CHESAPEAKE BAY FOUNDATION

Environmental Protection and Restoration
Environmental Education

House Bill 991

Environment - Industrial Sludge Utilization Permit - Establishment

Date:	February 28, 2024	Position:	**Favorable With Amendment**
To:	House Environment and Transportation Committee	From:	Matt Stegman Maryland Staff Attorney

Chesapeake Bay Foundation (CBF) **SUPPORTS HB 991 with amendments** to be offered by the bill sponsor. The bill as amended would prohibit the storage, hauling, and utilization of industrial sludge material without a permit issued by the Department of Agriculture (MDA). Industrial sludge is organic material left over from various industrial protein rendering processes, including dissolved air flotation (DAF).

DAF material has been utilized by farmers in Maryland as a soil amendment for many years. However, as the volume of material generated throughout the region has recently increased and neighboring states have adopted more comprehensive regulations, the overapplication and mishandling of industrial sludge has become a community nuisance and water quality concern.

Maryland has become a dumping ground for DAF industrial sludge. The University of Maryland estimates that in 2019 and 2020, 93.9 million gallons of DAF were imported into Maryland, containing 4.78 million pounds of nitrogen and 1.75 million pounds of phosphorus.[1] In those years respectively, 50% and ≥62% of the DAF applied to Maryland farms was generated in other states. In other words, more than half of the region's industrial sludge was recently applied to Maryland farms. One company estimates that approximately 85% of the DAF applied to Maryland farms in 2019 came from out of state sources.

This is due to a lack of Maryland state oversight and regulation, which incentivizes producers from across the region to ship their DAF sludge to Maryland. While Virginia and Delaware require a permit to handle and utilize DAF sludge, Maryland does not. MDA issued only $3,100 in fines for Nutrient Management Plan noncompliance in FY22, deterring few operators from mishandling sludge. Reporting is not required to identify which registered DAF products are transported or where they're from.

Farmers and environmentalists fought for years over how best to reduce water quality impacts from the excessive use of poultry litter on farms, eventually agreeing to a major overhaul to how Maryland regulates phosphorus in farm nutrient management plans. That progress is now being reversed by the unregulated waste disposal that again puts farms, rivers, and the Bay at risk.

In Maryland, DAF sludge generators need a discharge permit from the Maryland Department of the Environment (MDE) that regulates their wastewater treatment process. When DAF sludge gets applied to

[1] https://extension.umd.edu/resource/animal-waste-technology-fund-assessment-report/

farmland, MDA — which allows the application of DAF as a soil amendment for crops — is responsible for oversight. But there is little transparency around where it goes and what is in the DAF sludge when it is spread on land. The composition of sludge is currently analyzed by the State Chemist only once a year, from samples drawn by the DAF-producing facilities. Once the sludge material is put into trucks and sent away, there is no system that ensures safe handling.

Done properly, sludge would be applied to land only in certain quantities and during certain times of the year (for example, not during winter when dormant plants don't absorb nutrients) and quickly incorporated into soil to prevent odors and nutrient runoff into nearby waterways. Unfortunately, CBF and our partners have heard stories from across Maryland where some bad actors are applying DAF material at times and in quantities that are inconsistent with a legitimate agricultural use. In short, they are using the land for disposal, not for farming.

Handlers are also building places to store DAF — often in giant open tanks and pits where permitting and regulatory oversight is unclear. In some counties, local officials have not been notified that DAF material was to be stored where it could be a hazard until it was too late. These sludge storage facilities harm surrounding communities and environments and potentially circumvent local land use authority. Runoff from tank spills and leaks pollutes waterways, and the stench is so foul it is becoming a public health concern.

With the sponsor's amendments, HB 991 creates a robust regulatory regime for DAF sludge that will ensure responsible farmers are able to use the material in a manner that minimizes community nuisance, increases compliance with existing nutrient management regulations, and gives regulators the tools they need to crack down on bad actors. The bill establishes a permitting program for those who haul, store, and apply industrial sludge to land, putting Maryland on par with neighboring states that administer similar programs and closing a significant loophole that allows Maryland waters to be harmed.

CBF urges the Committee's FAVORABLE report WITH AMENDMENTS on HB 991.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

NEIGHBORING STATES OUTPACE MARYLAND'S SLUDGE REGULATION

Maryland has become a regional dumping ground for food processing residual sludge because it does not require utilization permits, but neighboring states do. Over half of this sludge applied to Maryland farms in recent years came from out of state.

LAND APPLICATION	DELAWARE	VIRGINIA	MARYLAND
State authorization required	Y	Y	N
Permit required	Y	Y	N
Nutrient Management Plan required	Y	Y	Y
Applicator certification required	Y	Y	N
MATERIAL TESTING			
Nutrient analysis required for each application	Y	Y	N
Heavy metal analysis required every 5 years	Y	N	N
SITE TESTING			
Nutrient / heavy metal analysis required for each application	Y	N	N
Nutrient analysis required annually by permit	Y	3 YEARS	N
REPORTING			
Daily operating records required	Y	N	N
Site map required by permit	Y	Y	N
Application rates keyed to prior year data	Y	Y	N
Monitoring results submitted to landowner	Y	Y	N