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Date: February 28, 2024

House Bill 991 - Environment - Industrial Sludge Utilization Permit - Establishment

Committee: Environment & Transportation

MGPA Position: Support with Amendments

The Maryland Grain Producers Association (MGPA) serves as the voice of grain farmers growing corn, wheat, barley and sorghum across the state. MGPA supports House Bill 991 with amendments. The amendments we support were developed in partnership with the Department of Agriculture, the sponsor and proponents of the bill and are attached.

In addition to the amendments being brought forth by the sponsors, MGPA supports two additional amendments:

1. The bill authorizes the department to deny a permit based on threats to “public health, safety and welfare.” We would like to see that further defined and/or reference an existing definition in the code.
 - a. Justification: MGPA is concerned that if left up to interpretation, health and welfare could be interpreted to include things like adverse smell which is protected under Maryland’s Right to Farm.
2. Section 8-A-114 gives the Department the ability to outline adequate standards for hauling and application of food processing residuals and the crops that are being grown on the land on which they are being applied. MGPA would like to see the language referencing standards for application and crops stricken. This information is already set forth in regulation under the nutrient management law for soil amendments and nutrient sources.

MGPA has many members who have been responsibly storing and using food processing residuals for many years to add agronomic and economic value to their farming operations. We appreciate the sponsor and the department working with us to ensure that this legislation does not penalize those farmers while giving the department enforcement ability.

Thank you,

Lindsay Thompson

Executive Director

HOUSE BILL 991

M3, M4

4lr2560
CF SB 1074

By: **Delegates Love, Bouchat, Miller, Rose, and Tomlinson**

Introduced and read first time: February 5, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Industrial Sludge Utilization Permit – Establishment**

3 FOR the purpose of establishing an industrial sludge utilization permit; prohibiting a
4 person from utilizing industrial sludge in the State unless the person obtains a
5 permit; requiring the Department of the Environment to provide certain notices and
6 information to certain persons; applying certain provisions of law regarding public
7 notice and participation to industrial sludge utilization permits; authorizing a
8 representative of the Department to enter and inspect any site where industrial
9 sludge is utilized; and generally relating to industrial sludge utilization permits.

10 BY repealing and reenacting, with amendments,

11 Article – Environment

12 Section 1–601(a)

13 Annotated Code of Maryland

14 (2013 Replacement Volume and 2023 Supplement)

15 BY adding to

16 Article – Environment

17 Section 9–293 through 9–299, 9–299.1, 9–299.2, 9–299.3, and 9–299.4 to be under
18 the new part “Part IX. Industrial Sludge”

19 Annotated Code of Maryland

20 (2014 Replacement Volume and 2023 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

22 That the Laws of Maryland read as follows:

23 **Article – Agriculture**

24 1–601.

hb0991

Food Processing Residual (all
under Title 15, Subtitle 18,
Chapter 15.20.06

25 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

27 (B) (1) "FOOD PROCESSING RESIDUAL" MEANS MATERIAL THAT IS:

28 (I) ORGANIC MATERIAL GENERATED BY PROCESSING
AGRICULTURAL COMMODITIES FOR HUMAN OR ANIMAL
CONSUMPTION. THE TERM INCLUDES FOOD RESIDUALS, FOOD
COPRODUCTS, FOOD PROCESSING WASTES, FOOD PROCESSING
SLUDGES, OR ANY OTHER INCIDENTAL MATERIAL WHOSE
CHARACTERISTICS ARE DERIVED FROM PROCESSING
AGRICULTURAL PRODUCTS FOR HUMAN CONUMPTION OR ANIMAL
CONSUMPTION AND IS USED TO INCREASE THE PRODUCTIVITY OF
PLANTS, IMPROVE THE QUALITY OF CROPS OR PRODUCING ANY
CHEMICAL OR PHYSICAL CHANGE IN THE SOIL.

1 (II) INTENDED TO BE:

2 1. STORED OR APPLIED TO AGRICULTURAL LAND; OR

3 2. DISPOSED OF IN THE STATE.

4 (2) "FOOD PROCESSING RESIDUAL" INCLUDES MATERIAL
5 SEPARATED FROM
6 LIQUID WASTE THROUGH A DISSOLVED AIR FLOTATION PROCESS.

7 (C) "REGISTRY" MEANS FOOD PROCESSING RESIDUAL REGISTRATION.

8 (D) "UTILIZATION" MEANS:

9 (1) COLLECTING, HANDLING, BURNING, STORING, OR TREATING
10 Food Processing Residual FOR DISPOSAL OR LAND APPLICATION; AND

11 (2) TRANSPORTING FOOD PROCESSING RESIDUAL TO OR
12 FROM AN
13 FOOD PROCESSING RESIDUAL GENERATOR OR UTILIZER IN THE STATE.

14 9-294.

15 (A) EXCEPT AS PROVIDED IN THIS PART, A PERSON MAY NOT UTILIZE
16 FOOD PROCESSING RESIDUAL IN THE STATE.

(B) A PERSON SHALL BE REGISTERED BEFORE UTILIZING FOOD
PROCESSING RESIDUAL IN THE STATE.

16 **(C) REGISTRY AUTHORIZES THE PERMIT HOLDER TO UTILIZE FOOD**
17 **PROCESSING RESIDUAL IN ACCORDANCE WITH THE TERMS OF THE Registration.**

17 **(D) A PERSON MUST INCLUDE IN THE REGISTRY EACH SITE WHERE THE**
18 **PERSON**

18 **UTILIZES Food Processing Residual.**

19 **9-295.**

20 **FOR A REGISTRANT SHALL:::**

21 **(1) SUBMIT AN APPLICATION TO THE DEPARTMENT ON THE FORM**
22 **THAT THE DEPARTMENT REQUIRES;**

1 **(2) CERTIFY BY SIGNATURE THE TRUTH AND ACCURACY OF THE**
2 **COMPLETED APPLICATION;**

3 **(3) PAY ANY ASSOCIATED APPLICATION FEES AT THE SAME TIME**
4 **THAT THE APPLICATION IS SUBMITTED;**

5 **(4) PROVIDE THE NAME AND ADDRESS OF ANY SOURCE OF**
6 **Food Processing Residual THAT WILL BE UTILIZED;**

7 **(5) OBTAIN THE WRITTEN CONSENT OF THE OWNER OF THE LAND**
8 **WHERE THE Food Processing Residual WILL BE APPLIED, INCLUDING AN**
9 **AGREEMENT**
10 **FROM THE OWNER THAT THE OWNER WILL NOT VIOLATE THE Nutrient Management**
11 **Regulations;**

12 **(6) AGREE TO ALLOW OR SECURE ACCESS TO THE FOOD**
13 **PROCESSING RESIDUAL UTILIZATION SITE FOR ANY INSPECTION**
14 **AUTHORIZED UNDER THIS PART;**

15 **(8) SATISFY EVERY OTHER REQUIREMENT OF THIS PART.**

16 **9-297.**

17 **(A) (1) THE APPLICANT WILL BE REGISTERED UPON**
18 **SATISFying THE REQUIREMENTS OF THIS PART.**

19 **(2) THE DEPARTMENT MAY NOT ISSUE A REGISTRY TO AN APPLICANT**
20 **IF**
21 **THE DEPARTMENT DETERMINES THAT AN APPLICANT CANNOT UTILIZE FOOD**
22 **PROCESSING RESIDUAL WITHOUT:**

23 **(i) CAUSING UNDUE RISK TO:**

24 **1. THE ENVIRONMENT; OR**

25 **2. PUBLIC HEALTH, SAFETY, OR WELFARE; OR**

26 **(ii) OTHERWISE VIOLATING THIS PART.**

1 **(D) THE DEPARTMENT SHALL MAINTAIN A PERMANENT PUBLIC RECORD ON**
2 **THE DEPARTMENT'S WEBSITE OF ALL REGISTRATIONS ISSUED UNDER THIS PART.**

3 **9-298.**

4 **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERMIT**
5 **SHALL EXPIRE ON THE DATE THE DEPARTMENT SETS AT THE TIME THE PERMIT IS**
6 **ISSUED OR RENEWED.**

7 **(2) THE TERM OF A PERMIT MAY NOT LAST FOR MORE THAN 3 YEARS.**

8 **(B) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE**
9 **DEPARTMENT MAY RENEW A PERMIT IF THE PERMIT HOLDER:**

10 **(i) IS IN COMPLIANCE WITH:**

11 **1. THE CONDITIONS OF THE PERMIT;**

12 **2. THE REQUIREMENTS OF THIS PART; AND**

22 **3. ALL APPLICABLE REGULATIONS ESTABLISHED BY**
23 **THE DEPARTMENT;**

24 **(ii) SUBMITS TO THE DEPARTMENT IN A TIMELY MANNER A**
25 **RENEWAL APPLICATION ON THE FORM THAT THE DEPARTMENT REQUIRES; AND**

26 **(iii) PAYS A RENEWAL APPLICATION FEE.**

27 **(2) THE DEPARTMENT MAY REFUSE TO RENEW A PERMIT IF:**

1 **(I) THE PERMIT HOLDER VIOLATES THIS PART, ANY**
2 **REGULATION ADOPTED BY THE DEPARTMENT UNDER THIS PART, OR ANY**
3 **CONDITION OF THE PERMIT;**

4 **(II) THE DEPARTMENT DETERMINES THAT CONTINUED**
5 **OPERATION OF ANY AREA COVERED BY THE PERMIT WOULD BE INJURIOUS TO THE**
6 **ENVIRONMENT OR PUBLIC HEALTH, SAFETY, OR WELFARE; OR**

7 **(III) THE DEPARTMENT DETERMINES THAT THERE IS ANY**
8 **OTHER GOOD CAUSE.**

9 **(C) THE DEPARTMENT MAY NOT RENEW OR MODIFY A PERMIT TO STORE OR**
10 **DISTRIBUTE INDUSTRIAL SLUDGE AT A FACILITY THAT WILL BE INSTALLED OR**
11 **MATERIALLY ALTERED UNLESS THE DEPARTMENT HOLDS A PUBLIC HEARING ON**
12 **THE RENEWAL OR MODIFICATION.**

13 **9-299.**

14 **TO MAINTAIN A PERMIT IN GOOD STANDING, A PERMIT HOLDER SHALL:**

15 **(1) MAINTAIN A PERFORMANCE BOND OR OTHER SECURITY IN THE**
16 **AMOUNT THAT THE DEPARTMENT CONSIDERS SUFFICIENT TO GUARANTEE THE**
17 **FULFILLMENT OF ANY REQUIREMENT RELATED TO THE PERMIT;**

18 **(2) ENSURE THAT INDUSTRIAL SLUDGE IS NOT APPLIED FOR MORE**
19 **THAN 365 DAYS WITHIN ANY 3-YEAR PERIOD;**

20 **(3) ENSURE THAT INDUSTRIAL SLUDGE IS APPLIED:**

21 **(I) BY SUBSURFACE INJECTION;**

22 **(II) UNIFORMLY AND AT A RATE THAT DOES NOT CONTRIBUTE**
23 **TO RUNOFF;**

24 **(III) ONLY ON SOIL THAT:**

25 **1. CONTAINS GROUNDWATER THAT IS MORE THAN 20**
26 **INCHES FROM THE DEPTH OF TILLAGE AS DETERMINED BY TEMPORARY SOIL**
27 **BORINGS BEFORE LAND APPLICATION; AND**

28 **2. DOES NOT CONTAIN STANDING WATER, SNOW COVER**
29 **GREATER THAN 1 INCH, OR HARD-FROZEN CONDITIONS GREATER THAN 2 INCHES;**

1 (IV) ONLY FROM MARCH 1 TO DECEMBER 15, INCLUSIVE, OF
2 ANY CALENDAR YEAR;

3 (V) ONLY IF A CROP IS PLANTED WITHIN 30 DAYS AFTER
4 APPLICATION UNLESS OTHERWISE APPROVED BY THE DEPARTMENT;

5 (VI) ONLY IF A COVER CROP OR APPROPRIATE WINTER CROP IS
6 ESTABLISHED AT THE APPLICATION SITE; AND

7 (VII) IN LOCATIONS THAT DO NOT INTERFERE WITH THE BUFFER
8 AREAS ESTABLISHED BY THE DEPARTMENT IN REGULATION UNDER § 9-299.4 OF
9 THIS SUBTITLE;

10 (4) KEEP RECORDS REGARDING THE UTILIZATION OF INDUSTRIAL
11 SLUDGE, INCLUDING DAILY RECORDS OF THE SOURCE AND AMOUNT OF INDUSTRIAL
12 SLUDGE IN EACH TRUCKLOAD DELIVERED TO A SITE;

13 (5) MAKE REPORTS, INCLUDING INDUSTRIAL SLUDGE ANALYSIS
14 REPORTS, AS OFTEN AS NECESSARY TO ENSURE THE INDUSTRIAL SLUDGE MEETS
15 THE REQUIREMENTS OF THE PERMIT;

16 (6) HAVE A COPY OF THE REPORT REQUIRED UNDER ITEM (5) OF THIS
17 SECTION AVAILABLE IN THE VEHICLE TRANSPORTING THE INDUSTRIAL SLUDGE;

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

21 (8) TAKE SAMPLES IN ACCORDANCE WITH THE METHOD, LOCATION,
22 FREQUENCY, AND MANNER REQUIREMENTS SET BY THE DEPARTMENT;

23 (9) PROVIDE TO THE DEPARTMENT OR THE RELEVANT LOCAL
24 HEALTH OFFICIAL ANY INFORMATION THAT THE DEPARTMENT REQUIRES; AND

25 (10) COMPLY WITH ANY OTHER REQUIREMENT SET BY THE
26 DEPARTMENT.

27 9-299.1.

28 THE DEPARTMENT MAY SUSPEND, REVOKE, OR MODIFY A PERMIT ISSUED
29 UNDER THIS PART IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT
30 IF THE DEPARTMENT FINDS THAT:

1 **(1) THE PERMIT APPLICATION CONTAINED FALSE OR INACCURATE**
2 **INFORMATION;**

3 **(2) THERE HAS BEEN A SUBSTANTIAL DEVIATION FROM:**

4 **(i) THE PLANS, SPECIFICATIONS, OR OTHER DOCUMENTS**
5 **APPROVED BY THE DEPARTMENT; OR**

6 **(ii) ANY REQUIREMENT ESTABLISHED BY THE DEPARTMENT;**

7 **(3) A REPRESENTATIVE OF THE DEPARTMENT SEEKING TO INSPECT**
8 **A SITE IN ACCORDANCE WITH § 9-299.2 OF THIS SUBTITLE HAS BEEN REFUSED**
9 **ENTRY TO ANY AREA COVERED BY THE PERMIT;**

10 **(4) THERE IS OR HAS BEEN A VIOLATION OF THIS PART, ANY**
11 **REGULATION ADOPTED UNDER THIS PART, OR ANY CONDITION OF THE PERMIT; OR**

12 **(5) THERE IS ANY OTHER GOOD CAUSE AS DETERMINED BY THE**
13 **DEPARTMENT.**

14 **9-299.2.**

15 **(A) TO ENFORCE THIS PART AND TO ENSURE COMPLIANCE WITH A PERMIT,**
16 **A REPRESENTATIVE OF THE DEPARTMENT MAY ENTER AND INSPECT, AT ANY**
17 **REASONABLE TIME, ANY SITE WHERE INDUSTRIAL SLUDGE IS UTILIZED.**

18 **(B) A PERMIT HOLDER OR OTHER PERSON AT A SITE WHERE INDUSTRIAL**
19 **SLUDGE IS UTILIZED MAY NOT:**

20 **(1) REFUSE ACCESS TO THE SITE TO ANY REPRESENTATIVE OF THE**
21 **DEPARTMENT THAT REQUESTS ACCESS UNDER THIS SECTION; OR**

22 **(2) INTERFERE WITH ANY INSPECTION UNDER THIS PART.**

23 **(C) AFTER COMPLETING AN INSPECTION UNDER THIS SECTION, THE**
24 **DEPARTMENT SHALL ISSUE A STOP WORK ORDER OR OTHER ORDER IF NECESSARY**
25 **TO OBTAIN COMPLIANCE WITH STATE LAW, REGULATIONS, OR A PERMIT.**

26 **9-299.3.**

27 **(A) IN ADDITION TO ANY OTHER REMEDY AUTHORIZED UNDER THIS**
28 **SUBTITLE, THE DEPARTMENT MAY BRING AN ACTION TO ENJOIN THE VIOLATION OF**

1 ANY LAW, REGULATION, OR ORDER CONCERNING THE UTILIZATION OF INDUSTRIAL
2 SLUDGE UNDER THIS PART.

3 (B) (1) ANY PERSON THAT OWNS LAND THAT ADJOINS LAND FOR WHICH
4 AN APPLICATION TO APPLY INDUSTRIAL SLUDGE IS FILED OR FOR WHICH A PERMIT
5 TO APPLY INDUSTRIAL SLUDGE IS ISSUED HAS STANDING:

6 (i) TO SUE THE STATE, THE APPLICANT, OR THE PERMIT
7 HOLDER TO REQUIRE COMPLIANCE WITH THIS PART AND ANY PERMIT ISSUED
8 UNDER THIS PART; AND

9 (ii) WITH RESPECT TO THE INDUSTRIAL SLUDGE UTILIZATION
10 SITE, TO INTERVENE IN ANY:

11 1. CIVIL COURT PROCEEDING; AND

12 2. CONTESTED ADMINISTRATIVE CASE.

13 (2) ANY COUNTY OR MUNICIPAL CORPORATION IN WHICH THERE IS
14 LAND FOR WHICH AN APPLICATION TO APPLY INDUSTRIAL SLUDGE IS FILED OR FOR
15 WHICH A PERMIT TO APPLY INDUSTRIAL SLUDGE IS ISSUED HAS STANDING:

16 (i) TO SUE THE APPLICANT OR THE PERMIT HOLDER TO
17 REQUIRE COMPLIANCE WITH THIS PART AND ANY PERMIT ISSUED UNDER THIS PART;
18 AND

19 (ii) WITH RESPECT TO THE INDUSTRIAL SLUDGE UTILIZATION
20 SITE, TO INTERVENE IN ANY:

21 1. CIVIL COURT PROCEEDING; AND

22 2. CONTESTED ADMINISTRATIVE CASE.

23 9-299.4.

24 (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
25 DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS PART.

26 (2) THE DEPARTMENT MAY NOT ADOPT A REGULATION OR PART OF A
27 REGULATION THAT DEALS WITH THE STORAGE OR LAND APPLICATION OF
28 INDUSTRIAL SLUDGE MATERIAL ON AGRICULTURAL LAND UNLESS THE
29 DEPARTMENT CONSULTS WITH THE DEPARTMENT OF AGRICULTURE.

1 **(B) (1) THE REGULATIONS ADOPTED UNDER THIS PART SHALL ADDRESS:**

2 **(I) ALTERNATIVE UTILIZATION METHODS;**

3 **(II) CONTROL OF PATHOGENS AND POLLUTANTS OF CONCERN**
4 **IDENTIFIED BY THE DEPARTMENT;**

5 **(III) ADVERTISING REQUIREMENTS FOR PUBLIC HEARINGS AND**
6 **PUBLIC INFORMATION MEETINGS;**

7 **(IV) PERFORMANCE BONDS, LIABILITY INSURANCE, OR OTHER**
8 **FORMS OF SECURITY;**

9 **(V) PROCEDURES FOR NOTIFYING UNITS OF LOCAL**
10 **GOVERNMENT AND OTHER INTERESTED PARTIES;**

11 **(VI) ADEQUATE STANDARDS FOR TRANSPORTING INDUSTRIAL**
12 **SLUDGE;**

13 **(VII) EXISTING LAWS AND REGULATIONS GOVERNING THE**
14 **APPLICATION AND SUITABILITY OF SOIL AMENDMENTS FOR LAND APPLICATION;**

15 **(VIII) METHODS FOR CALCULATING LOADING RATES THAT:**

16 **1. WILL ENSURE NONDEGRADATION OF THE**
17 **GROUNDWATER; AND**

18 **2. ARE LIMITED BY THE NUTRIENT REQUIREMENTS OF**
19 **CROP OR COVER VEGETATION, AS RECOMMENDED BY THE DEPARTMENT OF**
20 **AGRICULTURE;**

21 **(IX) THE CROPS THAT ARE TO BE GROWN ON LAND ON WHICH**
22 **INDUSTRIAL SLUDGE MAY BE APPLIED;**

23 **(X) THE NATURE OF ANY NEARBY SURFACE WATER OR**
24 **GROUNDWATER;**

25 **(XI) THE CHARACTER OF ANY AFFECTED AREA;**

26 **(XII) THE CHARACTER OF NEARBY EXISTING OR PLANNED LAND**
27 **USES AND TRANSPORT ROUTES;**

1 **(XIII) THE NEARNESS OF THE LAND ON WHICH INDUSTRIAL**
2 **SLUDGE MAY BE APPLIED TO SENSITIVE AREAS, INCLUDING FLOOD PLAINS,**
3 **WETLANDS, AND AREAS OF CRITICAL CONCERN;**

4 **(XIV) THE DEFINITIONS OF:**

5 1. **INDUSTRIAL SLUDGE THAT IS UNSUITABLE FOR**
6 **APPLICATION TO AGRICULTURAL LAND;**

7 2. **AGRICULTURAL LAND;**

8 3. **MARGINAL LAND; AND**

9 4. **COMPOST;**

10 **(XV) ACCEPTABLE CUMULATIVE LOADING RATES, INCLUDING**
11 **RATES FOR NITROGEN, PHOSPHORUS, AND HEAVY METALS; AND**

12 **(XVI) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
13 **REASONABLE BUFFER AREAS TO SEPARATE ANY HOME, AGRICULTURAL LAND, OR**
14 **OTHER PROPERTY FROM LAND ON WHICH INDUSTRIAL SLUDGE MAY BE APPLIED.**

15 **(2) THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF**
16 **AGRICULTURE IN THE ESTABLISHMENT OF BUFFER AREAS TO SEPARATE**
17 **AGRICULTURAL LAND FROM LAND ON WHICH INDUSTRIAL SLUDGE MAY BE APPLIED.**

18 **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
19 **DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH AND UPDATE PERMIT**
20 **APPLICATION FEES.**

21 **(2) (I) THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR**
22 **PUBLIC INPUT ON THE DEVELOPMENT OF A FEE SCHEDULE UNDER THIS SECTION.**

23 **(II) A FEE SCHEDULE DEVELOPED UNDER THIS SECTION SHALL**
24 **INCLUDE CONSIDERATION OF:**

25 1. **THE ANTICIPATED COSTS OF MONITORING AND**
26 **REGULATING INDUSTRIAL SLUDGE UTILIZATION SITES;**

27 2. **THE ANTICIPATED COSTS OF IMPLEMENTING THIS**
28 **PART; AND**

1 **3. THE POTENTIAL IMPACT OF AN INDUSTRIAL SLUDGE**
2 **UTILIZER'S ACTIVITIES ON THE ENVIRONMENT AND PUBLIC HEALTH, SAFETY, AND**
3 **WELFARE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2024.