



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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February 9, 2011

The Honorable Maggie L. McIntosh, Chairman
Environmental Matters Committee
House Office Building, Room 251
Annapolis MD 21401

Re: House Bill 24 – Agriculture – Sludge – Timing of Winter Application

Dear Chairman McIntosh:

This is to provide information on House Bill 24, entitled *Agriculture – Sludge – Timing of Winter Application*. This Bill would require the Maryland Department of Agriculture (“MDA”) to adopt regulations that establish criteria for the timing of winter application of sewage sludge that are the same or substantially similar to the criteria enacted for animal manure. Winter application of nutrients is a concern due to the increased risk of nutrient loss to surface water runoff when it is applied at a time when there are no crops to hold and use the nutrients. Excess nutrients may result in the contamination of surface and ground water, with a variety of adverse environmental and health effects.

At the present time, MDA regulates the application of fertilizers such as manure and chemical fertilizers pursuant to the Water Quality Improvement Act of 1998. The regulations under this Act require land application to be consistent with a Nutrient Management Plan (“NMP”). The Department of Agriculture’s guidance for manure contains specific restriction on winter application, only allowing it when storage capacity is inadequate, and provides specific guidelines for applying the material. Although the regulation of sewage sludge is principally through the Department of the Environment’s (“MDE”) permitting and enforcement programs, the land application of sewage sludge is required to be performed in accordance with a Nutrient Management Plan that meets MDA’s requirements. MDE provides copies of NMPs submitted with applications for sewage sludge utilization permits to MDA for review to assure plans conform to MDA nutrient management plan requirements. It is suggested that the MDA should clarify in its law that “sludge” refers to “sewage sludge” not other sludges from industrial, water treatment, oil operations, or similar activities, as it is believed that the intent of the law relates to sewage sludge only.

MDE regulates the application of sewage sludge. Pursuant to Section 9-231 of the Environment Article, a person must have a permit from MDE to utilize Class B sewage sludge in the State, which includes land application. Any amendments to MDA’s regulations will not impact the requirement to obtain and comply with an MDE permit when land applying Class B sewage sludge. MDE’s permits currently restrict winter application of Class B sewage sludge. These restrictions prohibit application on saturated ground, under certain weather conditions, or on ground frozen to the extent that subsurface injection cannot occur. There are some exceptions under certain

circumstances. Sewage sludge may be injected into the soil through up to 6 inches of snow cover provided that there is an existing hay, pasture, sod, small grain, or cover crop and the underlying soil is not frozen to the extent that the injector shank penetration is impeded. In addition, sewage sludge may be surface applied to frozen ground only when site slopes are 6 percent or less; minimum buffer zones of 400 feet from wells, streams, other bodies of water, and property lines are maintained; sewage sludge is applied only on well drained or moderately well drained soils; sufficient vegetative cover exists on site to prevent runoff; sludge is applied on an established hay, pasture, sod, small grain, or cover crop; and the Department determines that the applicant's plan of operations for the application of sewage sludge on frozen ground does not adversely affect public health or the environment. Class B sewage sludge is treated to significantly reduce the pathogen content, but should not be considered to be sterilized, and may contain some residual pathogenic organisms such as Staphylococcus species. MDE's permit requirements are intended to prevent both adverse environmental and health impacts from the use of Class B sewage sludge. "Class A" sewage sludge considered by the U.S. Environmental Protection Agency and MDE to be treated to the extent that it is pathogen-free and can be safely made available through retail sales for home use. Although an individual permit for each site of use is not required, a permit is required for a facility that generates or distributes Class A sewage sludge as fertilizer.

MDE and MDA have been in discussions regarding amending regulations related to the land application of Class A and B sewage sludge. Any proposed amendments would be to ensure that excess nutrients are not being lost during land application and that there will be no exposure to pathogens. Once drafted, regulations will be promulgated through the normal AELR process and published in the *Maryland Register*, which will give stakeholders the opportunity to comment upon any proposed changes prior to adoption.

I hope this meets your needs. If I may be of further assistance, please contact me at 410-537-3304, toll-free at 1-800-633-6101, or via e-mail at htablada@mde.state.md.us.

Sincerely,



Horacio Tablada, Director
Land Management Administration

cc: The Honorable Anthony J. O'Donnell
Royden N. Powell, III, Maryland Department of Agriculture
Heather Barthel, Director, Legislation and Policy