



February 8, 2023

The Honorable Kumar P. Barve
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

Re: House Bill 198-Wastewater Treatment Plants-Water Quality Testing and Sewage Overflow and Pipeline Breakage Notification (Environmental Accountability Act of 2023)

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) would like to provide information on House Bill 198. This bill would require an independent third party to oversee all water quality testing conducted at a wastewater treatment plant in those instances when a wastewater treatment plant: (a) has submitted documents that are falsified or do not accurately report water quality results; or (b) is experiencing a “catastrophic event” or continuing mechanical failure of operational equipment. Though similar in posture as last year’s HB 654, HB 198 would now apply to any wastewater treatment plant in the State, whereas last year’s bill only applied to the Back River and Patapsco Wastewater Treatment Plants.

Technical Feedback

MDE wants to point out some technical concerns with the current language that could cause the bill to be interpreted and applied in an inconsistent manner. MDE has been in touch with the sponsor on these technical concerns and are open to continued discussion.

The first concern is the bill does not define what a “catastrophic” event is that could trigger the need for an independent third party to step in; similarly, the bill does not specify any process by which an owner or operator of a wastewater treatment plant becomes aware of the need to select (and hire) the third-party monitor. Presumably, MDE would be the appropriate entity to determine when such a catastrophic event occurs, and would provide notice to the owner or operator that such an event has occurred. Again, however, the bill is silent in this respect.

Second, the bill does not address who would pay the independent third party. While it would seem logical that the wastewater treatment plant owner would pay this fee, there is no language in the bill that states this; it only states that MDE will select the third party, which creates ambiguity as to whether MDE is to provide funding for that effort, which could come at a considerable cost to the Department.

Third, the bill does not identify when the third-party monitor requirement will end, and when the third party monitor will no longer oversee the wastewater treatment plant after it has stepped in, based on any standard specified in the bill.

Fourth, the bill requires the owner or operator of the Wastewater Treatment Plant to post and notify the public of any sewage overflows. Reporting of overflows are already required under §9-331.1 and COMAR 26.08.10. The main difference between what is already required and this bill, is that the owner or operator would be

required to notify local news media and each state legislator representing the area in which the discharge will occur of the overflow.

Fifth, MDE would require additional staff to monitor the implementation of this statewide program. One Natural Resources Planner IV to track the water quality information and verify the qualifications of potential third party monitors, 2 Administrator I's to manage the procurements and billing verification, one Administrative Aide, and a Program Manager I to provide supervision for the additional staff. Even if the owner/operator of a WWTP were to procure and pay for the services of the independent third party monitor, MDE would still need additional staff to implement the approval procedures for the third party independent monitors. Finally, the bill does not address what notice is provided to MDE after a triggering event occurs at a wastewater treatment plant, such that it would require the bringing in an independent third party.

Thank you for considering the Department's information regarding this legislation. We will continue to monitor House Bill 198 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-453-3235 or by e-mail at Gabrielle.Leach@maryland.gov.

Sincerely,



Gabrielle Leach
Deputy Director
Legislative and Intergovernmental Affairs

Cc: The Honorable Bob Long
Lee Currey, Director, Water and Science Administration