

Department of Legislative Services
 Maryland General Assembly
 2000 Session

FISCAL NOTE

House Bill 292 (Delegate Hubbard. *et al.*)

Environmental Matters

Environment - Permits - Land Application of Animal Processing Sludge

This bill relates to the establishment of a permit process in the Maryland Department of the Environment (MDE) for the application of “animal processing sludge” on land.

Fiscal Summary

State Effect: Special fund expenditure increase of \$64,600 in FY 2001 to establish, implement, and enforce the permit system. Future year estimates are annualized, adjusted for inflation, and reflect ongoing operating expenses. Special fund revenue increase beginning in FY 2001 from permit fees, permit renewal fees, and any penalties assessed.

(in dollars)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
SF Revenues	-	-	-	-	-
SF Expenditures	64,600	50,100	52,100	54,300	56,800
Net Effect	(\$64,600)	\$50,100)	(\$52,100)	(\$54,300)	(\$56,800)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - =indeterminate effect

Local Effect: The operational impact on affected local jurisdictions depends largely on the extent to which MDE delegates inspection, monitoring, and enforcement authority to local health officials. The bill provides for reasonable reimbursement to counties, to the extent funds are available, for costs local health officials incur when authority is delegated. Assuming MDE does not delegate authority, however, local jurisdictions could handle any enforcement activities they choose to undertake with existing resources.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Animal processing sludge” is defined as any waste consisting of animal body parts, thickened liquid, suspension, settled solid, or dried residue generated from the processing of animals. A person must have a valid, current animal processing sludge permit issued by MDE before the person may apply animal processing sludge on land in the State. MDE must adopt regulations to establish a permit program. MDE may not adopt regulations dealing with land application of animal processing sludge without the approval of the Maryland Department of Agriculture (MDA). The bill establishes guidelines for the permit process, including the issuance, denial, renewal, expiration, suspension, revocation, and modification of permits.

The bill also establishes an Animal Processing Sludge Land Application Fund, requires MDE to credit all permit application fees, penalties, and fines to the fund, limits the fund to a maximum of \$400,000, and requires MDE to set aside 25% of the fund for specified activities. MDE must use the fund for: (1) emergency removal or mitigation under specified conditions; (2) activities by MDE, a local health official, or a local health official’s designee under specified enforcement provisions; (3) activities related to identifying, monitoring, or regulating the land application of animal processing sludge, including program development; and (4) providing supplemental inspections and monitoring of sites by contracting with a county upon request of that county. Expenditures made by MDE relating to the emergency removal of sludge or mitigation must be reimbursed to MDE by the applicator whose application brought about the expenditure.

The bill:

- provides for the notification and input of affected local jurisdictions relating to permit applications and the issuance, denial, or placement of restrictions on a permit;
- requires MDE to maintain a permanent public record of all permits issued;
- requires MDE to send specified information, including a copy of any permit issued, to affected local health officials and local soil conservation districts;
- authorizes a representative of MDE, the local health official, or the local health officials’ designee to enter and inspect application sites;
- establishes specific enforcement procedures;
- authorizes MDE to delegate inspection, monitoring, or enforcement authority to affected counties and requires MDE to adopt regulations establishing standards for delegating authority;
- requires MDE to establish performance standards for grants to provide reasonable reimbursement to counties for costs local health officials incur when authority is delegated, to the extent that funds are available;
- provides that MDE must require each permit holder to keep records,

- make reports, have a copy of a specified report available on transportation vehicles, install, calibrate, use, and maintain monitoring equipment or methods, take samples, and give any information that MDE or a local health official reasonably requires;
- establishes civil penalties for violations of the bill as follows: (1) a fine not exceeding \$10,000; and (2) an additional fine not exceeding \$10,000 per day for each day that the violation continues, up to a maximum of \$50,000; and
- establishes administrative penalties up to \$1,000 for each violation, not exceeding \$50,000 total, assessed with specified considerations.

Current Law: The Water Quality Improvement Act of 1998 (WQIA), among other things, requires agricultural operations using sludge to develop a nitrogen-based nutrient management plan by December 31, 2001, and to implement it by December 31, 2002. A nitrogen- and phosphorus-based management plan must be developed by July 1, 2004, and implemented by July 1, 2005. Nutrient management plans will be developed based on the bioavailability of nitrogen and phosphorus in the soil and in the nutrients applied to the land. MDA must approve all plans.

Background: Sludge is applied to land to return nutrients to the soil, to add organic matter to the soil, and to improve the tilth and moisture retention capability of the soil in order to encourage plant growth. Currently, MDE regulates the use of “sewage sludge” through permits issued to contractors who apply the sludge. Under current law, sewage sludge is defined as any thickened liquid, suspension, settled, solid, or dried residue that a sewage treatment plant extracts from sewage. It does not include waste generated from the processing of animals. The permits designate specific areas where sludge may be applied, set application rates for different crops and sources of sludge, and establish restrictions on how the sludge may be applied and on how the land may be used for a specified period of time following the application of sludge.

MDE has the authority, under current federal and state law, to regulate the application of animal processing sludge on land under the federal National Pollutant Discharge Elimination System. It has not done so.

State Fiscal Effect: Special fund expenditures could increase by an estimated \$64,600 in fiscal 2001, which accounts for the bill’s October 1, 2000, effective date. This estimate reflects the cost of hiring one compliance specialist to inspect, monitor, and enforce the new permits. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate assumes that MDE will perform inspections, monitoring, and enforcement and will not delegate authority to local health officials.

Salaries and Fringe Benefits	\$34,300
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Utility Vehicle Purchase	23,000
Operating Expenses	<u>7,300</u>
Total FY 2001 State Expenditures	\$64,600

This estimate does not include any costs MDE could incur relating to emergency removal of animal processing sludge or mitigation of the effect of any land application of animal processing sludge that MDE finds endangers public health, safety, or welfare or endangers or damages natural resources. MDE would be required to set aside 25% of the fund for those activities. The estimate also does not include any costs related to supplemental inspections and monitoring of application sites by contracting with a county upon request of the county. Legislative Services advises that any such costs cannot be reliably estimated at this time.

Future year expenditures reflect: (1) full salary with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

MDE did not provide a schedule of anticipated permit fees or permit renewal fees. MDE was also unable to predict the number of permit applications it would receive pursuant to the bill. Legislative Services also advises that it is difficult to predict the amount of revenue that would be collected pursuant to the bill's penalty provisions. Accordingly, a precise estimate of the increase in special fund revenue that would be generated as a result of the bill cannot be made at this time. For informational purposes, however, MDE issues approximately 250 sewage sludge utilization permits annually. Fees for those permits range from \$25 to \$750. Annual revenue from penalties under the sewage sludge utilization program varies dramatically: in 1999, penalties totaled \$1,750; in 1998, penalties totaled approximately \$50,000. Legislative Services advises, however, that it has no basis for assuming that animal processing sludge utilization permits would be comparable to the sewage sludge utilization permits that MDE currently issues.

Small Business Effect: Individuals wishing to apply animal processing sludge on land would need to obtain a permit from MDE as a result of the bill. Permit holders would be required to pay a permit fee (and a renewal fee, if applicable), maintain records, take samples, and install, calibrate, use, and maintain monitoring equipment or methods that MDE or a local health official reasonably requires. It is possible that any such requirements could impose significant costs on a given permit holder. Legislative Services advises, however, that because the application of animal processing sludge on agricultural land will be subject to regulation under the WQIA (which phases in from December 31, 2001, through July 1, 2005), it is unclear what additional requirements would be imposed on permit holders as a result of the bill.

Additional Information

Prior Introductions: SB 583 of 1999 would have required poultry processing plants to apply for and obtain sewage sludge utilization permits. The bill was not reported from the Economic and Environmental Affairs Committee.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Maryland Department of the Environment, Department of Health and Mental Hygiene, Office of Administrative Hearings, Montgomery and Prince George's counties, City of Bowie, Takoma Park, Department of Legislative Services.

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