORING PROGRAM, THE
 19 DEPARTMENT SHALL ~~DEPLOY CONTINUOUS WATER QUALITY MONITORING~~
 20 ~~STATIONS~~ CONDUCT LONG-TERM SAMPLE COLLECTION IN TRIBUTARIES LOCATED
 21 ON THE LOWER EASTERN SHORE.

22 (B) AT A MINIMUM, ~~CONTINUOUS WATER QUALITY MONITORING STATIONS~~
 23 SHALL BE ESTABLISHED IN THE DEPARTMENT SHALL REGULARLY COLLECT
 24 SAMPLES FROM EACH OF THE FOLLOWING LOCATIONS:

25 (1) STATIONS TRQ008 AND TRQ0146, LOCATED IN THE
 26 TRANSQUAKING RIVER;

27 (2) STATION CCM0069, LOCATED IN THE CHICAMACOMICO RIVER;

28 (3) STATION XDJ9007, LOCATED IN THE NANTICOKE RIVER;

29 (4) STATION XCI4078, LOCATED IN THE WICOMICO RIVER;

30 (5) STATIONS BXK0031 AND MNK0146, LOCATED IN THE MANOKIN
 31 RIVER; AND

1 **(6) STATIONS POK0087 AND XAK7810, LOCATED IN THE**
2 **POCOMOKE RIVER.**

3 ~~**(1) AT A LOCATION IN THE TRANSQUAKING RIVER WITH THE STREAM**~~
4 ~~**CODE TRQ0088;**~~

5 ~~**(2) AT A LOCATION IN THE TRANSQUAKING RIVER WITH THE STREAM**~~
6 ~~**CODE TRQ0146;**~~

7 ~~**(3) AT A LOCATION IN THE CHICAMACOMICO RIVER WITH THE**~~
8 ~~**STREAM CODE CCM0069;**~~

9 ~~**(4) AT A LOCATION IN THE NANTICOKE RIVER WITH THE STREAM**~~
10 ~~**CODE XDJ8905;**~~

11 ~~**(5) AT A LOCATION IN THE WICOMICO RIVER WITH THE STREAM**~~
12 ~~**CODE XCJ6023;**~~

13 ~~**(6) AT A LOCATION IN THE MANOKIN RIVER WITH THE STREAM CODE**~~
14 ~~**XBI6387;**~~

15 ~~**(7) AT A LOCATION IN THE POCOMOKE RIVER WITH THE STREAM**~~
16 ~~**CODE POK0087;**~~

17 ~~**(8) AT A LOCATION IN THE POCOMOKE RIVER WITH THE STREAM**~~
18 ~~**CODE POK0187; AND**~~

19 ~~**(9) AT A LOCATION IN POCOMOKE SOUND WITH THE STREAM CODE**~~
20 ~~**XAJ5327.**~~

21 **(C) TO THE EXTENT PRACTICABLE, CONTINUOUS WATER QUALITY**
22 **MONITORING STATIONS DEPLOYED UNDER THIS SECTION SHALL BE LOCATED AT**
23 **SITES WHERE CONTINUOUS WATER QUALITY MONITORING STATIONS PREVIOUSLY**
24 **EXISTED WATER QUALITY MONITORING CARRIED OUT UNDER THIS SECTION SHALL**
25 **BE DONE IN LOCATIONS WHERE WATER QUALITY MONITORING WAS CONDUCTED**
26 **PRIOR TO DECEMBER 1, 2013, IN ORDER TO ALLOW THE DEPARTMENT AND THE**
27 **PUBLIC TO ASSESS LONG-TERM WATER QUALITY TRENDS.**

28 **SECTION 2. AND BE IT FURTHER ENACTED, That:**

29 (1) the Department of the Environment shall study and make
30 recommendations regarding the feasibility of requiring the installation and use of on-site
31 water quality monitoring equipment at certain concentrated animal feeding operation
32 (CAFO) sites as a condition for issuance of a CAFO General Discharge permit; and

1 (2) on or before December 1, 2021, the Department shall report its findings
 2 and recommendations to the Senate Education, Health, and Environmental Affairs
 3 Committee and the House Environment and Transportation Committee, in accordance with
 4 § 2-1246 of the State Government Article.

5 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 6 October 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.