



## MARYLAND DEPARTMENT OF THE ENVIRONMENT

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March 16, 2010

The Honorable Joan Carter Conway, Chairman  
Education, Health, and Environmental Affairs Committee  
Miller Senate Office Building, 2 West Wing  
11 Bladen St., Annapolis, MD 21401 - 1991

Re: Senate Bill 803 – Sewage Sludge Utilization Permits – Chesapeake and Atlantic Coastal Bays  
Critical Area – Judicial Review

Dear Chairman Conway:

The Maryland Department of the Environment (MDE or “the Department”) has reviewed Senate Bill 803, entitled *Sewage Sludge Utilization Permits – Chesapeake and Atlantic Coastal Bays Critical Area – Judicial Review*, and we would like to provide information and express our concerns regarding this bill.

This bill would extend the appeal provisions of Environment Article, Subtitle 1-6 to those sewage sludge utilization permit applications where the proposed site is on land within the Chesapeake and Atlantic Coastal Bays Critical Area. The provisions of Environment Article, Subtitle 1-6, which were revised effective January 1, 2010, were written to address permanent/ fixed location permitted facilities, including landfills, wastewater treatment plants, power plants, and other structures. The judicial review process in circuit court does not include temporary, beneficial uses of the land, such as sewage sludge land application as fertilizer. It is not clear, however, if the bill intends to apply only to land application of sewage sludge or to other sewage sludge utilization permits, as well.

Although the Department recognizes the need to protect the Critical Areas, MDE believes that the current protections provided in Maryland law, along with additional protections that are currently being considered as amendments to the sewage sludge management regulations, provide sufficient protection for these areas.

The Department is required to offer public informational meetings for all sewage sludge land application permits under Environment Article Section 9-234. The Department holds a public informational meeting when one is requested by the county government where the site is located, regardless of whether any citizens have expressed concerns. Of the 150 to 200 sewage sludge permits issued each year, it is estimated that 30 to 40 could involve sites for which a hearing in circuit court might be held. Along with the additional work for the court system, the Department would be required to write and publicize permit decisions, and to attend appeal hearings in Circuit Court for those sites for which a valid appeal of the

permit is filed by a person with standing.

Existing sewage sludge regulations require that a buffer zone of at least 100 feet be maintained between areas where sewage sludge would be applied, and the mean high water line of tidal waters and the landward side of tidal wetlands. The Department is developing revisions to the sewage sludge regulations that would extend this buffer to 200 feet, and require that any application of sewage sludge between 200 and 1000 feet be injected below the surface of the soil.

By prolonging the permitting process, local governments that prefer to recycle their sewage sludge as fertilizer, rather than disposing of it, could incur additional costs. The bill could cause local governments that generate sewage sludge to dispose of it in a landfill, consuming valuable landfill capacity and requiring payment of landfill tipping fees that currently average \$52 in the State, or transport it to another Maryland county or out of State, also at an expense to the wastewater treatment plant. Greenhouse gas emissions from the transportation of these recyclable materials could result, and if the sewage sludge is disposed in another county in Maryland, that county's capacity for managing sewage sludge that it generates could be reduced. In addition, farmers who depend on sewage sludge as a way to save on the cost of fertilizers may be forced to purchase chemical fertilizers or manure, which research has shown has the potential to leach nutrients into surface and groundwater at higher rates than sewage sludge.

Thank you for your consideration. We will continue to monitor Senate Bill 803 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-537-3304 or by e-mail at [htablada@mde.state.md.us](mailto:htablada@mde.state.md.us) if I can be of assistance.

Sincerely,



Horacio Tablada, Director  
Land Management Administration

cc: The Honorable E.J. Pipkin  
Shari T. Wilson, Secretary  
Heather Barthel, Director of Legislation and Policy  
Lisa Nissley, Legislative Liaison/Environmental Justice Coordinator