Maryland Association of Municipal Wastewater Agencies, Inc.
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March 7, 2025

The Honorable Marc Korman
Chair, Environment and Transportation Committee
250 Taylor House Office Building
Annapolis, MD 21401

Re: OPPOSE -- HB 1484 (Environmental Permits – Requirements for Public Participation and Impact and Burden Analysis (Cumulative Harms to Environmental Restoration for Improving Shared Health – CHERISH Our Communities Act))

Dear Chair Korman:

On behalf of the Maryland Association of Municipal Wastewater Agencies (MAMWA), I am writing to **OPPOSE HB 1484**, which would apply extensive and burdensome requirements on certain entities applying for a permit from the Maryland Department of the Environment (MDE).

MAMWA is a statewide association of local governments and wastewater treatment agencies that serve approximately 95% of the State's sewered population. Many of MAMWA's members would be directly and negatively impacted by HB 1484. MAMWA objects to the bill for the following reasons:

(1) The Bill is Unnecessary; MDE Already Reviews Impacts Associated with NPDES, Potable Reuse, and Sewage Sludge Permits

Current State law directs MDE to consider public and environmental health before it issues a NPDES permit (Md. Code ENV §9-302(b), (c)(1)), a potable reuse permit (Md. Code §9-303.2), and a sewage sludge utilization permit (COMAR 26.04.06.11).

In addition, for the installation, expansion, or modification of a sewerage system, MDE requires a construction permit which ensures "that infrastructure projects throughout the State are designed on sound engineering principles" and that they will "comply with State design guidelines to protect water quality and public health." For major sewerage systems, permit applications must include complete plans and specifications prepared by, signed by, and sealed by a professional engineer. MDE reviews these documents and regularly requests changes to address any identified concerns. COMAR 26.03.12.04.

(2) The Bill Inappropriately Applies to Renewal Permits

As noted above, HB 1484 would directly impact MAMWA's publicly owned wastewater treatment plants by identifying them as "covered projects" (many wastewater plants have anaerobic digesters (p. 4, l. 26), energy-generating facilities (p. 5, l. 1-2), and/or sludge processing structures (p. 5, l. 22)). These are built-out systems that represent millions of

dollars, if not more, of investment by local citizens. In addition, all existing facilities have been through the public permitting process multiple times. If the bill moves forward, renewal permits must be stricken from the text.

(3) MDE Cannot Reasonably Deny a Permit for a Wastewater Treatment Plant (p. 9, l. 9-14)

Permits are required by law. A wastewater treatment plant must have a permit to discharge into a receiving waterbody. Similarly, potable reuse and sewage sludge permits are required by State law. Refusing to issue a wastewater treatment plant a needed permit is not an acceptable outcome from the permitting process.

(4) Having an NPDES, Reuse, or Sewage Sludge Permit Does Not Mean There Is an Increased Potential for Adverse Community Environmental and Public Health Impacts. (p. 3, l. 5-21)

Anaerobic digesters, energy-generating facilities, large wastewater treatment plants, and sludge processing facilities are environmentally beneficial. MAMWA is baffled by why they would be considered covered projects subject to additional requirements when they all have societal benefits. Anaerobic digesters break down waste and create renewable energy; they are far preferable to landfilling residuals, with associated increases in greenhouse gas emissions. Wastewater treatment plants with energy-generating facilities take residuals and create green energy that can be used to meet energy-needs at the plant and/or to provide energy to the transmission grid. Large wastewater treatment plants treat residential, commercial, institutional, and industrial waste and generate highly treated wastewater and biosolids.

Other publicly owned and managed covered projects are similarly beneficial and MAMWA is perplexed why these thoroughly regulated sites are included in this bill.

(5) The Requirements for an Environmental Impact Analysis (EIA) Are Highly Burdensome (p. 3, l. 5-21)

Many small facilities do not have the expertise to develop an EIA. Although a large, new project may be able to complete an EIA, a lot of small facilities would also be impacted by this bill (e.g., a small wastewater treatment plant, scrap metal yard, or sawmill). These small facilities would have to find and hire multiple consultants (environmental and public health experts), likely at a high cost, to complete this analysis, assuming there are an adequate number of technical experts in the marketplace who are able and willing to do this work.

Unfortunately, MAMWA members would be forced to pass along any increased costs associated with an EIA, a Proposed Existing Burden Report (PEBR), and with a cumulative impacts mitigation fund to local wastewater customers. This bill could increase wastewater rates significantly across the State.

On a related note, it is very difficult to assess the full impacts of the bill right now because MDE's Environmental Justice (EJ) screening tool is unavailable. We understand that MDE is currently working to get this tool back on-line and that this is related to the federal Administration pulling its EJ tools from the web. Nonetheless, we cannot currently use the tool.

(6) The PEBR Requirements Are Highly Burdensome (p. 6, l. 28 – p. 8, l. 6)

First, the PEBR would unfairly impact the first applicant in line. The first applicant near an at-risk census tract would have to do an extensive and expensive analysis of pollution that they are not even responsible

for in the community. Later nearby applicants would be able to use this documentation for free when they apply.

Second, the PEBR requires applicants to study completely unrelated issues. A wastewater treatment plant does not create any risk for lead exposure. It makes no sense to have a plant review that issue. The same can be said for traffic volume and contaminated drinking water supplies.

Third, the PEBR would require an applicant to gather information from private residents. A wastewater treatment plant does not know if there is lead-based paint in individual homes in the census tract. It is unclear, absent local citizens voluntarily providing that information, how a plant could even gather it.

Fourth, the PEBR would require an applicant to look far beyond the at-risk census tract. The PEBR must include a comprehensive list of each existing pollution source impacting the community. Assuming this includes air pollutants, these pollutants are often carried by wind from far away (including from areas out-of-state). Unless a wastewater treatment plant hires a consultant to model air deposition, it is unclear how it would be able to identify these sources.

Lastly, the PEBR would require an applicant to provide information on undefined "existing environmental and public health stressors." Smoking, drinking alcohol, and not getting regular exercise are all stressors to public health and it is unreasonable to require applicants for environmental permits to assess them.

(7) Requiring Payments into a Cumulative Impacts Mitigation Fund Could Result in Fraud or Poor Use of the Funds (p. 10, l. 1-12)

First, it is bad public policy to establish a fund with no controls in place. There should be basic fund usage, accounting, and auditing rules in place. If rules are not in place, money can be used on items that are problematic. A good example is in the February 21, 2025 Baltimore Sun (*State accountability on grants, nonprofits has 'fallen through the cracks,' former audit chair says*). The article notes that in 2020, state auditors found that a nonprofit had spent $750,000 meant to combat opioid addition on the purchase of a former country club and golf course.

MDE does not even want to manage the money for supplemental environmental projects (SEPs). For example, in the recent Back River/Patapsco Consent Decree, MDE directs the money for SEPs to the Chesapeake Bay Trust (CBT), with funding reverting to MDE if it is not used. CBT is in a better position than MDE to ensure the funding is properly used.

Second, it is unclear how an agreement could benefit "all residents" in the at-risk census tract. This is too high a bar and would be unnecessary if funds were managed by CBT.

Third, the bill lacks any detail on how much the mitigation fund would be. What are the anticipated amounts a permittee would have to pay? If the impacted community is small, would the mitigation amount be scaled down? These are fundamental questions that are entirely unanswered by the bill.

(8) It May be Excessive to Require That 25% of Revenue from Enforcement to Be Sent Back to Affected Communities (p. 10, l. 19-22)

For example, if there are 10 residents near a concentrated animal feeding operation (CAFO), and the CAFO is fined $4 Million, the community would receive $1 Million (or $100,000 per resident) from the enforcement action. Again, there are no details for how this money would be used to "assist" (undefined) these

communities (and in fact, the bill does not even require that the funding go to the CAFO impacted community, just to "affected communities.")

(9) The 1.5 Mile Radius Makes No Sense in Many Situations (p. 6, l. 28 – p. 7, l. 2)

Many permit applicants are in rural areas. There could be CAFOs or landfills in rural parts of the state that are within 1.5 miles of an at-risk community. Those communities could have a small number of residents. It makes no sense to require the extensive level of study required by this bill for 10 people.

MAMWA urges the Committee to **Vote NO** on HB 1484.

Please feel free to contact me with any questions at Lisa@AquaLaw.com or 804-716-9021.

Sincerely,

Lisa M. Ochsenhirt
MAMWA Deputy General Counsel

cc: Environment and Transportation Committee Members, HB 1484 Sponsor