

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 946 (Kent County Delegation)
Environmental Matters

Environment - Sewage Sludge - Requirements

This bill prohibits the Maryland Department of the Environment (MDE) from issuing a sewage sludge utilization permit unless the land on which the sewage sludge is to be applied is owner-occupied. In addition, the bill requires MDE to (1) record a copy of each permit authorizing the land application of sewage sludge in the land records of the county in which the land is located within 30 days after each authorization; and (2) establish and maintain a list of State-owned property on which sewage sludge may be applied.

Fiscal Summary

State Effect: Special fund revenues decrease for the Maryland Clean Water Fund within MDE due to the collection of fewer sewage sludge utilization permit and generator fees under the bill's restrictions. Negligible increase in special fund revenues for the Circuit Court Real Property Records Improvement Fund due to the bill's recordation requirement. Special fund expenditures for MDE increase minimally due to recordation and travel costs. MDE can likely implement the bill with existing staff; however, special fund expenditures increase further to the extent that workloads increase beyond what can be handled with existing resources.

Local Effect: Local expenditures to dispose of sewage sludge from wastewater treatment plants may increase. Local government revenues increase minimally due to the recording of additional documents with county land record offices under the bill.

Small Business Effect: Potential meaningful. Small businesses involved in the generation or use of sewage sludge (such as wastewater treatment systems, applicators, and farmers) may be negatively affected due to the bill's restrictions.

Analysis

Current Law: MDE is the primary State agency that regulates sewage sludge utilization. Use and disposal of sewage sludge is also regulated by the federal government under 40 CFR 503. Under State law, a sewage sludge utilization permit is required for any person who collects, incinerates, stores, treats, applies to land, transports, or disposes of sewage sludge or septage in Maryland. A separate permit is required for each utilization site. Permit fees, which range from \$25 to \$750 depending on the way the sewage sludge is used, are paid into the Maryland Clean Water Fund. The fee for a permit to apply sewage sludge to agricultural land is \$175, and the fee for a permit to apply sewage sludge to marginal land is \$350.

When MDE receives an application to apply sewage sludge on marginal land or to construct a permanent facility that is designed primarily to utilize sewage sludge, MDE must publish notice of the application in a local newspaper and mail a copy of the notice to the local health official and specified local elected officials and local governments. Within 15 days, the local executive or legislative body may request a public hearing. For a permit to apply sewage sludge on any other land, MDE is required to mail a copy of the permit application to the local health official and specified local elected officials. Within 10 days, the local executive or legislative body may request a public informational meeting. In addition, MDE is required to provide local governments that receive a copy of a permit application in accordance with the above requirements with an opportunity to consult with the department about the decision to issue, deny, or place restrictions on a sewage sludge utilization permit.

To allow the public to identify every permit that MDE issues for a particular tract of land, MDE is required to maintain a permanent public record of all sewage sludge utilization permits issued.

Current regulations also require the written permission of landowners where sewage sludge is to be applied on agricultural or marginal land.

Under current regulations, sewage sludge generators must pay MDE an annual generator fee based on the total amount of sewage sludge produced by the generator. The base fee is \$1 per wet ton of sewage sludge generated or utilized in Maryland, but is adjusted depending on the use of the sludge. For land application, the fee for Class I sludge is \$1 per wet ton, while to transport such sludge out of state, the fee is \$0.50 per wet ton.

Background: Sewage sludge is one of the final products of the treatment of sewage at a wastewater treatment plant, after treatment has broken down the organic matter and killed disease-causing organisms. According to MDE, more than 700,000 wet tons of sewage

sludge are generated in Maryland each year. MDE indicates that the application of sewage sludge to agricultural land recycles nutrients, saves landfill space and money, and helps reduce nutrient pollution to the Chesapeake Bay.

In 2008, about 620,000 tons of sewage sludge were utilized; 30% of the utilized sewage sludge was applied to agricultural land, 47% was hauled out of state, and the remainder went to other uses, including 6% to landfill utilization/disposal. At the end of 2008, there were 701 active sewage sludge permits. Of those permits, 316 were for land application, the vast majority of which appear to have been for agricultural land application.

State Revenues: MDE advises that the bill greatly limits the amount of agricultural land available for utilization of sewage sludge as a fertilizer, as many farm operators are not necessarily the owner of the farm, and many farms are not owner-occupied due to various business and legal arrangements. While a reliable estimate of the bill's impact on the number of sewage sludge utilization permits issued each year cannot be made, *for illustrative purposes*, Maryland Clean Water Fund revenues could decrease by about \$47,700 annually, based on the following assumptions and information:

- in calendar 2010, there were 76 sewage sludge utilization permits issued for agricultural land application and 3 for marginal land application;
- under the bill, half as many sewage sludge utilization permits for agricultural land application will be issued, and no permits for marginal land application will be issued;
- in calendar 2010, 161,510 tons of sewage sludge were land applied in Maryland;
- under the bill, half as many tons of sewage sludge will be land applied in Maryland; and
- sewage sludge no longer land applied in Maryland will be transported out of state and subject to the sewage sludge generator transport fee of \$0.50 per ton, instead of the generator fee of \$1 per ton for land application.

State Expenditures: MDE advises that implementing the bill encumbers roughly one-third of staff time for three existing personnel. Legislative Services advises that to the extent that the actual increase in workload resulting from this bill exceeds current estimates, additional personnel may be necessary to prevent existing staff from being diverted from other responsibilities and statutorily mandated duties.

Local Expenditures: Local expenditures could increase to dispose of sewage sludge from locally owned wastewater treatment plants. According to MDE, the cost to dispose of sewage sludge through land application is around \$40 per ton, including transportation costs. Disposal in a landfill or transporting sludge out of state is more expensive.

Additional Information

Prior Introductions: None.

Cross File: SB 404 (Senator Pipkin) - Education, Health, and Environmental Affairs.

Information Source(s): Charles, Frederick, and Montgomery counties; Department of Natural Resources; Maryland Department of the Environment; Maryland Environmental Service; Maryland Department of Agriculture; U.S. Environmental Protection Agency; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2011
ncs/lgc

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