
By: **Delegates Hubbard, Billings, and Morhaim**
Introduced and read first time: January 28, 2000
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Permits - Land Application of Animal Processing Sludge**

3 FOR the purpose of requiring a person to have a certain permit before applying
4 animal processing sludge to land; requiring the Department of the Environment
5 to adopt regulations to establish a permit program for certain purposes;
6 requiring the Department of the Environment to gain approval from the
7 Department of Agriculture before adopting certain regulations; requiring the
8 Department of the Environment to consider certain items in adopting certain
9 regulations; requiring the Department of the Environment to provide a copy of a
10 certain permit to certain parties in a certain manner; authorizing certain parties
11 to request a hearing on certain matters within a certain time period; requiring
12 the Department of the Environment to provide certain counties and municipal
13 corporations the opportunity to consult with the Department of the
14 Environment; requiring the Department of the Environment to send certain
15 information to certain local offices; requiring the Department of the
16 Environment to issue a certain permit if certain requirements are met;
17 authorizing a permit holder to conduct certain activities; providing for
18 standards for permit renewal; requiring a permit applicant to maintain certain
19 bonds or security; requiring the Department of the Environment to maintain
20 permanent public records of certain information; requiring a permit holder to
21 keep and maintain certain records; requiring a permit holder to give to the
22 Department of the Environment or a local health official any information that
23 the Department of the Environment reasonably requires; providing for
24 enforcement of certain requirements; establishing civil penalties for violations of
25 certain requirements; providing that the Department of the Environment or a
26 local health official may have access to certain application sites under certain
27 circumstances; authorizing a local health official to conduct certain activities in
28 a certain manner; authorizing the Department of the Environment to issue a
29 stop work order under certain circumstances; authorizing a county to seek relief
30 in a certain manner and under certain circumstances; authorizing the
31 Department of the Environment to delegate certain authority to certain local
32 officials under certain circumstances; requiring the Department of the
33 Environment to deny a permit under certain circumstances; authorizing the
34 Department of the Environment to suspend, revoke, or modify a permit under
35 certain circumstances and subject to certain procedures; defining who has

1 standing to sue certain parties to require compliance with certain requirements;
2 authorizing the Department of the Environment to bring certain actions under
3 certain circumstances; prohibiting a person from applying animal processing
4 sludge on land except under certain circumstances; providing for penalties for
5 violating certain requirements; requiring the Department of the Environment to
6 consider certain factors when assessing penalties; establishing an Animal
7 Processing Sludge Land Application Fund; providing for the purposes and uses
8 of the Fund; establishing a maximum amount for the Fund; providing that
9 certain penalties, fees, and money collected be paid into the Fund; providing for
10 certain activities to be reimbursed by the Fund; authorizing the Attorney
11 General to bring certain legal action against any person who fails to reimburse
12 the Department of the Environment for certain expenditures; defining certain
13 terms; and generally relating to establishing and implementing a permit
14 program for the land application of animal processing sludge.

15 BY renumbering

16 Article - Environment
17 Section 9-201(b) through (u), respectively
18 to be Section 9-201(c) through (v), respectively
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1999 Supplement)

21 BY adding to

22 Article - Environment
23 Section 9-201(b); 9-281 through 9-297 to be under the new part "Part VII.
24 Animal Processing Sludge"
25 Annotated Code of Maryland
26 (1996 Replacement Volume and 1999 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That Section(s) 9-201(b) through (u), respectively, of Article -
29 Environment of the Annotated Code of Maryland be renumbered to be Section(s)
30 9-201(c) through (v), respectively.

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

33 **Article - Environment**

34 9-201.

35 (B) "ANIMAL PROCESSING SLUDGE" MEANS ANY WASTE CONSISTING OF
36 ANIMAL BODY PARTS, THICKENED LIQUID, SUSPENSION, SETTLED SOLID, OR DRIED
37 RESIDUE GENERATED FROM THE PROCESSING OF ANIMALS.

1 9-279. RESERVED.

2 9-280. RESERVED.

3

PART VII. ANIMAL PROCESSING SLUDGE.

4 9-281.

5 (A) A PERSON MUST HAVE A VALID, CURRENT ANIMAL PROCESSING SLUDGE
6 PERMIT THAT WAS ISSUED BY THE DEPARTMENT UNDER THIS PART VII OF THIS
7 SUBTITLE BEFORE THE PERSON MAY APPLY ANIMAL PROCESSING SLUDGE ON LAND
8 IN THE STATE.

9 (B) A PERSON MUST HAVE A SEPARATE ANIMAL PROCESSING SLUDGE PERMIT
10 FOR EACH SITE WHERE THE PERSON APPLIES ANIMAL PROCESSING SLUDGE ON
11 LAND.

12 (C) AN ANIMAL PROCESSING SLUDGE PERMIT SHALL AUTHORIZE THE PERMIT
13 HOLDER TO APPLY THE ANIMAL PROCESSING SLUDGE ON LAND ACCORDING TO THE
14 TERMS OF THE PERMIT.

15 9-282.

16 (A) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH A PERMIT
17 PROGRAM FOR THE LAND APPLICATION OF ANIMAL PROCESSING SLUDGE.

18 (B) THE DEPARTMENT MAY NOT ADOPT A REGULATION OR PART OF A
19 REGULATION THAT DEALS WITH THE LAND APPLICATION OF ANIMAL PROCESSING
20 SLUDGE WITHOUT THE APPROVAL OF THE DEPARTMENT OF AGRICULTURE.

21 (C) IN ADOPTING REGULATIONS UNDER THIS SECTION, THE DEPARTMENT
22 SHALL CONSIDER:

23 (1) ALTERNATIVE UTILIZATION METHODS;

24 (2) PATHOGEN CONTROL;

25 (3) ADVERTISING REQUIREMENTS FOR PUBLIC HEARINGS AND PUBLIC
26 INFORMATION MEETINGS;

27 (4) PERFORMANCE BONDS, LIABILITY INSURANCE, OR OTHER FORMS OF
28 SECURITY;

29 (5) PROCEDURES FOR NOTIFYING UNITS OF LOCAL GOVERNMENT AND
30 OTHER INTERESTED PARTIES; AND

31 (6) ADEQUATE STANDARDS FOR TRANSPORTING ANIMAL PROCESSING
32 SLUDGE, INCLUDING REQUIREMENTS FOR ENCLOSING OR COVERING ANIMAL
33 PROCESSING SLUDGE DURING TRANSPORTATION.

1 (D) IN ADDITION TO THE CONSIDERATIONS UNDER SUBSECTION (C) OF THIS
2 SECTION, IN ADOPTING REGULATIONS FOR THE LAND APPLICATION OF ANIMAL
3 PROCESSING SLUDGE, THE DEPARTMENT SHALL CONSIDER:

4 (1) METHODS FOR CALCULATING LOADING RATES THAT:

5 (I) WILL ASSURE NONDEGRADATION OF THE GROUNDWATER
6 SUPPLY; AND

7 (II) FOR AGRICULTURAL LAND, SHALL BE LIMITED BY THE
8 NUTRIENT REQUIREMENTS OF CROP OR COVER VEGETATION, AS RECOMMENDED BY
9 THE DEPARTMENT OF AGRICULTURE;

10 (2) THE CROPS THAT ARE TO BE GROWN ON LAND ON WHICH ANIMAL
11 PROCESSING SLUDGE MAY BE APPLIED;

12 (3) THE NATURE OF ANY NEARBY SURFACE WATER OR GROUNDWATER;

13 (4) THE CHARACTER OF ANY AFFECTED AREA;

14 (5) THE CHARACTER OF NEARBY EXISTING OR PLANNED LAND USES
15 AND TRANSPORT ROUTES;

16 (6) THE NEARNESS OF THE LAND ON WHICH ANIMAL PROCESSING
17 SLUDGE MAY BE APPLIED TO SENSITIVE AREAS, INCLUDING FLOOD PLAINS,
18 WETLANDS, AND AREAS OF CRITICAL CONCERN;

19 (7) THE DEFINITIONS OF:

20 (I) ANIMAL PROCESSING SLUDGE THAT IS UNSUITABLE FOR
21 APPLICATION TO AGRICULTURAL LAND;

22 (II) AGRICULTURAL LAND;

23 (III) MARGINAL LAND; AND

24 (IV) COMPOST;

25 (8) ACCEPTABLE CUMULATIVE LOADING RATES, INCLUDING RATES FOR
26 NITROGEN, PHOSPHORUS, AND OTHER NUTRIENTS AND CHEMICALS; AND

27 (9) REASONABLE BUFFER AREAS TO SEPARATE ANY HOME OR OTHER
28 PROPERTY FROM LAND ON WHICH ANIMAL PROCESSING SLUDGE MAY BE APPLIED.

29 9-283.

30 (A) WHEN THE DEPARTMENT RECEIVES AN APPLICATION FOR A PERMIT TO
31 APPLY ANIMAL PROCESSING SLUDGE ON LAND AT A SITE, THE DEPARTMENT
32 IMMEDIATELY SHALL MAIL A COPY OF THE PERMIT APPLICATION:

1 (1) TO THE COUNTY AND TO ANY MUNICIPAL CORPORATION WHERE THE
2 ANIMAL PROCESSING SLUDGE IS TO BE APPLIED ON LAND; AND

3 (2) TO ANY OTHER COUNTY WITHIN 1 MILE OF THE ANIMAL PROCESSING
4 SLUDGE LAND APPLICATION SITE.

5 (B) FOR A PERMIT TO APPLY ANIMAL PROCESSING SLUDGE ON MARGINAL
6 LAND, THE DEPARTMENT SHALL:

7 (1) PUBLISH NOTICE OF THE APPLICATION IN A LOCAL NEWSPAPER
8 HAVING A SUBSTANTIAL CIRCULATION IN THE COUNTY WHERE THE ANIMAL
9 PROCESSING SLUDGE IS TO BE APPLIED; AND

10 (2) MAIL A COPY OF THE NOTICE TO:

11 (I) THE LOCAL HEALTH OFFICIAL;

12 (II) THE CHAIRMAN OF THE LEGISLATIVE BODY AND ANY ELECTED
13 EXECUTIVE OF THE COUNTY WHERE THE ANIMAL PROCESSING SLUDGE IS TO BE
14 APPLIED;

15 (III) THE ELECTED EXECUTIVE OF ANY MUNICIPAL CORPORATION
16 WHERE THE ANIMAL PROCESSING SLUDGE IS TO BE APPLIED; AND

17 (IV) ANY OTHER COUNTY WITHIN 1 MILE OF WHERE THE ANIMAL
18 PROCESSING SLUDGE IS TO BE APPLIED.

19 (C) (1) WITHIN 15 DAYS AFTER RECEIVING A COPY OF THE PERMIT
20 APPLICATION, THE EXECUTIVE OR THE LEGISLATIVE BODY OF THE COUNTY OR THE
21 EXECUTIVE OR THE LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION WHERE
22 THE ANIMAL PROCESSING SLUDGE IS TO BE APPLIED MAY REQUEST THAT THE
23 DEPARTMENT HOLD A HEARING.

24 (2) IF THE DEPARTMENT RECEIVES A REQUEST UNDER PARAGRAPH (1)
25 OF THIS SUBSECTION, THE DEPARTMENT SHALL HOLD A PUBLIC HEARING IN THE
26 AFFECTED SUBDIVISION IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE
27 ACT.

28 (3) IF THE EXECUTIVES OR LEGISLATIVE BODIES OF MORE THAN ONE
29 COUNTY OR MUNICIPAL CORPORATION REQUEST A HEARING UNDER THIS
30 SUBSECTION, THE DEPARTMENT MAY HOLD A CONSOLIDATED HEARING IN ONE
31 COUNTY.

32 (D) FOR A PERMIT TO APPLY ANIMAL PROCESSING SLUDGE ON LAND OTHER
33 THAN MARGINAL LAND, THE DEPARTMENT SHALL MAIL A COPY OF THE PERMIT
34 APPLICATION TO:

35 (1) THE LOCAL HEALTH OFFICIAL;

1 (2) THE CHAIRMAN OF THE LEGISLATIVE BODY AND ANY ELECTED
2 EXECUTIVE OF THE COUNTY WHERE THE ANIMAL PROCESSING SLUDGE IS TO BE
3 APPLIED ON LAND; AND

4 (3) THE ELECTED EXECUTIVE OF ANY MUNICIPAL CORPORATION
5 WHERE THE ANIMAL PROCESSING SLUDGE IS TO BE APPLIED.

6 (E) (1) WITHIN 10 DAYS AFTER RECEIVING A COPY OF THE PERMIT
7 APPLICATION, THE EXECUTIVE OR THE LEGISLATIVE BODY OF THE COUNTY OR THE
8 EXECUTIVE OR THE LEGISLATIVE BODY OF THE MUNICIPAL CORPORATION WHERE
9 THE ANIMAL PROCESSING SLUDGE IS TO BE APPLIED MAY REQUEST THE
10 DEPARTMENT CONDUCT A PUBLIC INFORMATIONAL MEETING.

11 (2) IF THE DEPARTMENT RECEIVES A REQUEST UNDER PARAGRAPH (1)
12 OF THIS SUBSECTION, THE DEPARTMENT:

13 (I) SHALL CONDUCT A PUBLIC INFORMATIONAL MEETING IN THE
14 AFFECTED SUBDIVISION;

15 (II) MAY CONSOLIDATE THE PUBLIC INFORMATIONAL MEETING
16 WITH ONE OR MORE PUBLIC INFORMATIONAL MEETINGS FOR OTHER APPLICATIONS
17 IN THE SAME COUNTY; AND

18 (III) SHALL NOTIFY THE APPLICANT FOR A PERMIT AND GIVE THE
19 APPLICANT THE OPPORTUNITY TO PRESENT INFORMATION AT THE PUBLIC
20 INFORMATIONAL MEETING.

21 (3) IF THE EXECUTIVES OR LEGISLATIVE BODIES OF MORE THAN ONE
22 COUNTY OR MUNICIPAL CORPORATION REQUEST A PUBLIC INFORMATIONAL
23 MEETING UNDER THIS SUBSECTION, THE DEPARTMENT MAY HOLD A CONSOLIDATED
24 PUBLIC INFORMATIONAL MEETING IN ONE COUNTY.

25 (F) THE DEPARTMENT SHALL PROVIDE EACH COUNTY AND MUNICIPAL
26 CORPORATION THAT RECEIVES A COPY OF AN APPLICATION UNDER THIS SECTION
27 WITH AN OPPORTUNITY TO CONSULT WITH THE DEPARTMENT ABOUT THE DECISION
28 TO ISSUE, DENY, OR PLACE RESTRICTIONS ON THE ANIMAL PROCESSING SLUDGE
29 LAND APPLICATION PERMIT.

30 9-284.

31 THE DEPARTMENT SHALL SEND TO THE LOCAL HEALTH OFFICIAL AND THE
32 LOCAL SOIL CONSERVATION DISTRICT:

33 (1) A COPY OF ANY ANIMAL PROCESSING SLUDGE LAND APPLICATION
34 PERMIT ISSUED IN THE COUNTY;

35 (2) NOTICE OF THE DENIAL OF AN APPLICATION IN THE COUNTY FOR AN
36 ANIMAL PROCESSING SLUDGE PERMIT;

1 (3) NOTICE OF THE SUSPENSION, REVOCATION, MODIFICATION, OR
2 TERMINATION OF AN ANIMAL PROCESSING SLUDGE PERMIT ISSUED IN THE COUNTY;

3 (4) A COPY OF ANY NOTICE, COMPLAINT, OR ORDER THAT THE
4 DEPARTMENT ISSUES IN THE COUNTY UNDER THIS PART VII; AND

5 (5) A COPY OF ANY REPORT FILED WITH THE DEPARTMENT IN
6 ACCORDANCE WITH A CONDITION OF THE PERMIT.

7 9-285.

8 (A) THE DEPARTMENT SHALL ISSUE AN ANIMAL PROCESSING SLUDGE LAND
9 APPLICATION PERMIT TO AN APPLICANT THAT MEETS THE REQUIREMENTS OF THIS
10 PART VII OF THIS SUBTITLE.

11 (B) AN ANIMAL PROCESSING SLUDGE LAND APPLICATION PERMIT
12 AUTHORIZES THE PERMIT HOLDER TO APPLY ANIMAL PROCESSING SLUDGE ON
13 LAND ACCORDING TO THE TERMS OF THE PERMIT.

14 9-286.

15 (A) AN ANIMAL PROCESSING SLUDGE LAND APPLICATION PERMIT EXPIRES
16 ON THE DATE THE DEPARTMENT SETS AT THE TIME OF ISSUANCE OR RENEWAL,
17 UNLESS THE PERMIT IS RENEWED FOR ANOTHER TERM AS PROVIDED IN THIS
18 SECTION.

19 (B) THE DEPARTMENT MAY RENEW AN ANIMAL PROCESSING SLUDGE LAND
20 APPLICATION PERMIT IF THE PERMIT HOLDER:

21 (1) IS IN COMPLIANCE WITH THE PERMIT AND ALL APPROPRIATE
22 REGULATIONS OF THE DEPARTMENT;

23 (2) SUBMITS TO THE DEPARTMENT A RENEWAL APPLICATION ON THE
24 FORM THAT THE DEPARTMENT REQUIRES; AND

25 (3) PAYS THE RENEWAL APPLICATION FEE THAT THE DEPARTMENT
26 REQUIRES.

27 9-287.

28 TO KEEP AN ANIMAL PROCESSING SLUDGE LAND APPLICATION PERMIT, A
29 PERSON SHALL:

30 (1) MAINTAIN A PERFORMANCE BOND OR OTHER SECURITY IN THE
31 AMOUNT THAT THE DEPARTMENT CONSIDERS SUFFICIENT TO GUARANTEE THE
32 FULFILLMENT OF ANY REQUIREMENT RELATED TO THE PERMIT; AND

33 (2) COMPLY WITH ALL REQUIREMENTS THAT THE DEPARTMENT SETS.

1 9-288.

2 TO ALLOW THE PUBLIC TO IDENTIFY EVERY PERMIT THAT THE DEPARTMENT
3 ISSUES FOR A PARTICULAR TRACT OF LAND, THE DEPARTMENT SHALL MAINTAIN A
4 PERMANENT PUBLIC RECORD OF ALL ANIMAL PROCESSING SLUDGE LAND
5 APPLICATION PERMITS ISSUED UNDER § 9-285 OF THIS PART VII.

6 9-289.

7 THE DEPARTMENT SHALL REQUIRE EACH HOLDER OF AN ANIMAL PROCESSING
8 SLUDGE LAND APPLICATION PERMIT TO:

9 (1) KEEP RECORDS, INCLUDING DAILY RECORDS OF THE SOURCE AND
10 AMOUNT OF ANIMAL PROCESSING SLUDGE FOR EACH TRUCKLOAD DELIVERED TO
11 THE SITE;

12 (2) MAKE REPORTS, INCLUDING REPORTS OF ANIMAL PROCESSING
13 SLUDGE ANALYSIS, AS OFTEN AS NECESSARY TO ENSURE THAT THE ANIMAL
14 PROCESSING SLUDGE MEETS PERMIT REQUIREMENTS;

15 (3) HAVE A COPY OF THE REPORT OF ANIMAL PROCESSING SLUDGE
16 ANALYSIS THAT IS REQUIRED UNDER PARAGRAPH (2) OF THIS SECTION AVAILABLE
17 ON THE VEHICLE TRANSPORTING THE ANIMAL PROCESSING SLUDGE WHILE THE
18 ANIMAL PROCESSING SLUDGE IS BEING TRANSPORTED IN THE STATE;

19 (4) INSTALL, CALIBRATE, USE, AND MAINTAIN MONITORING
20 EQUIPMENT OR METHODS, INCLUDING BIOLOGICAL MONITORING METHODS AND
21 WELL MONITORING, IF APPROPRIATE;

22 (5) TAKE SAMPLES IN ACCORDANCE WITH THE METHODS, AT THE
23 LOCATIONS, AT THE INTERVALS, AND IN THE MANNER THAT THE DEPARTMENT
24 REQUIRES; AND

25 (6) GIVE TO A REPRESENTATIVE OF THE DEPARTMENT OR THE LOCAL
26 HEALTH OFFICIAL ANY INFORMATION THAT THE DEPARTMENT REASONABLY
27 REQUIRES.

28 9-290.

29 (A) TO ENFORCE THIS PART VII AND TO ENSURE COMPLIANCE WITH EACH
30 ANIMAL PROCESSING SLUDGE LAND APPLICATION PERMIT, A REPRESENTATIVE OF
31 THE DEPARTMENT, THE LOCAL HEALTH OFFICIAL, OR THE LOCAL HEALTH
32 OFFICIAL'S DESIGNEE MAY ENTER AND INSPECT, AT ANY REASONABLE TIME, ANY
33 SITE WHERE ANIMAL PROCESSING SLUDGE IS APPLIED ON LAND.

34 (B) AN ANIMAL PROCESSING SLUDGE LAND APPLICATOR MAY NOT:

35 (1) REFUSE ACCESS TO AN ANIMAL PROCESSING SLUDGE LAND
36 APPLICATION SITE TO ANY REPRESENTATIVE OF THE DEPARTMENT, TO A LOCAL

1 HEALTH OFFICIAL, OR TO THE LOCAL HEALTH OFFICIAL'S DESIGNEE, WHO
2 REQUESTS ACCESS UNDER THIS SECTION; OR

3 (2) INTERFERE WITH ANY INSPECTION UNDER THIS PART VII.

4 (C) A LOCAL HEALTH OFFICIAL OR THE LOCAL HEALTH OFFICIAL'S DESIGNEE
5 MAY INSPECT, MONITOR, AND INVESTIGATE ANY ANIMAL PROCESSING SLUDGE
6 LAND APPLICATION SITE IN THE COUNTY WHERE THE OFFICIAL IS EMPLOYED.

7 (D) (1) WITH THE CONCURRENCE OF THE DEPARTMENT, A LOCAL HEALTH
8 OFFICIAL MAY:

9 (I) ISSUE A STOP WORK ORDER TO PREVENT THE APPLICATION OF
10 ANIMAL PROCESSING SLUDGE AT A SITE; AND

11 (II) SUSPEND AN ANIMAL PROCESSING SLUDGE LAND
12 APPLICATION PERMIT.

13 (2) IF A LOCAL HEALTH OFFICIAL RECOMMENDS ISSUANCE OF A STOP
14 WORK ORDER AND THE DEPARTMENT DOES NOT CONCUR, THE DEPARTMENT SHALL
15 INSPECT THE ANIMAL PROCESSING SLUDGE LAND APPLICATION SITE WITHIN 24
16 HOURS AFTER IT RECEIVES THE RECOMMENDATION.

17 (3) AFTER INSPECTING THE SITE AND IF NECESSARY, THE DEPARTMENT
18 SHALL ISSUE A STOP WORK OR OTHER ORDER TO OBTAIN COMPLIANCE WITH STATE
19 LAW, DEPARTMENTAL REGULATIONS, OR THE ANIMAL PROCESSING SLUDGE LAND
20 APPLICATION PERMIT.

21 (4) A COUNTY MAY SEEK INJUNCTIVE RELIEF OR OTHER APPROPRIATE
22 REMEDIES IN CIRCUIT COURT IF:

23 (I) A LOCAL HEALTH OFFICIAL IS NOT SATISFIED THAT THE
24 ENFORCEMENT MEASURES OF THE DEPARTMENT ARE ADEQUATE TO PROTECT
25 PUBLIC HEALTH AND SAFETY IN THE COUNTY; OR

26 (II) THE DEPARTMENT DOES NOT MAKE THE INSPECTION
27 REQUIRED BY PARAGRAPH (2) OF THIS SUBSECTION.

28 (5) A LOCAL HEALTH OFFICIAL SHALL:

29 (I) GIVE THE DEPARTMENT PROMPT NOTICE OF ANY INSPECTION
30 MADE BY THE LOCAL HEALTH OFFICIAL; AND

31 (II) REPORT PROMPTLY IN WRITING TO THE DEPARTMENT:

32 1. THE TIME AND PLACE OF THE INSPECTION;

33 2. A SUMMARY AND FINDINGS OF THE INSPECTION;

34 3. ANY ENFORCEMENT ACTION THAT THE LOCAL HEALTH
35 OFFICIAL TAKES OR RECOMMENDS; AND

1 4. ANY PERMIT MODIFICATIONS OR OTHER MODIFICATIONS
2 THAT THE LOCAL HEALTH OFFICIAL RECOMMENDS.

3 (E) (1) THE DEPARTMENT:

4 (I) MAY DELEGATE TO THE LOCAL HEALTH OFFICIAL ANY
5 INSPECTION, MONITORING, OR ENFORCEMENT AUTHORITY OF THE DEPARTMENT
6 UNDER THIS PART VII; AND

7 (II) SHALL ADOPT REGULATIONS THAT ESTABLISH STANDARDS
8 FOR DELEGATING AUTHORITY UNDER THIS SUBSECTION.

9 (2) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL
10 INCLUDE:

11 (I) PROCEDURES FOR SUBMISSION, REVIEW, AND APPROVAL OR
12 DISAPPROVAL OF ANY APPLICATION FOR DELEGATION OF AUTHORITY;

13 (II) PROVISIONS REQUIRING THAT ANY APPLICATION FOR
14 DELEGATION OF AUTHORITY BE APPROVED BY THE COUNTY;

15 (III) PROVISIONS FOR OVERSIGHT BY THE DEPARTMENT,
16 INCLUDING PROGRAM EVALUATIONS AND FINANCIAL AUDITS; AND

17 (IV) PROVISIONS FOR REVOCATION OF A DELEGATION, IF THE
18 LOCAL HEALTH OFFICIAL FAILS TO COMPLY WITH THE TERMS OF A DELEGATION
19 AGREEMENT.

20 (3) IF THE DEPARTMENT FINDS THAT AN APPLICATION FOR
21 DELEGATION OF AUTHORITY MEETS ALL APPLICABLE REQUIREMENTS OF THIS
22 SECTION AND THE REGULATIONS ADOPTED UNDER THIS SECTION, THE
23 DEPARTMENT SHALL ENTER INTO A WRITTEN DELEGATION AGREEMENT.

24 (4) THE DEPARTMENT SHALL ESTABLISH PERFORMANCE STANDARDS
25 FOR GRANTS TO PROVIDE REASONABLE REIMBURSEMENT TO COUNTIES, TO THE
26 EXTENT FUNDS ARE AVAILABLE, FOR COSTS LOCAL HEALTH OFFICIALS INCUR
27 WHEN THEY UNDERTAKE AUTHORITY DELEGATED UNDER THIS SUBSECTION.

28 (5) A LOCAL HEALTH OFFICIAL MAY ACT THROUGH A DESIGNEE UNDER
29 THIS SUBSECTION IN ACCORDANCE WITH AN APPROVED DELEGATION AGREEMENT.

30 9-291.

31 THE DEPARTMENT SHALL DENY AN APPLICATION FOR AN ANIMAL PROCESSING
32 SLUDGE LAND APPLICATION PERMIT IF THE DEPARTMENT FINDS THAT:

33 (1) THE APPLICANT CANNOT APPLY ANIMAL PROCESSING SLUDGE ON
34 LAND WITHOUT:

35 (I) CAUSING AN UNDUE RISK TO THE ENVIRONMENT OR PUBLIC
36 HEALTH, SAFETY, OR WELFARE; OR

1 (II) OTHERWISE VIOLATING THIS PART VII; OR

2 (2) THE ANIMAL PROCESSING SLUDGE HAS BEEN GENERATED IN A
3 STATE IN WHICH THE LAWS OR APPLICATION OF THOSE LAWS DO NOT RESULT IN
4 THE LAND APPLICATION OF ANIMAL PROCESSING SLUDGE IN THAT STATE.

5 9-292.

6 (A) THE DEPARTMENT MAY SUSPEND, REVOKE, OR MODIFY AN ANIMAL
7 PROCESSING SLUDGE LAND APPLICATION PERMIT IN ACCORDANCE WITH THE
8 ADMINISTRATIVE PROCEDURE ACT IF THE DEPARTMENT FINDS THAT:

9 (1) THE PERMIT APPLICATION CONTAINED FALSE OR INACCURATE
10 INFORMATION;

11 (2) THERE HAS BEEN A SUBSTANTIAL DEVIATION FROM:

12 (I) THE PLANS, SPECIFICATIONS, OR OTHER DOCUMENTS
13 APPROVED BY THE DEPARTMENT; OR

14 (II) ANY REQUIREMENT ESTABLISHED BY THE DEPARTMENT;

15 (3) A REPRESENTATIVE OF THE DEPARTMENT HAS BEEN REFUSED
16 ENTRY TO ANY AREA COVERED BY THE PERMIT FOR THE PURPOSE OF INSPECTING
17 THE AREA TO ENSURE COMPLIANCE WITH THE CONDITIONS OF THE PERMIT;

18 (4) THERE IS OR HAS BEEN A VIOLATION OF THIS PART VII, ANY
19 REGULATION ADOPTED UNDER THIS PART VII, OR ANY CONDITION OF THE PERMIT;
20 OR

21 (5) THERE IS ANY OTHER GOOD CAUSE.

22 (B) THE DEPARTMENT MAY REFUSE TO RENEW AN ANIMAL PROCESSING
23 SLUDGE LAND APPLICATION PERMIT IF:

24 (1) THE PERMIT HOLDER VIOLATES THIS SUBTITLE, ANY REGULATION
25 ADOPTED BY THE DEPARTMENT UNDER THIS SUBTITLE, OR ANY CONDITION OF THE
26 PERMIT;

27 (2) THE DEPARTMENT DETERMINES THAT CONTINUED OPERATION OF
28 ANY AREA COVERED BY THE PERMIT WOULD BE INJURIOUS TO PUBLIC HEALTH OR
29 THE ENVIRONMENT; OR

30 (3) THE DEPARTMENT DETERMINES THAT THERE IS ANY OTHER GOOD
31 CAUSE.

32 9-293.

33 (A) A PERSON WHO OWNS LAND THAT ADJOINS LAND FOR WHICH AN
34 APPLICATION TO APPLY ANIMAL PROCESSING SLUDGE IS FILED, OR FOR WHICH A
35 PERMIT TO APPLY ANIMAL PROCESSING SLUDGE IS ISSUED, HAS STANDING:

1 (1) TO SUE THE STATE, THE APPLICANT, OR THE PERMIT HOLDER TO
2 REQUIRE COMPLIANCE WITH THIS PART VII AND ANY PERMIT ISSUED UNDER THIS
3 PART VII; AND

4 (2) WITH RESPECT TO THE ANIMAL PROCESSING SLUDGE LAND
5 APPLICATION SITE, TO INTERVENE IN:

6 (I) ANY CIVIL COURT PROCEEDING; AND

7 (II) ANY CONTESTED ADMINISTRATIVE CASE.

8 (B) ANY COUNTY OR MUNICIPAL CORPORATION IN WHICH THERE IS LAND
9 FOR WHICH AN APPLICATION TO APPLY ANIMAL PROCESSING SLUDGE IS FILED, OR
10 FOR WHICH A PERMIT TO APPLY ANIMAL PROCESSING SLUDGE IS ISSUED, HAS
11 STANDING:

12 (1) TO SUE THE APPLICANT OR THE PERMIT HOLDER TO REQUIRE
13 COMPLIANCE WITH THIS PART VII AND ANY PERMIT ISSUED UNDER THIS PART VII;
14 AND

15 (2) WITH RESPECT TO THE ANIMAL PROCESSING SLUDGE LAND
16 APPLICATION SITE, TO INTERVENE IN:

17 (I) ANY CIVIL COURT PROCEEDING; AND

18 (II) ANY CONTESTED ADMINISTRATIVE CASE.

19 9-294.

20 IN ADDITION TO ANY OTHER REMEDY AUTHORIZED UNDER THIS SUBTITLE,
21 THE DEPARTMENT MAY BRING AN ACTION TO ENJOIN THE VIOLATION OF ANY LAW,
22 REGULATION, OR ORDER CONCERNING THE LAND APPLICATION OF ANIMAL
23 PROCESSING SLUDGE UNDER THIS PART VII.

24 9-295.

25 A PERSON MAY NOT APPLY ANIMAL PROCESSING SLUDGE ON LAND IN THIS
26 STATE EXCEPT IN ACCORDANCE WITH THIS PART VII.

27 9-296.

28 (A) (1) A PERSON WHO VIOLATES ANY PROVISION OF THIS PART VII OR ANY
29 RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS PART VII
30 IS LIABLE TO THE STATE FOR CIVIL PENALTIES AS PROVIDED IN PARAGRAPH (2) OF
31 THIS SUBSECTION.

32 (2) THE CIVIL PENALTIES ARE:

33 (I) A FINE NOT EXCEEDING \$10,000; AND

1 (II) AN ADDITIONAL FINE NOT EXCEEDING \$10,000 PER DAY FOR
2 EACH DAY THAT THE VIOLATION CONTINUES, UP TO A MAXIMUM OF \$50,000.

3 (3) THE STATE SHALL RECOVER THE CIVIL PENALTIES UNDER
4 PARAGRAPH (2) OF THIS SUBSECTION IN A CIVIL ACTION.

5 (B) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW OR IN
6 EQUITY AND AFTER AN OPPORTUNITY FOR A HEARING WHICH MAY BE WAIVED IN
7 WRITING BY THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY
8 IMPOSE A PENALTY FOR VIOLATION OF ANY PROVISION OF THIS PART VII OR ANY
9 REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS PART VII.

10 (2) THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION
11 SHALL BE:

12 (I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
13 \$50,000 IN TOTAL; AND

14 (II) ASSESSED WITH CONSIDERATION GIVEN TO:

15 1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO
16 WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY
17 THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
18 REASONABLE CARE;

19 2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN
20 HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF
21 THE STATE OR THE NATURAL RESOURCES OF THE STATE;

22 3. THE COST OF CLEANUP AND THE COST OF RESTORATION
23 OF NATURAL RESOURCES;

24 4. THE NATURE AND DEGREE OF INJURY TO OR
25 INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

26 5. THE EXTENT TO WHICH THE LOCATION OF THE
27 VIOLATION, INCLUDING LOCATION NEAR WATERS OF THE STATE OR AREAS OF
28 HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT
29 OR TO HUMAN HEALTH OR SAFETY;

30 6. THE AVAILABLE TECHNOLOGY AND ECONOMIC
31 REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;
32 AND

33 7. THE EXTENT TO WHICH THE CURRENT VIOLATION IS
34 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION
35 COMMITTED BY THE VIOLATOR.

36 (3) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER
37 THIS SUBSECTION.

1 (4) ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO
2 THE STATE AND COLLECTIBLE IN ANY MANNER PROVIDED BY LAW FOR THE
3 COLLECTION OF DEBTS.

4 (5) IF ANY PERSON WHO IS LIABLE FOR A PENALTY IMPOSED UNDER
5 THIS SUBSECTION FAILS TO PAY IT AFTER DEMAND, THE AMOUNT, TOGETHER WITH
6 INTEREST AND ANY COSTS THAT MAY ACCRUE, SHALL BE:

7 (I) A LIEN IN FAVOR OF THE STATE ON ANY PROPERTY, REAL OR
8 PERSONAL, OF THE PERSON; AND

9 (II) RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR THE
10 COUNTY IN WHICH THE PROPERTY IS LOCATED.

11 (6) ANY PENALTY COLLECTED UNDER THIS SUBSECTION SHALL BE
12 PLACED IN THE ANIMAL PROCESSING SLUDGE LAND APPLICATION FUND UNDER §
13 9-297 OF THIS PART VII.

14 9-297.

15 (A) THERE IS AN ANIMAL PROCESSING SLUDGE LAND APPLICATION FUND.

16 (B) (1) THE DEPARTMENT SHALL CREDIT ALL ANIMAL PROCESSING SLUDGE
17 PERMIT APPLICATION FEES, FUNDS THAT THE DEPARTMENT COLLECTS UNDER THIS
18 PART VII, AND ANY CIVIL OR ADMINISTRATIVE PENALTY OR FINE IMPOSED BY A
19 COURT UNDER THE PROVISIONS OF THIS PART VII TO THE ANIMAL PROCESSING
20 SLUDGE LAND APPLICATION FUND.

21 (2) THE ANIMAL PROCESSING SLUDGE LAND APPLICATION FUND IS
22 LIMITED TO A MAXIMUM OF \$400,000.

23 (3) THE DEPARTMENT SHALL SET ASIDE 25% OF THE ANIMAL
24 PROCESSING SLUDGE LAND APPLICATION FUND FOR ACTIVITIES CONDUCTED
25 UNDER SUBSECTION (C)(1) OF THIS SECTION.

26 (C) THE DEPARTMENT SHALL USE THE ANIMAL PROCESSING SLUDGE LAND
27 APPLICATION FUND FOR:

28 (1) EMERGENCY REMOVAL OF ANIMAL PROCESSING SLUDGE OR
29 MITIGATION OF THE EFFECT OF ANY LAND APPLICATION OF ANIMAL PROCESSING
30 SLUDGE THAT THE DEPARTMENT FINDS:

31 (I) ENDANGERS PUBLIC HEALTH, SAFETY, OR WELFARE; OR

32 (II) ENDANGERS OR DAMAGES NATURAL RESOURCES;

33 (2) ACTIVITIES THAT ARE:

34 (I) CONDUCTED BY THE DEPARTMENT, BY A LOCAL HEALTH
35 OFFICIAL, OR BY THE LOCAL HEALTH OFFICIAL'S DESIGNEE UNDER § 9-290(E) OF
36 THIS PART VII; AND

1 (II) RELATED TO IDENTIFYING, MONITORING, OR REGULATING THE
2 LAND APPLICATION OF ANIMAL PROCESSING SLUDGE, INCLUDING PROGRAM
3 DEVELOPMENT; AND

4 (3) PROVIDING SUPPLEMENTAL INSPECTIONS AND MONITORING OF
5 ANIMAL PROCESSING SLUDGE LAND APPLICATION SITES BY CONTRACTING WITH A
6 COUNTY UPON REQUEST OF THAT COUNTY TO PROVIDE SUPPLEMENTAL
7 INSPECTIONS AND MONITORING.

8 (D) AN EXPENDITURE THAT THE DEPARTMENT MAKES UNDER SUBSECTION
9 (C)(1) OF THIS SECTION SHALL BE REIMBURSED TO THE DEPARTMENT BY THE
10 ANIMAL PROCESSING SLUDGE LAND APPLICATOR WHOSE ANIMAL PROCESSING
11 SLUDGE LAND APPLICATION BROUGHT ABOUT THE EXPENDITURE BY:

12 (1) ENDANGERING PUBLIC HEALTH, SAFETY, OR WELFARE; OR

13 (2) ENDANGERING OR DAMAGING NATURAL RESOURCES.

14 (E) IN ADDITION TO ANY OTHER LEGAL ACTION AUTHORIZED BY THIS PART
15 VII, THE ATTORNEY GENERAL MAY BRING AN ACTION AGAINST ANY PERSON WHO
16 FAILS TO REIMBURSE THE DEPARTMENT UNDER SUBSECTION (D) OF THIS SECTION
17 TO RECOVER ANY EXPENDITURE THAT THE DEPARTMENT MAKES UNDER
18 SUBSECTION (C)(1) OF THIS SECTION.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2000.