

# **HB 318/SB 479 Environment - On-Site Wastewater Services – Regulation**

## **Written Testimony**

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### **Position: Favorable**

I am presenting this information in outline form to give the reader the ability to direct their attention to the sections that are of the interest. There are many good reasons to support the proposed Board, making it hard to condense. There is also so much that most people don't understand about the science of Onsite Wastewater.

Thank you and I hope this information is helpful to those that read it.

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- **Motivation for this Bill:**
  - The need to ensure Consumer Protection
  - The need to sustain Property Values
  - The need to protect Public Health and the Environment
  - The need to instill professionalism and uniform “Standards of Practice” to the Onsite Wastewater Industry
- **Purpose of the Bill:**
  - To educate, license, and certify ALL Onsite Wastewater Professionals. Including, but not limited to:
    - Pumpers
    - Installers
    - Designers
    - Operation and Maintenance Providers
    - Property Transfer Inspectors
  - To create a Board that will:
    - Manage and oversee the Licensees
    - Approve and require courses of study to acquire and maintain licenses and certifications
    - Be made up of mostly private industry with representation from MDE and Environmental Health Officers.
    - Implement sanctions on any bad actors, if need be.
    - Develop “Standards of Practice” that would be consistent across the State of Maryland
- **Brief History of Onsite Wastewater:**
  - Indoor facilities were not a “Standard of Living” until after World War II.
  - Post WW II and up through the 1950s, houses were built, and older homes were retrofitted, with indoor bathrooms. The onsite wastewater systems installed during this period of time were crude and mostly homemade design. (Many were cesspools and/or outfall pipes.)
  - During the 1960s the State and Counties started designing and regulating Onsite Wastewater Systems. This is when standards were originally developed for conventional, gravity-based systems.
  - During the 1970s and 1980s is when a lot of learning was done due to system failures:
    - Soil evaluation techniques were improved and implemented.
    - System designs were improved.
    - It was realized many systems had been installed on properties that did not support conventional/gravity Onsite Wastewater Systems.
    - Pump systems started to be utilized to send the effluent to better soils uphill or at a distance from the dwelling.
  - During the 1990s the introduction of Innovative and Alternative (I&A) systems were developed and utilized due to poor soil conditions on existing properties. Examples of Innovative and Alternative were:
    - Sand Mounds
    - At-Grade Mounds

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- Low Pressure Dosing Systems
- Drip Irrigation Systems
- Lagoons
- Sand and Peat Filtration Systems
- Constructed Wetland Systems
- Advanced Wastewater Treatment Systems
- And more....
- From around 2000 forward Advanced Treatment units and Automated Dispersal Systems began being utilized more and more:
  - Some of the previously designated “I&A” Systems became designated as “Conventional” and have been installed on new homes.
  - Many more “I&A” systems have been installed in increasing numbers each year.
  - The development of the Best Available Technology (BAT) designation and regulations surrounding this designation. These “BAT” technologies are Advanced Pretreatment Units that remove nitrogen at a 50% reduction in addition to the many other, more valuable, processes for the reduction of waste in the wastewater.
  - The “BAT” regulation came with mandatory maintenance and certification of Operation and Maintenance Providers by regulation (No license).
  - In 2013, there was a regulation change that required all new construction have the “BAT” technology installed, (basically) statewide.
  - In 2016, the regulation was rescinded back to the “BAT” not required on all new construction, but still required in the “Critical Area” and where site conditions may dictate, and local authorities specify.
- Current Licensing:
  - Installer licensing is governed by the individual Counties with 6 jurisdictions having no licensing requirements of Onsite Wastewater Installers.
  - MDE certifies (not license) installers of:
    - Sand Mounds and At-Grade Mounds
    - BAT Installers
    - BAT Operation and Maintenance Providers
  - MDE and all local jurisdictions have no licensing or certification for:
    - Advanced Treatment Units not covered under the BAT designation
    - Installers of other Advanced Dispersal Systems (Drip Dispersal System, Low Pressure Dosing Systems, or any other I&A or automated treatment or dispersal system not designated “BAT”)
    - Operation and Maintenance of any Automated Treatment of Dispersal system that does not have the “BAT” designation.
    - Designers of Onsite Wastewater Systems. The policies vary widely from jurisdiction to jurisdiction and level of complicity to the system. Policy is the only governing factor.
    - Pump truck operators.

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- Property Transfer Inspectors are currently only certified. Licensing by MDE is in progress without the benefit of trade representation with a Trade Board.
- **Current Deficiencies in the Onsite Wastewater Industry that a Board, Licensing and Certification can help resolve:**
  - 6 jurisdictions have no licensing requirement for Onsite Wastewater System Installers:
    - Howard
    - Montgomery
    - Cecil
    - Summerset
    - Charles
    - *(Not sure which one, but MDE did a survey and reported 6 Local Jurisdictions)*
  - MDE certifications of BAT Installers and BAT Operation and Maintenance Providers only apply to “BAT” treatment systems. It does not apply to installing any other sophisticated system. It does not apply to maintenance of any system installed prior to the “BAT” designation or any system installed under conditions that don’t include “BAT” requirements (Pretreatment included in an I&A residential design or pretreatment on a light commercial system)
  - MDE certification of Sand Mound and At-Grade Mounds does not apply to the installation of any other automated or sophisticated Dispersal system.
  - Most advanced treatment units and automated dispersal systems are not being maintained:
    - Property owners don’t realize these systems require routine maintenance for them to operate as designed.
    - A property owner’s first call is always to a pumper or plumber, when there is a problem, and neither of these professionals are trained on these technologies. They rarely provide accurate maintenance and repair information.
    - When one of these systems goes without proper maintenance for an extended period of time the damage can be extensive. This can lead to high dollar repair or cause irreparable damage to the dispersal system. Dispersal system failure could result in the need for new automated dispersal system costing \$30K to \$50K to replace. Many times, the property may not support another dispersal system and have to install a holding tank, where all sewage produced on the property has to be hauled away by a pumper truck. This can result in reducing the property value by up to 50%.
  - Poor designs:
    - **(\*Note:** *Most Onsite wastewater systems installed, today, are gravity, conventional systems with “Cookie Cutter” design criteria. But more and more, every year, additional sophisticated systems are required for the dwindling*

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*inventory of buildable home sites. Also, repairs to legacy properties, with marginal soils, require advanced treatment and/or dispersal systems to compensate for this.)*

- There are no Statewide requirements to design an onsite system. If you are a former regulator, installer, technology vendor, have a sound reputation and the regulator trusts you, you can design the system. For more advanced designs, if you have any sort of degree in design (i.e.: Architect, Landscape Architect, Engineer) you can design a system. This is very problematic:
    - There are only a few formally educated designers (Architect, engineer) that know how to design an Onsite Wastewater System. Onsite design is not included in their college curriculum. The ones that are competent at Onsite Wastewater System design have learned by trial and error or have taken the extra step to educate themselves.
    - Due to the above, many designs are sent back and forth between the designer and the approving authority, thus costing the property owner time and money. The designer usually charges for his repeated redrawing of the design. Most importantly, this can take up to a year to get the design approved by the approving authority.
    - Many times, due to lack of education, some approving authority employees miss vital design flaws, and systems are installed that don't properly function as intended. (In my line of work, I am regularly dealing with systems that don't function as designed and I have to compensate, somehow, at a cost to property owner.)
    - Many times, the County Sanitarian and the contractor have to redesign the system in the field, prior to and during installation.
  - How an Onsite Wastewater System functions is its own science that has evolved heavily over the past 70 years. It requires specific training to design properly. Regular plumbers and standard design architects and engineers lack the proper specific training in the Onsite Wastewater field.
  - Poor enforcement of bad actors:
    - If a person installs an Onsite System, or services an Onsite System without a permit or license, today, there is no regulatory recourse. It is up to the property owner to sue such a person, if need be. (And they won't sue someone that saves them a bunch of money by installing a sub-parr system)
    - Many licensed individuals have installed illegal systems and no action was taken, due to the structure that some Counties have. Again, back to the Property owner to initiate legal action.
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- **Maryland Onsite Wastewater Professionals Association's (MOWPA) Involvement in the Promotion of this Bill:**

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- MOWPA has had licensing as topic of discussion for 20 years. Licensing, as a vehicle, to educate all Onsite Wastewater Professionals to a higher and more consistent level.
- We were invited to a Cecil County Commissioner Committee meeting to discuss bringing licensing to that County, I believe around 2015.
- We conducted a “Survey Monkey” survey in 2018, where we had an 80% approval for Statewide Licensing, 13% wanted more information, and only 7% said no.
- We have an annual Conference every year, including Covid year (Virtual), and the topic is discussed, in open forum, every year, with no dissent.
- In 2019 MOWPA hosted a “Septic Summit” where we had a 2 hour lunch meeting with representation from MDE, Environmental Health Specialists, Environmental Health Directors, Environmentalists, Real Estate Industry, Building Industry, and Legislators to discuss the problems with the Onsite Wastewater Industry. It was a very active discussion with all participants engaged. Noted attendees were: Susan Dorsey (MDE), Nony Howell (MDE), Dru Schmidt Perkins (environmental lobbyist), Emily Ranson (Clean Water Action), Edwin Singer (Health Officer Car. Co), Bill Castelli (Real Estate Lobbyist), Delegate Mark Chang, and many more, about 30 participants all together.
- I, Eddie Harrison have been authorized by the MOWPA Board to advocate and testify to move this initiative forward for the past 6 years.
- I, representing MOWPA, have actively collaborated with environmentalists, Onsite Wastewater Professionals, and Legislators to draft legislation to improve the Onsite Wastewater Industry. This group affectionately calls itself “Team Septic”. (Not an official organization)
- I, Representing MOWPA, participated in 4 workgroup sessions in 2019 with 4 members of the Conference of Environmental Health Directors, 2 Environmentalists, a technology manufacturer, Les Knapp from MACo, and myself. The meetings were very productive and brought out many tweaks needed to the Onsite Wastewater Board Bill.
- I, representing MOWPA, participated in the workgroup sessions initiated by Senator Hester and hosted by MDE this past Summer/Fall. There were 4 meetings, set up as regional discussions representing the 4 regions of the State: Western, Southern, Eastern, and Central. I actively participated in the Western meeting and announced myself and then quietly listened to the Eastern meeting.
- **“Team Septic”:**
  - Is not any sort of official organization.
  - It is a bipartisan group of Onsite Wastewater Professionals, Environmentalists, Legislators, and concerned citizens that have loosely come together to improve the Onsite Wastewater Industry.
  - After a bill was successful a few years ago, someone shouted “Go Team Septic” and it stuck.
  - There are no dues, mandatory meetings, or even a leader. Just concerned Maryland Citizens trying to make a difference. Please join us!
- **Benefits of the Maryland Board of Onsite Wastewater Professionals:**

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- Education provided to the Onsite Wastewater Professionals that is consistent and up to date.
- A Board made up of Onsite Wastewater professionals to influence Legislation, Regulation, and Policy in relation to the Onsite Wastewater Industry.
- Enforcement implemented by the industry, to the industry, in an order to be appropriately firm and fair.
- A resource for Legislators and Policy makers when wanting to enact laws, regulation, and policy regarding the Onsite Wastewater Industry.
- More professionalism in the Industry.
- More respect for the Onsite Wastewater Industry and better property owner education
- **History of the Bill:**
  - First introduced in 2019 as HB840 by Delegate Stein. Passed the House of Delegates and then pulled in the Senate to be set for a workgroup with the Conference of Environmental Health Directors.
  - Filed in 2020 by Delegate Stein, Passed the House of Delegates and then was collateral damage from the short Covid session.
  - This bill was filed again as HB302 in 2021 by Delegate Stein. It, again passed the House of Delegates and then was pulled and referred to workgroup sessions initiated by Senator Hester.
  - In 2021 a licensing bill for Property Transfer Inspectors was passed. This bill was intended as a precursor to the Board Bill, due to the emergency nature of Property Transfers. It was set to be managed by MDE until there could be an Onsite Wastewater Board. (A simple license managed by MDE, was thought that it could be set up in a year, where a Board will take a few years to get up and fully implemented. It is thought that the Board would pull the Property Transfer License into the Board, with the guidelines that MDE had set into place.)
- **Summary:**
  - This initiative has come from the Onsite Wastewater Professionals working directly with environmental groups. The industry sees many issues that have been festering for decades that could best be addressed with a professional Board populated by the industry.

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- Technology has been outpacing the knowledge base of the professionals in the Onsite Wastewater Industry. Many Professionals are not at the same level of understanding of automated treatment and dispersal systems
- ALL designers will be required to obtain certification/license from this Board after producing evidence of Onsite Wastewater Design education.
- ALL Onsite Wastewater Professionals will be required to have an appropriate level of education for their trade, so that they will be consistent and work together to improve the Industry, give proper quality service, and help to maintain property values.
- It will give the Onsite Wastewater Industry a level of professionalism. and new people to the industry, a sense of pride and accomplishment to enter this Industry.
- There will be available a stable and consistent source of enforcement of bad actors in the Industry and protect the consumer.
- It will provide a better level of maintenance to the Onsite Wastewater Systems to protect the environment and public health.
- The Board can not only take over enforcement issues for MDE and Local Health Departments, but can also assist in legislation, regulation, and policy for the Industry that will obtain the goals desired in a way that the Industry can conform easily. The Board can also assume many other burdens MDE and Local Health Departments want to delegate to it to help relieve their short staffing issues.
- **Interesting points:**
  - The Onsite Wastewater System is the most expensive alliance in the home.
  - This initiative was completely Industry born.

Thank you for your time in consideration of this issue,

Eddie Harrison

Legislative Liaison for MOWPA