
By: Delegate Guns

Introduced and read first time: March 3, 1997

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

**2 Transfer of the Authority to Regulate the Land Application of Sewage Sludge from the
3 Department of the Environment to the Department of Agriculture**

4 FOR the purpose of repealing the authority of the Department of the Environment to
5 adopt certain regulations; authorizing the Department of Agriculture to adopt
6 certain regulations; requiring that the Department of Agriculture make certain
7 considerations before adopting regulations; requiring an applicant for a sewage
8 sludge utilization permit to submit an application to the Department of Agriculture
9 on a certain form; requiring an applicant to pay an application fee set by the
10 Department of Agriculture; prohibiting the Department of Agriculture from issuing
11 a certain permit for a sewage sludge composting facility until certain requirements
12 have been met; requiring the Department of Agriculture to mail a copy of the
13 application to certain local governments; requiring the Department of Agriculture
14 to publish a notice of the application in a certain newspaper and mail a copy of the
15 notice to certain persons; requiring the Department of Agriculture to hold a public
16 hearing upon a certain request; requiring the Department of Agriculture to consult
17 with certain local governments; requiring the Secretary of Agriculture to hold a
18 public hearing under certain circumstances; requiring the Department of
19 Agriculture to send certain information to the local health official and the local soil
20 conservation district; requiring the Department of Agriculture to issue a certain
21 permit under certain circumstances; authorizing the Department of Agriculture to
22 renew a certain permit under certain circumstances; requiring the Department of
23 Agriculture to maintain certain public records; requiring the Department of
24 Agriculture to place certain requirements on permit holders; authorizing the
25 Department of Agriculture to enter and inspect certain premises; authorizing the
26 Department of Agriculture to delegate certain authority to the local health official;
27 requiring the Department of Agriculture to establish certain performance
28 standards; requiring the Department of Agriculture to collect certain fees and make
29 certain credits; requiring the Department of Agriculture to make certain use of the
30 funds in the Sewage Sludge Utilization Fund; authorizing the Department of
31 Agriculture to deny a certain application under certain circumstances; authorizing
32 the Department of Agriculture to suspend, revoke, or modify a certain permit in
33 accordance with certain procedures; authorizing the Department of Agriculture to
34 bring an action to enjoin certain violations; authorizing the Department of
35 Agriculture to impose certain penalties; codifying the public general laws of
36 Maryland that relate to sewage sludge; and generally relating to the transfer of the

2

1 authority to regulate the land application of sewage sludge from the Department of
2 the Environment to the Department of Agriculture.

3 BY transferring

4 Article - Environment
5 Section 9-230 through 9-249 and the part "Part III. Sewage Sludge", and 9-269,
6 respectively
7 Annotated Code of Maryland
8 (1996 Replacement Volume and 1996 Supplement)

9 to be

10 Article - Agriculture
11 Section 14-101 through 14-122 and the title "Title 14. Sewage Sludge", respectively
12 Annotated Code of Maryland
13 (1985 Replacement Volume and 1996 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article - Agriculture
16 Section 14-101, 14-103, 14-105, 14-106, 14-107, 14-108, 14-110, 14-113, 14-115,
17 14-116, 14-117, 14-118, 14-119, 14-120, 14-121, and 14-122
18 Annotated Code of Maryland
19 (1985 Replacement Volume and 1996 Supplement)
20 (As enacted by Section 1 of this Act)

21 BY repealing and reenacting, without amendments,

22 Article - Agriculture
23 Section 14-102, 14-104, 14-109, 14-111, 14-112, and 14-114
24 Annotated Code of Maryland
25 (1985 Replacement Volume and 1996 Supplement)
26 (As enacted by Section 1 of this Act)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That Section(s) 9-230 through 9-249 and the part "Part III. Sewage
29 Sludge", and 9-269, respectively, of Article - Environment of the Annotated Code of
30 Maryland be transferred to be Section(s) 14-101 through 14-122 and the title "Title 14.
31 Sewage Sludge", respectively, of Article - Agriculture of the Annotated Code of
32 Maryland.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
34 read as follows:

3

1 **Article - Agriculture**

2 **TITLE 14. SEWAGE SLUDGE.**

3 14-101.

4 (a) [(1)] The Department of [the Environment] AGRICULTURE shall adopt
5 regulations to carry out this [Part III] TITLE [of this subtitle].

6 [(2) The Department of the Environment may not adopt a regulation or part
7 of a regulation that deals with the land application of sewage sludge without the approval
8 of the Department of Agriculture.]

9 (b) In adopting regulations under this [Part III] TITLE and [§§ 9-269 and] §
10 9-270 of [this subtitle] THE ENVIRONMENT ARTICLE, the Department [of the
11 Environment] shall consider:

12 (1) Alternative utilization methods;

13 (2) Pathogen control;

14 (3) Advertising requirements for public hearings and public information
15 meetings;

16 (4) Performance bonds, liability insurance, or other forms of security;

17 (5) Procedures for notifying units of local government and other interested
18 parties; and

19 (6) Adequate standards for transporting sewage sludge, including
20 requirements for enclosing or covering sewage sludge during transportation.

21 (c) In addition to the considerations under subsection (b) of this section, in
22 adopting regulations for the land application of sewage sludge, the Department [of the
23 Environment] shall consider:

24 (1) Methods for calculating loading rates that:

25 (i) Will assure nondegradation of the groundwater supply; and

26 (ii) For agricultural land, shall be limited by the nutrient requirements
27 of crop or cover vegetation[, as recommended by the Department of Agriculture];

28 (2) The crops that are to be grown on land on which sewage sludge may be
29 applied;

30 (3) The nature of any nearby surface water or groundwater;

31 (4) The character of any affected area;

32 (5) The character of nearby existing or planned land uses and transport
33 routes;

34 (6) The nearness of the land on which sewage sludge may be applied to
35 sensitive areas, including flood plains, wetlands, and areas of critical concern;

4

1 (7) The definitions of:

2 (i) Sewage sludge that is unsuitable for application to agricultural
3 land;

4 (ii) Agricultural land;

5 (iii) Marginal land; and

6 (iv) Compost;

7 (8) Acceptable cumulative loading rates, including rates for nitrogen and
8 heavy metals;

9 (9) Special requirements of land used for producing tobacco; and

10 (10) Reasonable buffer areas to separate any home or other property from
11 land on which sewage sludge may be applied.

12 (d) (1) The Department shall adopt regulations to establish a mechanism for
13 determining annual generator's fees.

14 (2) The regulations shall provide for public input into the development of
15 fee schedules.

16 (3) The fee schedules shall take into account:

17 (i) The volume of sewage sludge generated by a sewage sludge
18 generator;

19 (ii) The method by which the sewage sludge is utilized;

20 (iii) The anticipated costs of monitoring and regulating sewage sludge
21 utilization sites;

22 (iv) The anticipated needs of the State's sewage sludge regulation
23 program; and

24 (v) The potential hazard of the sewage sludge generator's activities to
25 public health, safety, or welfare or to the environment.

26 14-102.

27 (a) A person shall have a sewage sludge utilization permit before the person
28 utilizes sewage sludge in this State.

29 (b) A person shall have a separate sewage sludge utilization permit for each site
30 where the person utilizes sewage sludge.

31 14-103.

32 (a) An applicant for a sewage sludge utilization permit shall:

33 (1) Submit an application to the Department on the form that the
34 Department requires;

35 (2) Certify by signature the truth and accuracy of the completed application;

5

1 (3) Pay the application fee set by the Department to cover the cost of
2 processing the application;

3 (4) Obtain the written consent of the owner of the land where the sewage
4 sludge will be applied, including an agreement that the owner will not violate the permit;
5 and

6 (5) Agree to permit or secure access to the sewage sludge utilization site for
7 the purpose of any inspection permitted under [§ 9-243] § 14-115 of this [subtitle]
8 TITLE.

9 (b) Before a sewage sludge utilization permit is issued, the applicant for the
10 permit shall:

11 (1) File with the Department acceptable evidence of a bond or other
12 security that the Department requires under [§ 9-240] § 14-112 of this [subtitle] TITLE;
13 and

14 (2) Satisfy every other requirement of this [Part III of this subtitle] TITLE.

15 14-104.

16 The Department may not issue a permit to install, materially alter, or materially
17 extend a sewage sludge composting facility until:

18 (1) The sewage sludge composting facility meets all zoning and land use
19 requirements of the county where the sewage sludge composting facility is to be located;
20 and

21 (2) The Department has a written statement that the board of county
22 commissioners or the county council of the county where the sewage sludge composting
23 facility is to be located does not oppose the issuance of the permit.

24 14-105.

25 (a) When the Department receives an application for a permit to utilize sewage
26 sludge at a site, the Department immediately shall mail a copy of the permit application:

27 (1) To the county and to any municipal corporation where the sewage sludge
28 utilization site is to be located; and

29 (2) To any other county within 1 mile of the sewage sludge utilization site.

30 (b) For a permit to apply sewage sludge on marginal land or to construct a
31 permanent facility that is designed primarily to utilize sewage sludge, the Department
32 shall:

33 (1) Publish notice of the application in a local newspaper having a
34 substantial circulation in the county where the sewage sludge is to be applied or the
35 facility is to be constructed; AND

36 (2) Mail a copy of the notice to:

37 (i) The local health official;

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1 (ii) The chairman of the legislative body and any elected executive of
2 the county where the sewage sludge is to be applied or the facility is to be constructed;

3 (iii) The elected executive of any municipal corporation where the
4 sewage sludge is to be applied or the facility is to be constructed; and

5 (iv) Any other county within 1 mile of where the sewage sludge is to be
6 applied or the facility is to be constructed.

7 (c) (1) Except as otherwise provided in [§ 9-234.1] § 14-106 of this [subtitle]
8 TITLE, within 15 days after receiving a copy of the permit application, the executive or the
9 legislative body of the county, or the executive or the legislative body of the municipal
10 corporation, where the sewage sludge is to be applied or the facility is to be constructed
11 may request that the Department hold a public hearing.

12 (2) If the Department receives a request under paragraph (1) of this
13 subsection, the Department shall hold a public hearing in the affected subdivision in
14 accordance with the Administrative Procedure Act.

15 (3) If the executives or legislative bodies of more than 1 county or municipal
16 corporation request a hearing under this subsection, the Department may hold a
17 consolidated hearing in 1 county.

18 (d) For a permit to apply sewage sludge on land other than marginal land, the
19 Department shall mail a copy of the permit application to:

20 (1) The local health official;

21 (2) The chairman of the legislative body and any elected executive of the
22 county where the sewage sludge is to be applied; and

23 (3) The elected executive of any municipal corporation where the sewage
24 sludge is to be applied.

25 (e) (1) Within 10 days after receiving a copy of the permit application, the
26 executive or the legislative body of the county, or the executive or the legislative body of
27 the municipal corporation, where the sewage sludge is to be applied may request that the
28 Department conduct a public information meeting.

29 (2) If the Department receives a request under paragraph (1) of this
30 subsection, the Department:

31 (i) Shall conduct a public information meeting in the affected
32 subdivision;

33 (ii) May consolidate the public information meeting with 1 or more
34 public information meetings for other applications in the same county; and

35 (iii) Shall notify the applicant for a permit and give the applicant the
36 opportunity to present information at the public information meeting.

37 (3) If the executives or legislative bodies of more than 1 county or municipal
38 corporation request a public information meeting under this subsection, the Department
39 may hold a consolidated public information meeting in 1 county.

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1 (f) The Department shall provide each county and municipal corporation that
2 receives a copy of any application under this section with an opportunity to consult with
3 the Department about the decision to issue, deny, or place restrictions on a sewage sludge
4 utilization permit.

5 14-106.

6 (a) This section does not apply to the storage or distribution of sewage sludge at
7 a sewage treatment plant.

8 (b) Before the Secretary issues, amends, or renews a permit to an applicant or
9 permit holder under [§ 9-232] § 14-103 or [§ 9-238] § 14-110 of this [subtitle] TITLE to
10 install, materially alter, or materially extend a structure used for storage or distribution of
11 any type of sewage sludge, the Department shall hold a public hearing on the application,
12 amendment, or renewal.

13 (c) The Department shall hold a public hearing in the affected subdivision in
14 accordance with the Administrative Procedure Act.

15 (d) If more than 1 county or municipal corporation will be affected by the
16 granting of the sludge storage permit application, the Department may hold a
17 consolidated hearing in any affected subdivision.

18 14-107.

19 The Department shall send to the local health official and the local soil
20 conservation district:

21 (1) A copy of any sewage sludge utilization permit issued in the county;

22 (2) Notice of the denial of an application in the county for a sewage sludge
23 utilization permit;

24 (3) Notice of the suspension, revocation, modification, or termination of a
25 sewage sludge utilization permit issued in the county;

26 (4) A copy of any notice, complaint, or order that the Department issues in
27 the county under [Part III of] this [subtitle] TITLE; and

28 (5) A copy of any report filed with the Department [pursuant to] UNDER a
29 condition of the permit.

30 14-108.

31 The Department shall issue a sewage sludge utilization permit to an applicant who
32 meets the requirements of this [Part III of this subtitle] TITLE.

33 14-109.

34 (a) A sewage sludge utilization permit authorizes the permit holder to utilize
35 sewage sludge according to the terms of the permit.

36 (b) Except as provided in subsection (c) of this section, if the utilizer is unable to
37 utilize the sewage sludge as defined in the permit, the utilizer may return the sewage

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1 sludge to the generator provided that the utilizer obtains a new comprehensive analysis of
2 the sewage sludge to be returned that indicates that:

3 (1) The sewage sludge meets all applicable permit requirements; and

4 (2) The sewage sludge may be utilized in the same manner, without
5 additional treatment, as the sewage sludge that is generated by the generator.

6 (c) If the utilizer returns the sewage sludge within 96 hours of the departure from
7 the generator, the utilizer may not be required to obtain a new analysis of the sewage
8 sludge.

9 14-110.

10 (a) A sewage sludge utilization permit expires on the date the Department sets at
11 the time of issuance or renewal, unless the permit is renewed for another term as
12 provided in this section.

13 (b) Except as provided in subsection (c) of this section, the Department may
14 renew a sewage sludge utilization permit if the permit holder:

15 (1) Is in compliance with the permit and all appropriate regulations of the
16 Department;

17 (2) Submits to the Department a renewal application on the form that the
18 Department requires; and

19 (3) Pays the renewal application fee that the Department requires.

20 (c) The Department may not renew or amend a permit to install, materially alter,
21 or materially extend a structure used for storage or distribution of any type of sewage
22 sludge unless the Department holds a public hearing on the renewal or amendment, as
23 provided in [§ 9-234.1] § 14-106 of this [subtitle] TITLE.

24 14-111.

25 A sewage sludge utilization permit in effect on July 1, 1984 remains in effect until
26 the expiration date of the permit.

27 14-112.

28 To keep a sewage sludge utilization permit, a person shall:

29 (1) Maintain a performance bond or other security in the amount that the
30 Department considers sufficient to guarantee the fulfillment of any requirement related
31 to the permit; and

32 (2) Comply with each other requirement that the Department sets.

33 14-113.

34 To allow the public to identify every permit that the Department issues for a
35 particular tract of land, the Department shall maintain a permanent public record of all
36 sewage sludge utilization permits issued under [§ 9-236] § 14-108 of this [subtitle]
37 TITLE.

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1 14-114.

2 The Department shall require each holder of a sewage sludge utilization permit to:

3 (1) Keep records, including daily records of the source and amount of
4 sewage sludge for each truckload delivered to the site;

5 (2) Make reports, including reports of sewage sludge analysis, as often as
6 necessary to assure that the sewage sludge meets permit requirements;

7 (3) Have a copy of the report of sewage sludge analysis that is required
8 under item (2) of this section available on the vehicle transporting the sewage sludge
9 while the sewage sludge is being transported in the State;

10 (4) Install, calibrate, use, and maintain monitoring equipment or methods,
11 including biological monitoring methods and well monitoring, if appropriate;

12 (5) Take samples in accordance with the methods, at the locations, at the
13 intervals, and in the manner that the Department requires; and

14 (6) Give to a representative of the Department or the local health official
15 any information that the Department reasonably requires.

16 14-115.

17 (a) To enforce this [Part III of this subtitle] TITLE and to insure compliance with
18 each sewage sludge utilization permit, a representative of the Department, the local
19 health official, or the local health official's designee may enter and inspect, at any
20 reasonable time, any site where sewage sludge is utilized.

21 (b) A sewage sludge utilizer may not:

22 (1) Refuse access to a sewage sludge utilization site to any representative of
23 the Department, to a local health official, or to the local health official's designee, who
24 requests access under this section; or

25 (2) Interfere with any inspection under this subtitle.

26 (c) A local health official or the local health official's designee may inspect,
27 monitor, and investigate any sewage sludge utilization site in the county where the official
28 is employed.

29 (d) (1) With the concurrence of the Department, a local health official may:

30 (i) Issue a stop work order to stop utilizing sewage sludge at a site;
31 and

32 (ii) Suspend a sewage sludge utilization permit.

33 (2) If a local health official recommends issuance of a stop work order and
34 the Department does not concur, the Department shall inspect the sewage sludge
35 utilization site within 24 hours after it receives the recommendation.

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1 (3) After inspecting the site and if necessary, the Department shall issue a
2 stop work or other order to obtain compliance with State law, departmental regulations,
3 or the sewage sludge utilization permit.

4 (4) A county may seek injunctive relief or other appropriate remedies in
5 circuit court if:

6 (i) A local health official is not satisfied that the enforcement
7 measures of the Department are adequate to protect public health and safety in the
8 county; or

9 (ii) The Department does not make the inspection required by
10 paragraph (2) of this subsection.

11 (5) A local health official shall:

12 (i) Give the Department prompt notice of any inspection made by the
13 local health official; and

14 (ii) Report promptly in writing to the Department:

15 1. The time and place of the inspection;

16 2. A summary and findings of the inspection;

17 3. Any enforcement action that the local health official takes or
18 recommends; and

19 4. Any permit modifications or other modifications that the
20 local health official recommends.

21 (e) (1) The Department:

22 (i) May delegate to the local health official any inspection,
23 monitoring, or enforcement authority of the Department under this [Part III of this
24 subtitle] TITLE; and

25 (ii) Shall adopt regulations that establish standards for delegating
26 authority under this subsection.

27 (2) The regulations adopted under this subsection shall include:

28 (i) Procedures for submission, review, and approval or disapproval of
29 any application for delegation of authority;

30 (ii) Provisions requiring that any application for delegation of
31 authority be approved by the county;

32 (iii) Provisions for oversight by the Department, including program
33 evaluations and financial audits; and

34 (iv) Provisions for revocation of a delegation, if the local health official
35 fails to comply with the terms of a delegation agreement.

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1 (3) If the Department finds that an application for delegation of authority
2 meets all applicable requirements of this section and the regulations adopted under this
3 section, the Department shall enter into a written delegation agreement.

4 (4) The Department shall establish performance standards for grants to
5 provide reasonable reimbursement to counties, to the extent funds are available, for costs
6 local health officials incur when they undertake authority delegated under this
7 subsection.

8 (5) A local health official may act through a designee under this subsection
9 in accordance with an approved delegation agreement.

10 14-116.

11 (a) There is a Sewage Sludge Utilization Fund.

12 (b) (1) The Department shall credit all sewage sludge generator's fees, permit
13 application fees, funds that the Department collects under this [Part III and §§ 9-269
14 and 9-270 of this subtitle] TITLE, and any civil or administrative penalty or fine imposed
15 by a court under the provisions of this [subtitle] TITLE to the Sewage Sludge Utilization
16 Fund.

17 (2) The Sewage Sludge Utilization Fund is limited to a maximum of
18 \$400,000.

19 (3) The Department shall set aside 25% of the Sewage Sludge Utilization
20 Fund for emergency removal of sewage sludge or mitigation of any adverse environmental
21 effect.

22 (4) Whenever the sum of unallocated funds in the Sewage Sludge
23 Utilization Fund and the projected sewage sludge generator's fees for the next fiscal year
24 exceeds \$400,000, the Department shall adjust the generator's fees for the next fiscal year
25 on a pro rata basis so that the sum of unallocated funds and actual generator's fees does
26 not exceed \$400,000.

27 (c) The Department shall use the Sewage Sludge Utilization Fund for:

28 (1) Emergency removal of sewage sludge or mitigation of the effect of any
29 utilization of sewage sludge that the Department finds:

30 (i) Endangers public health, safety, or welfare; or

31 (ii) Endangers or damages natural resources;

32 (2) Activities that are:

33 (i) Conducted by the Department, by a local health official, or by the
34 local health official's designee under [§ 9-243(e)] § 14-115(E) of this [subtitle] TITLE;
35 and

36 (ii) Related to identifying, monitoring, or regulating the utilization of
37 sewage sludge, including program development; and

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1 (3) Providing supplemental inspections and monitoring of sewage sludge
2 utilization sites by:

3 (i) Contracting with a county upon request of that county to provide
4 supplemental inspections and monitoring; and

5 (ii) Limiting the value of services provided under the contract to no
6 more than 45 percent of the generator fees for sludge utilized in that county that is
7 generated outside of that county or service area.

8 (d) An expenditure that the Department makes under subsection (c)(1) of this
9 section shall be reimbursed to the Department by the sewage sludge utilizer whose
10 sewage sludge utilization brought about the expenditure by:

11 (1) Endangering public health, safety, or welfare; or

12 (2) Endangering or damaging natural resources.

13 (e) In addition to any other legal action authorized by this [Part III] TITLE, [§
14 9-269,] or § 9-270 of [this subtitle] THE ENVIRONMENT ARTICLE, the Attorney
15 General may bring an action against any person who fails to reimburse the Department
16 under subsection (d) of this section to recover any expenditure that the Department
17 makes under subsection (c)(1) of this section.

18 14-117.

19 The Department shall deny an application for a sewage sludge utilization permit if
20 the Department finds that:

21 (1) The applicant cannot utilize sewage sludge without:

22 (i) Causing an undue risk to the environment or public health, safety,
23 or welfare; or

24 (ii) Otherwise violating this [Part III] TITLE [, § 9-269,] or § 9-270
25 of [this subtitle] THE ENVIRONMENT ARTICLE;

26 (2) The sewage sludge generator from which the sludge originated has not
27 paid applicable generator's fees; or

28 (3) The sewage sludge has been generated in a state in which the laws or
29 application of those laws do not result in the land application of sewage sludge in that
30 state.

31 14-118.

32 (a) The Department may suspend, revoke, or modify a sewage sludge utilization
33 permit in accordance with the Administrative Procedure Act if the Department finds
34 that:

35 (1) The permit application contained false or inaccurate information;

36 (2) There has been a substantial deviation from:

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1 (i) The plans, specifications, or other documents approved by the
2 Department; or

3 (ii) Any requirement established by the Department;

4 (3) A representative of the Department has been refused entry to any area
5 covered by the permit for the purpose of inspecting the area to ensure compliance with
6 the conditions of the permit;

7 (4) There is or has been a violation of this [Part III] TITLE [, § 9-269,] or
8 § 9-270 of [this subtitle] THE ENVIRONMENT ARTICLE, any regulation adopted under
9 this [Part III] TITLE [, § 9-269,] or § 9-270 of [this subtitle] THE ENVIRONMENT
10 ARTICLE, or any condition of the permit; or

11 (5) There is any other good cause.

12 (b) The Department may refuse to renew a sewage sludge utilization permit if:

13 (1) The permit holder violates this [subtitle] TITLE, any regulation adopted
14 by the Department under this [subtitle] TITLE, or any condition of the permit;

15 (2) The Department determines that continued operation of any area
16 covered by the permit would be injurious to public health or the environment; or

17 (3) The Department determines that there is any other good cause.

18 14-119.

19 (a) Any person who owns land that adjoins land for which an application to apply
20 sewage sludge is filed, or for which a permit to apply sewage sludge is issued, has
21 standing:

22 (1) To sue the State, the applicant, or the permit holder to require
23 compliance with this [Part III] TITLE [, § 9-269,] or § 9-270 of [this subtitle] THE
24 ENVIRONMENT ARTICLE and any permit issued under [§ 9-236 of this subtitle] § 14-108
25 OF THIS TITLE; and

26 (2) With respect to the sewage sludge utilization site, to intervene in:

27 (i) Any civil court proceeding; and

28 (ii) Any contested administrative case.

29 (b) Any county or municipal corporation in which there is land for which an
30 application to apply sewage sludge is filed, or for which a permit to apply sewage sludge
31 is issued, has standing:

32 (1) To sue the applicant or the permit holder to require compliance with
33 this [Part III] TITLE [, § 9-269,] or § 9-270 of [this subtitle] THE ENVIRONMENT
34 ARTICLE, and any permit issued under [§ 9-236] § 14-108 of this [subtitle] TITLE; and

35 (2) With respect to the sewage sludge utilization site, to intervene in:

36 (i) Any civil court proceeding; and

14

1 (ii) Any contested administrative case.

2 14-120.

3 In addition to any other remedy authorized under this [subtitle] TITLE, the
4 Department may bring an action to enjoin the violation of any law, regulation, or order
5 concerning the utilization of sewage sludge under this [Part III] TITLE [, § 9-269,] or §
6 9-270 of [this subtitle] THE ENVIRONMENT ARTICLE.

7 14-121.

8 A person may not utilize sewage sludge in this State except in accordance with this
9 [Part III] TITLE [, § 9-269,] or § 9-270 of [this subtitle] THE ENVIRONMENT
10 ARTICLE.

11 14-122.

12 (a) (1) A person who violates any provision of [Part III of this subtitle] THIS
13 TITLE or any rule, regulation, order, or permit adopted or issued under [Part III of this
14 subtitle] THIS TITLE is liable to the State for civil penalties.

15 (2) These civil penalties are:

16 (i) A basic civil penalty not exceeding \$10,000; and

17 (ii) An additional penalty not exceeding \$10,000 a day for each day
18 that the violation continues, up to a maximum of \$50,000.

19 (3) The State shall recover the civil penalties under this section in a civil
20 action.

21 (b) (1) In addition to any other remedies available at law or in equity and after
22 an opportunity for a hearing which may be waived in writing by the person accused of a
23 violation, the Department may impose a penalty for violation of any provision of [Part III
24 of this subtitle] THIS TITLE or any regulation, order, or permit adopted or issued under
25 [Part III of this subtitle] THIS TITLE.

26 (2) The penalty imposed on a person under this subsection shall be:

27 (i) Up to \$1,000 for each violation, but not exceeding \$50,000 total;
28 and

29 (ii) Assessed with consideration given to:

30 1. The willfulness of the violation, the extent to which the
31 existence of the violation was known to but uncorrected by the violator, and the extent to
32 which the violator exercised reasonable care;

33 2. Any actual harm to the environment or to human health,
34 including injury to or impairment of the use of the waters of the State or the natural
35 resources of the State;

36 3. The cost of cleanup and the cost of restoration of natural
37 resources;

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1 4. The nature and degree of injury to or interference with
2 general welfare, health, and property;

3 5. The extent to which the location of the violation, including
4 location near waters of the State or areas of human population, creates the potential for
5 harm to the environment or to human health or safety;

6 6. The available technology and economic reasonableness of
7 controlling, reducing, or eliminating the violation; and

8 7. The extent to which the current violation is part of a
9 recurrent pattern of the same or similar type of violation committed by the violator.

10 (3) Each day a violation occurs is a separate violation under this subsection.

11 (4) Any penalty imposed under this subsection is payable to the State and
12 collectible in any manner provided by law for the collection of debts.

13 (5) If any person who is liable to pay a penalty imposed under this
14 subsection fails to pay it after demand, the amount, together with interest and any costs
15 that may accrue, shall be:

16 (i) A lien in favor of the State on any property, real or personal, of the
17 person; and

18 (ii) Recorded in the office of the clerk of court for the county in which
19 the property is located.

20 (6) Any penalty collected under this subsection shall be placed in the
21 Sewage Sludge Utilization Fund under [§ 9-244] § 14-116 of this [subtitle] TITLE.

22 (c) (1) Except as provided in paragraph (3) of this subsection, in addition to any
23 other penalties set forth in this section, if any sewage sludge utilizer violates the terms of
24 the permit by any action or inaction of the utilizer that results in the return of the sewage
25 sludge to the generator, the utilizer is liable to the State for civil penalties.

26 (2) The civil penalty imposed under this subsection may not exceed \$100 for
27 each wet ton of sewage sludge returned to the generator.

28 (3) The provisions of this subsection do not apply if the violation is not
29 caused by any action or inaction of the utilizer.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 1997.