

Title 15

DEPARTMENT OF AGRICULTURE

Subtitle 20 SOIL AND WATER CONSERVATION

Chapter 06 Nutrient and Commercial Fertilizer Application Requirements for Agricultural Land and Land, Including State Property, Not Used for Agricultural Purposes

Authority: Agriculture Article, §§8-801—8-806,
Annotated Code of Maryland

.01 Scope.

A. This chapter requires a person who applies nutrients to more than 10 acres of agricultural land, which that person owns or manages, to:

- (1) Have an applicator voucher from the Department;
- (2) Be a certified farm operator;
- (3) Be a certified nutrient management consultant; or
- (4) Hire a certified nutrient management consultant.

B. This chapter also requires certain persons to follow the application recommendations of the University of Maryland Cooperative Extension when applying commercial fertilizer in any 12-month period to land not used for agricultural purposes that is:

- (1) 10 or more acres, regardless of individual parcel size; or
- (2) State-owned land.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) Agricultural Land.

(a) “Agricultural land” means more than 10 acres of land used to produce food, feed, fiber, sod, animals, plants, trees, or plants in containers, or for out-of-ground production.

(b) “Agricultural Land” includes smaller, noncontiguous land parcels that total more than 10 acres.

(2) “Applicator” means a person who applies any type of nutrient, as defined by this chapter, to any crop, plant, or land intended to be planted.

(3) “Applicator voucher” means documentation issued by the Department as proof that an individual has completed a required educational program, as defined by this chapter.

(4) “Certified farm operator” means an individual certified by the Department under this subtitle to prepare a nutrient management plan solely for agricultural land that the individual owns or operates, or where the individual has a legal interest.

(5) “Certified nutrient management consultant” or “consultant” means an individual certified by the Department, under COMAR 15.20.04, to prepare a nutrient management plan.

(6) “Commercial fertilizer” or “fertilizer” means a 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.

(7) “Department” means the Maryland Department of Agriculture or its designee.

(8) “Educational program” means a training program created or approved by the

Department relating to nutrient application.

(9) "Land not used for agricultural purposes" means a parcel of land that does not qualify for agricultural use assessment under Tax-Property Article, §8-209, Annotated Code of Maryland.

(10) "Nutrient" means a fertilizer or any substance used to promote plant growth.

(11) "Nutrient application rate" means the quantity of primary nutrients, as total nitrogen (N), available phosphate (P_2O_5), and soluble potash (K_2O), recommended by a certified nutrient management consultant to:

(a) Supply crop or plant nutrient needs; and

(b) Achieve realistic yield goals, as defined by COMAR 15.20.04.

(12) "Nutrient content" means the percentage of any primary nutrient, as total nitrogen (N), available phosphate (P_2O_5), or soluble potash (K_2O), in any type or source of plant nutrients.

(13) "Nutrient management plan" means a plan prepared by a certified nutrient management consultant or a certified farm operator to manage the amount, placement, timing, and application of animal manure, fertilizer, biosolids, or other plant nutrients in order to protect water quality and maintain the productivity of soil in accordance with COMAR 15.20.08.

(14) "Person" means the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity, unless otherwise provided.

(15) "State property" means land that the State owns, but does not include land subject to a State-owned easement or other State restriction.

(16) "Supervision" means that a nutrient management consultant a certified farm operator, or a person who holds a voucher is responsible for:

(a) Training and planning employee activities; and

(b) The application of nutrients.

.03 Application of Nutrients to Agricultural Land.

A. A person who owns or operates agricultural land may not apply any nutrient to more than 10 acres of that land, unless that person:

(1) Holds an applicator voucher from the Department verifying the completion of the Department's educational requirements;

(2) Is a certified farm operator; or

(3) Is a certified nutrient management consultant.

B. A person who satisfactorily completes an approved educational program shall receive an applicator voucher from the Department. At least once every 3 years after obtaining a voucher, each voucher holder shall complete at least 2 hours of a Department-approved educational program in nutrient application or management.

C. The Department shall renew an applicator voucher for any individual who satisfactorily completes the educational requirements of this chapter.

.04 For-Hire Application of Nutrients to Agricultural Land or Application of Commercial Fertilizer to Land Not Used for Agricultural Purposes.

A. A person who for-hire applies nutrients to agricultural land shall:

(1) Be a certified nutrient management consultant or work under the supervision of a consultant;

(2) Make available, upon request of the landowner or operator, documentation in the form of a certificate, work order, or other similar document, that the applicator is:

(a) A certified nutrient management consultant, or

- (b) Working under the supervision of a certified nutrient management consultant;
- (3) On or after December 31, 2002, apply nutrients according to a nutrient management plan or have verification by the landowner or operator that the nutrient application complies with a nutrient management plan; and
- _____ (4) On or after December 31, 2002, apply nutrients according to the University of Maryland Cooperative Extension recommendation rates when a nutrient management plan is not required.
- _____ B. A person, including an employee of the owner or manager of the land, hired to apply commercial fertilizer to 10 or more acres, regardless of individual parcel size of land not used for agricultural purposes, and all State property not used for agricultural purposes, shall apply commercial fertilizer in a manner that is consistent with the recommendations of the University of Maryland Cooperative Extension.

.05 Record-Keeping and Reporting Requirements.

- A. A person who for-hire applies nutrients to agricultural land shall:
 - (1) Keep records when applying nutrients, to document that the applicator is:
 - (a) Certified by the Department as a nutrient management consultant,
 - (b) Certified as a nutrient management consultant by an entity with a reciprocal certification program with the Department, or
 - (c) Supervised by a person complying with requirements in §A(1)(a) or (b) of this regulation;
 - (2) Make and keep for at least 3 years a record in a form approved by the Department that includes:
 - (a) The type and amount of nutrients applied to the plants or to the land,
 - (b) The crop acreage receiving a nutrient application,
 - (c) The location of the nutrient application,
 - (d) The timing of the application or applications, and
 - (e) An analysis of the nutrient content of any fertilizer applied to the plants, the land, or the crop acreage;
 - (3) Make available for inspection, at the Department’s request, the records required by §A(1) and (2) of this regulation.
- B. Nonagricultural Applicator Record-Keeping Requirements.
 - (1) The record-keeping requirements of this section apply to a person who:
 - (a) Owns or manages land not used for agricultural purposes that consists of 10 or more acres, regardless of individual parcel size, or is State property, when an application of nutrients is made by an employee; or
 - (b) Applies nutrients for-hire to land not used for agricultural purposes that in any 12-month period consists of 10 or more acres, regardless of individual parcel size, or is State property.
 - (2) The records required by this section shall:
 - (a) Be kept in a form approved by the Department; and
 - (b) Provide commercial fertilizer recommendations prepared for the land and for the plants, documenting that University of Maryland Cooperative Extension recommendations were followed, including:
 - (i) Soil tests,
 - (ii) Production or management objectives, and
 - (iii) Timing of nutrient application.
 - (3) For each application of nutrients to the land and to plants, the person shall make and keep for at least 3 years a record that includes:
 - (a) The amount of nutrients applied to the land and to the plants;

- (b) The location of the nutrient application;
- (c) The timing and rate of the application; and
- (d) The nutrient content of any fertilizer applied to the land and to the plants.

(4) The records required by §B(2) and (3) of this regulation shall be made available for inspection at the Department's request.

.06 Denial, Suspension, or Revocation of Certificate or Voucher.

A. The Department may deny, suspend, or revoke the certification or applicator voucher of a person who violates any requirement of this chapter, including:

- (1) Providing misleading, false, or fraudulent information;
- (2) Failing to meet the educational or continuing education requirements of this chapter; or
- (3) Failing to apply, or to supervise the application of, nutrients as required by this chapter.

B. A person whose certification or application voucher is denied, suspended, or revoked shall be given an opportunity for a hearing by the Secretary before any denial, suspension, or revocation.

.07 Assessment of Civil Penalty.

A. Imposition of Civil Penalty.

(1) The Department may impose a civil penalty on a person who violates any provision of Regulation .01B, .04B, or .05B of this chapter.

(2) The Department may impose a civil penalty of not more than \$1,000 for a first violation, and a civil penalty of not more than \$2,000 for each subsequent violation. The total penalties imposed on a person for violations that result from the same facts and circumstances may not exceed \$10,000.

(3) In assessing a civil penalty imposed under this regulation, the Department shall give consideration to:

(a) 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;

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

(c) The cost of control;

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

(e) 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 and safety; and

(f) 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.

B. A person aggrieved by any decision of the Department over the assessment of a civil penalty imposed under this chapter may appeal under Agriculture Article, §2-405, Annotated Code of Maryland.

C. Unless a stay has been granted, a person against whom a civil penalty has been imposed under this regulation shall promptly pay the penalty to the Department.