

Chapter 531

(House Bill 991)

AN ACT concerning

Environment – Industrial Sludge Agriculture – Food Processing Residuals
Utilization Permit – Establishment

FOR the purpose of establishing ~~an a industrial sludge~~ food processing residuals utilization permit; prohibiting a person from utilizing ~~industrial sludge~~ food processing residuals in the State unless the person obtains a permit; requiring the Department of ~~the Environment~~ Agriculture to provide ~~a certain notices~~ notice and information to certain persons; ~~applying certain provisions of law regarding public notice and participation to industrial sludge utilization permits~~ establishing the Food Processing Residuals Administration Fund as a special, nonlapsing fund; authorizing a representative of the Department to enter and inspect any site where ~~industrial sludge is~~ food processing residuals are utilized; ~~authorizing the Department to administer a Commercial Hauler Certification Program~~; and generally relating to ~~industrial sludge~~ food processing residuals utilization permits.

~~BY repealing and reenacting, with amendments,~~
~~Article – Environment~~
~~Section 1–601(a)~~
~~Annotated Code of Maryland~~
~~(2013 Replacement Volume and 2023 Supplement)~~

BY adding to
~~Article – Environment~~ Agriculture
~~Section 9–203 through 9–209, 9–209.1, 9–209.2, 9–209.3, and 9–209.4~~ 8–8A–01
~~through 8–8A–15~~ to be under the new part subtitle “Part IX. Industrial
~~Sludge”~~ “Subtitle 8A. Food Processing Residuals”; and 8–1101 through 8–1103
~~to be under the new subtitle “Subtitle 11. Commercial Hauler Certification~~
~~Program”~~
~~Annotated Code of Maryland~~
~~(2014~~ (2016 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – ~~Environment~~ Agriculture

~~1–601.~~

~~(a) Permits issued by the Department under the following sections shall be issued in accordance with this subtitle:~~

- ~~(1) Air quality control permits to construct subject to § 2-404 of this article;~~
- ~~(2) Permits to install, materially alter, or materially extend landfill systems, incinerators for public use, or rubble landfills subject to § 9-200 of this article;~~
- ~~(3) Permits to discharge pollutants to waters of the State issued [pursuant to] IN ACCORDANCE WITH § 9-323 of this article;~~
- ~~(4) Permits to install, materially alter, or materially extend a structure used for storage or distribution of any type of sewage sludge issued, renewed, or amended [pursuant to] IN ACCORDANCE WITH § 9-234.1 or § 9-238 of this article;~~
- ~~(5) Permits to own, operate, establish, or maintain a controlled hazardous substance facility issued [pursuant to] IN ACCORDANCE WITH § 7-232 of this article;~~
- ~~(6) Permits to own, operate, or maintain a hazardous material facility issued [pursuant to] IN ACCORDANCE WITH § 7-103 of this article;~~
- ~~(7) Permits to own, operate, establish, or maintain a low-level nuclear waste facility issued [pursuant to] IN ACCORDANCE WITH § 7-233 of this article;~~
- ~~(8) PERMITS TO UTILIZE INDUSTRIAL SLUDGE ISSUED IN ACCORDANCE WITH § 9-297 OF THIS ARTICLE; and~~
- ~~[(8)] (9) Potable reuse permits issued in accordance with § 9-303.2 of this article.~~
- ~~9-291. RESERVED.~~
- ~~9-292. RESERVED.~~

~~PART IX. INDUSTRIAL SLUDGE.~~

SUBTITLE 8A. FOOD PROCESSING RESIDUALS.

~~9-293.~~ 8-8A-01.

(A) IN THIS ~~PART~~ SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) ~~“INDUSTRIAL SLUDGE” MEANS MATERIAL THAT IS:~~

~~(i) AN ACCUMULATED SEMILIQUID SUSPENSION OF SETTLED SOLIDS, OR DRIED RESIDUE OF THESE SOLIDS, THAT IS GENERATED AS A~~

~~BY PRODUCT OF AN INDUSTRIAL, AGRICULTURAL, OR MANUFACTURING PROCESS;
AND~~

~~(H) INTENDED TO BE:~~

~~1. STORED OR APPLIED TO AGRICULTURAL LAND; OR~~

~~2. DISPOSED OF IN THE STATE.~~

~~(2) "INDUSTRIAL SLUDGE" INCLUDES MATERIAL SEPARATED FROM
LIQUID WASTE THROUGH A DISSOLVED AIR FLOTATION PROCESS.~~

~~(c) "AGRICULTURAL OPERATION" MEANS EACH PHYSICAL SITE WHERE A
PERSON ENGAGES IN A BUSINESS THAT:~~

~~(1) GROWS, RAISES, KEEPS, PASTURES, OR OTHERWISE PRODUCES A
FARM PRODUCT, INCLUDING:~~

~~(I) ANY AGRICULTURAL, HORTICULTURAL, VEGETABLE, OR
FRUIT PRODUCT OF THE SOIL; OR~~

~~(II) LIVESTOCK, POULTRY, EGGS, DAIRY PRODUCTS, NUTS,
HONEY, AND EVERY PRODUCT OF A FARM, A FOREST, OR AN ORCHARD; AND~~

~~(2) HAS:~~

~~(I) A GROSS ANNUAL INCOME OF \$2,500 OR MORE; OR~~

~~(II) EIGHT OR MORE ANIMAL UNITS.~~

~~(C) "APPLICANT" MEANS:~~

~~(1) THE OWNER OR OPERATOR OF AN AGRICULTURAL OPERATION; OR~~

~~(2) A COMMERCIAL BROKER OR COMMERCIAL HAULER WHO HAS
CONTRACTED WITH THE OWNER OR OPERATOR OF AN AGRICULTURAL OPERATION
TO HAVE FOOD PROCESSING RESIDUALS UTILIZED AT THAT LOCATION.~~

~~(D) "COMMERCIAL BROKER" MEANS A PERSON WHO:~~

~~(1) FOR COMMERCIAL PURPOSES, ASSUMES TEMPORARY CONTROL
OF FOOD PROCESSING RESIDUALS FROM AN AGRICULTURAL OPERATION OR A FOOD
PROCESSING PLANT AND TRANSPORTS OR ARRANGES THE TRANSPORT OF THIS
MATERIAL TO AN IMPORTING AGRICULTURAL OPERATION; AND~~

(2) IS NOT WORKING FOR OR UNDER THE CONTROL OF AN AGRICULTURAL OPERATION.

(E) “COMMERCIAL HAULER” MEANS A PERSON THAT IS ENGAGED IN THE BUSINESS OF HAULING, TRANSPORTING, MOVING, OR LAND-APPLYING FOOD PROCESSING RESIDUALS AS A CONTRACT AGENT FOR A FARM OPERATOR, COMMERCIAL BROKER, OR FOOD PROCESSING PLANT UNDER THE DIRECTION OF THE OPERATOR, BROKER, OR PROCESSING PLANT.

(F) “FOOD PROCESSING RESIDUALS” MEANS AN ORGANIC MATERIAL THAT IS:

(1) GENERATED BY PROCESSING AGRICULTURAL COMMODITIES FOR HUMAN OR ANIMAL CONSUMPTION AND 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 CONSUMPTION OR ANIMAL CONSUMPTION; AND

(2) REGISTERED WITH THE STATE CHEMIST AS A SOIL CONDITIONER.

(G) “NRCS” MEANS THE NATURAL RESOURCES CONSERVATION SERVICE.

(H) “PERMIT” MEANS ~~AN INDUSTRIAL SLUDGE~~ A FOOD PROCESSING RESIDUALS UTILIZATION PERMIT.

~~(D)~~ (I) “UTILIZATION UTILIZE” MEANS:

(1) ~~COLLECTING, HANDLING, BURNING, STORING, OR TREATING INDUSTRIAL SLUDGE FOR DISPOSAL OR LAND APPLICATION~~ HANDLING OR STORING FOOD PROCESSING RESIDUALS OR USING FOOD PROCESSING RESIDUALS FOR LAND APPLICATION; AND

(2) TRANSPORTING ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS TO OR FROM ~~AN INDUSTRIAL SLUDGE~~ A GENERATOR OR UTILIZER IN THE ~~STATE~~ OF FOOD PROCESSING RESIDUALS TO OR FROM AN AGRICULTURAL OPERATION.

~~9-294.~~ 8-8A-02.

(A) EXCEPT AS PROVIDED IN THIS ~~PART~~ SUBTITLE, A PERSON MAY NOT UTILIZE ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS IN THE STATE.

(B) A PERSON SHALL OBTAIN A PERMIT BEFORE UTILIZING ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS IN THE STATE.

(C) A PERMIT AUTHORIZES THE PERMIT HOLDER TO UTILIZE ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS IN CONJUNCTION WITH AN AGRICULTURAL OPERATION IN ACCORDANCE WITH THIS SUBTITLE, REGULATIONS ADOPTED UNDER THIS SUBTITLE, AND THE TERMS OF THE PERMIT.

(D) A PERSON MUST HAVE A PERMIT FOR EACH SITE WHERE THE PERSON UTILIZES ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS.

8-8A-03.

A PERSON MAY NOT UTILIZE FOOD PROCESSING RESIDUALS IN CONJUNCTION WITH AN AGRICULTURAL OPERATION UNLESS:

(1) THE PERSON HAS A PERMIT;

(2) THE OWNER OR OPERATOR OF THE AGRICULTURAL OPERATION:

(I) HAS A NUTRIENT MANAGEMENT PLAN THAT MEETS THE REQUIREMENTS OF SUBTITLE 8 OF THIS TITLE; AND

(II) IS IN COMPLIANCE WITH THE PLAN;

(3) THE FOOD PROCESSING RESIDUALS BEING UTILIZED ARE:

(I) REGISTERED WITH THE STATE CHEMIST; AND

(II) APPLIED IN ACCORDANCE WITH THE NUTRIENT MANAGEMENT PLAN;

(4) IF THE PERSON IS NOT THE OWNER OR OPERATOR OF THE AGRICULTURAL OPERATION, THE PERSON HAS OBTAINED THE OWNER OR OPERATOR'S CONSENT TO UTILIZE THE FOOD PROCESSING RESIDUALS IN CONJUNCTION WITH THE AGRICULTURAL OPERATION;

(5) IF THE AGRICULTURAL OPERATION IS SUBJECT TO A DISCHARGE PERMIT UNDER § 9-301 OF THE ENVIRONMENT ARTICLE, THE OWNER OR OPERATOR OF THE AGRICULTURAL OPERATION IS IN COMPLIANCE WITH ALL LAWS, REGULATIONS, AND PERMITS GOVERNING THOSE PERMITTED ACTIVITIES; AND

(6) FOR STORAGE OF FOOD PROCESSING RESIDUALS, THE PERSON HAS OBTAINED ANY NECESSARY COUNTY APPROVAL OR PERMITS TO STORE MATERIAL AT THE AGRICULTURAL OPERATION.

~~9-295.~~ 8-8A-04.

AN APPLICANT FOR A PERMIT SHALL:

(1) ~~SUBMIT~~ AT LEAST 45 DAYS BEFORE UTILIZING THE FOOD PROCESSING RESIDUALS, SUBMIT AN APPLICATION TO THE DEPARTMENT ON THE FORM THAT THE DEPARTMENT REQUIRES;

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

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

(4) PROVIDE THE NAME AND ADDRESS OF ANY SOURCE OF ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS THAT WILL BE UTILIZED, INCLUDING:

(i) THE LOCATION, CAPACITY, AND AGE OF ANY STORAGE STRUCTURE AT THE SITE WHERE THE FOOD PROCESSING RESIDUALS WILL BE STORED; AND

(ii) ANY OTHER INFORMATION ABOUT THE STORAGE STRUCTURE THAT THE DEPARTMENT DEEMS NECESSARY IN ISSUING A PERMIT UNDER THIS SUBTITLE, INCLUDING EVIDENCE:

1. SHOWING THAT THE STRUCTURE MEETS THE NRCS WASTE STORAGE FACILITY NO. 313 CONSERVATION PRACTICE STANDARD OR AN EQUIVALENT STANDARD DETERMINED BY A PROFESSIONAL ENGINEER; AND

2. DEMONSTRATING ANY REQUIRED COUNTY APPROVAL OF THE STORAGE STRUCTURE, INCLUDING PERMITS REQUIRED FOR THE STRUCTURE;

(5) OBTAIN THE WRITTEN CONSENT OF THE OWNER OR OPERATOR OF THE LAND WHERE THE ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS WILL BE ~~APPLIED~~ UTILIZED, INCLUDING AN AGREEMENT FROM THE OWNER OR OPERATOR THAT THE OWNER OR OPERATOR WILL NOT VIOLATE THE PERMIT;

(6) AGREE TO ALLOW OR SECURE ACCESS TO ~~THE INDUSTRIAL SLUDGE~~ ANY FOOD PROCESSING RESIDUALS UTILIZATION SITE FOR ANY INSPECTION AUTHORIZED UNDER THIS PART SUBTITLE;

(7) PROVIDE THE DEPARTMENT WITH ACCEPTABLE EVIDENCE OF A PERFORMANCE BOND OR OTHER SECURITY IN THE AMOUNT THAT THE DEPARTMENT CONSIDERS SUFFICIENT TO GUARANTEE THE FULFILLMENT OF ANY REQUIREMENT RELATED TO THE PERMIT; ~~AND~~

~~(8) IF HAULING FOOD PROCESSING RESIDUALS, PROVIDE ALL HAULING ROUTES FROM THE FOOD PROCESSING GENERATOR TO THE AGRICULTURAL OPERATION; AND~~

~~(9)~~ (8) SATISFY EVERY OTHER REQUIREMENT OF THIS ~~PART~~ SUBTITLE.

~~9-296.~~ 8-8A-05.

~~(A) WITHIN 10 DAYS AFTER RECEIVING A PERMIT APPLICATION TO STORE INDUSTRIAL SLUDGE AT A FACILITY THAT IS PROPOSED FOR CONSTRUCTION AND WILL BE DESIGNED TO PRIMARILY STORE INDUSTRIAL SLUDGE FOR LATER UTILIZATION THAT INCLUDES STORING FOOD PROCESSING RESIDUALS IN CONJUNCTION WITH AN AGRICULTURAL OPERATION, THE DEPARTMENT SHALL:~~

~~(1) PUBLISH NOTICE OF THE APPLICATION IN A LOCAL NEWSPAPER THAT IS PRIMARILY IN CIRCULATION IN THE COUNTY WHERE THE INDUSTRIAL SLUDGE WILL BE APPLIED OR THE FACILITY WILL BE CONSTRUCTED;~~

~~(2) MAIL A COPY OF THE~~ PROVIDE NOTICE BY MAIL TO:

~~(i) THE LOCAL HEALTH OFFICIAL IN THE COUNTY WHERE THE INDUSTRIAL SLUDGE WILL BE APPLIED OR THE FACILITY WILL BE CONSTRUCTED;~~

~~(ii) THE THE CHAIR OF THE LEGISLATIVE BODY AND ANY ELECTED EXECUTIVE IN THE COUNTY WHERE THE INDUSTRIAL SLUDGE WILL BE APPLIED OR THE FACILITY WILL BE CONSTRUCTED;~~ FOOD PROCESSING RESIDUALS WILL BE STORED.

~~(iii) THE ELECTED EXECUTIVE OF ANY MUNICIPAL CORPORATION WHERE THE INDUSTRIAL SLUDGE WILL BE APPLIED OR THE FACILITY WILL BE CONSTRUCTED; AND~~

~~(iv) ANY COUNTY WITHIN 1 MILE OF WHERE THE INDUSTRIAL SLUDGE WILL BE APPLIED OR THE FACILITY WILL BE CONSTRUCTED; AND~~

~~(3) POST THE NOTICE ON THE DEPARTMENT'S WEBSITE.~~

~~(B) WITHIN 15 DAYS AFTER RECEIVING A NOTICE UNDER SUBSECTION (A) OF THIS SECTION, THE EXECUTIVE OR LEGISLATIVE BODY OF THE COUNTY OR MUNICIPAL CORPORATION WHERE THE INDUSTRIAL SLUDGE WILL BE APPLIED OR THE FACILITY WILL BE CONSTRUCTED MAY REQUEST THAT THE DEPARTMENT HOLD A PUBLIC HEARING.~~

~~9-297. 8-8A-06.~~

(A) ~~(1)~~ THE DEPARTMENT MAY ISSUE A PERMIT TO AN APPLICANT THAT SATISFIES THE REQUIREMENTS OF THIS ~~PART~~ SUBTITLE.

~~(2)~~ (B) THE DEPARTMENT MAY NOT ISSUE A PERMIT TO AN APPLICANT IF THE DEPARTMENT DETERMINES THAT AN APPLICANT CANNOT UTILIZE ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS WITHOUT:

~~(1)~~ (1) CAUSING UNDUE RISK TO:

~~1.~~ (I) THE ENVIRONMENT; OR

~~2.~~ (II) PUBLIC HEALTH, SAFETY, OR WELFARE; OR

~~(H)~~ (2) OTHERWISE VIOLATING THIS ~~PART~~ SUBTITLE.

~~(B) THE DEPARTMENT SHALL PROVIDE EACH COUNTY AND MUNICIPAL CORPORATION THAT RECEIVES A NOTICE UNDER § 9-296 OF THIS SUBTITLE WITH AN OPPORTUNITY TO CONSULT WITH THE DEPARTMENT ABOUT THE DEPARTMENT'S DECISION TO ISSUE, DENY, OR PLACE CONDITIONS ON A PERMIT.~~

~~(C) THE DEPARTMENT SHALL SEND THE FOLLOWING INFORMATION TO THE LOCAL HEALTH OFFICIAL AND LOCAL SOIL CONSERVATION DISTRICT IN THE COUNTY FOR WHICH A PERMIT APPLICATION IS RECEIVED:~~

~~(1) A COPY OF ANY PERMIT ISSUED IN THE COUNTY;~~

~~(2) A NOTICE OF THE DENIAL OF A PERMIT APPLICATION THAT WOULD HAVE AUTHORIZED THE UTILIZATION OF INDUSTRIAL SLUDGE IN THE COUNTY;~~

~~(3) A NOTICE OF THE SUSPENSION, REVOCATION, MODIFICATION, OR TERMINATION OF A PERMIT ISSUED IN THE COUNTY;~~

~~(4) A COPY OF ANY NOTICE, COMPLAINT, OR ORDER THE DEPARTMENT ISSUES UNDER THIS PART THAT RELATES TO THE COUNTY; AND~~

~~(5) A COPY OF ANY REPORT FILED WITH THE DEPARTMENT IN ACCORDANCE WITH A CONDITION OF A PERMIT.~~

~~(D) THE DEPARTMENT SHALL MAINTAIN A PERMANENT PUBLIC RECORD ON THE DEPARTMENT'S WEBSITE OF ALL PERMITS ISSUED UNDER THIS PART.~~

~~9-298.~~ 8-8A-07.

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

(2) THE TERM OF A PERMIT MAY NOT LAST FOR MORE THAN ~~3 YEARS~~ 1 YEAR.

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

(I) IS IN COMPLIANCE WITH:

1. THE CONDITIONS OF THE PERMIT;
2. THE REQUIREMENTS OF THIS ~~PART; AND~~ SUBTITLE;
3. ALL APPLICABLE REGULATIONS ESTABLISHED BY THE DEPARTMENT; AND
4. AN APPLICABLE DISCHARGE PERMIT UNDER § 9-301 OF THE ENVIRONMENT ARTICLE;

(II) SUBMITS TO THE DEPARTMENT IN A TIMELY MANNER A RENEWAL APPLICATION ON THE FORM THAT THE DEPARTMENT REQUIRES; AND

(III) PAYS A RENEWAL APPLICATION FEE.

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

(I) THE PERMIT HOLDER VIOLATES THIS ~~PART~~ SUBTITLE, ANY REGULATION ADOPTED BY THE DEPARTMENT UNDER THIS ~~PART~~ SUBTITLE, OR ANY CONDITION OF THE PERMIT;

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

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

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

~~9-299. 8-8A-08.~~

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

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

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

~~(3) ENSURE THAT INDUSTRIAL SLUDGE IS APPLIED:~~

~~(I) BY SUBSURFACE INJECTION;~~

~~(II) UNIFORMLY AND AT A RATE THAT DOES NOT CONTRIBUTE TO RUNOFF;~~

~~(III) ONLY ON SOIL THAT:~~

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

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

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

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

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

~~(VII) IN LOCATIONS THAT DO NOT INTERFERE WITH THE BUFFER AREAS ESTABLISHED BY THE DEPARTMENT IN REGULATION UNDER § 9-299.4 OF THIS SUBTITLE~~ FOOD PROCESSING RESIDUALS ARE UTILIZED IN ACCORDANCE WITH:

(I) § 8-8A-03 OF THIS SUBTITLE; AND

(II) GOOD HUSBANDRY AND SOUND AGRONOMIC PRACTICES;

(3) ALLOW A REPRESENTATIVE OF THE DEPARTMENT, SEEKING TO INSPECT A SITE, ENTRY TO ANY AREA COVERED BY THE PERMIT;

(4) KEEP RECORDS REGARDING THE UTILIZATION OF ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS, INCLUDING DAILY RECORDS OF THE SOURCE AND AMOUNT OF ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS IN EACH TRUCKLOAD DELIVERED TO A SITE;

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

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

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

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

~~(9)~~ (6) PROVIDE TO THE DEPARTMENT OR THE RELEVANT LOCAL HEALTH OFFICIAL ANY INFORMATION THAT THE DEPARTMENT REQUIRES; AND

~~(10)~~ (7) COMPLY WITH ANY OTHER REQUIREMENT SET BY THE DEPARTMENT.

~~9-299.1.~~ 8-8A-09.

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

- (1) THE PERMIT APPLICATION CONTAINED FALSE OR INACCURATE INFORMATION;
- (2) THERE HAS BEEN A SUBSTANTIAL DEVIATION FROM:
 - (I) THE PLANS, SPECIFICATIONS, OR OTHER DOCUMENTS APPROVED BY THE DEPARTMENT; OR
 - (II) ANY REQUIREMENT ESTABLISHED BY THE DEPARTMENT;
- (3) A REPRESENTATIVE OF THE DEPARTMENT SEEKING TO INSPECT A SITE IN ACCORDANCE WITH § ~~9-299.2~~ 8-8A-10 OF THIS SUBTITLE HAS BEEN REFUSED ENTRY TO ANY AREA COVERED BY THE PERMIT;
- (4) THERE IS OR HAS BEEN A VIOLATION OF THIS ~~PART~~ SUBTITLE, ANY REGULATION ADOPTED UNDER THIS ~~PART~~ SUBTITLE, OR ANY CONDITION OF THE PERMIT; OR
- (5) THERE IS ANY OTHER GOOD CAUSE AS DETERMINED BY THE DEPARTMENT.

~~9-299.2~~ 8-8A-10.

(A) TO ENFORCE THIS ~~PART~~ SUBTITLE AND TO ENSURE COMPLIANCE WITH A PERMIT, A REPRESENTATIVE OF THE DEPARTMENT MAY ENTER AND INSPECT, AT ANY REASONABLE TIME, ANY SITE WHERE ~~INDUSTRIAL SLUDGE IS~~ FOOD PROCESSING RESIDUALS ARE UTILIZED.

(B) A PERMIT HOLDER OR OTHER PERSON AT A SITE WHERE ~~INDUSTRIAL SLUDGE IS~~ FOOD PROCESSING RESIDUALS ARE UTILIZED MAY NOT:

- (1) REFUSE ACCESS TO THE SITE TO ANY REPRESENTATIVE OF THE DEPARTMENT THAT REQUESTS ACCESS UNDER THIS SECTION; OR
- (2) INTERFERE WITH ANY INSPECTION UNDER THIS ~~PART~~ SUBTITLE.

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

~~9-299.3,~~ 8-8A-11.

(A) IN ADDITION TO ANY OTHER REMEDY AUTHORIZED UNDER THIS SUBTITLE, THE DEPARTMENT MAY BRING AN ACTION TO ENJOIN THE VIOLATION OF ANY LAW, REGULATION, OR ORDER CONCERNING THE UTILIZATION OF ~~INDUSTRIAL SLUDGE~~ FOOD PROCESSING RESIDUALS UNDER THIS ~~PART~~ SUBTITLE.

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

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

~~(ii) WITH RESPECT TO THE INDUSTRIAL SLUDGE UTILIZATION SITE, TO INTERVENE IN ANY;~~

~~1. CIVIL COURT PROCEEDING; AND~~

~~2. CONTESTED ADMINISTRATIVE CASE.~~

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

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

~~(ii) WITH RESPECT TO THE INDUSTRIAL SLUDGE UTILIZATION SITE, TO INTERVENE IN ANY;~~

~~1. CIVIL COURT PROCEEDING; AND~~

~~2. CONTESTED ADMINISTRATIVE CASE~~ THE RIGHT TO BRING AN ACTION UNDER SUBSECTION (A) OF THIS SECTION IS IN ADDITION TO AND NOT INSTEAD OF THE RIGHT TO BRING ANY OTHER ACTION UNDER THIS SUBTITLE.

(C) THE DEPARTMENT MAY NOT BE REQUIRED TO FURNISH BOND.

(D) THE COURT SHALL ISSUE A PRELIMINARY INJUNCTION IF IT FINDS THAT THE PERMIT HOLDER IS:

(1) ENGAGING IN UNLAWFUL CONDUCT IN VIOLATION OF THIS SUBTITLE; OR

(2) ENGAGED IN CONDUCT WHICH IS CAUSING IMMEDIATE AND IRREPARABLE HARM TO THE PUBLIC.

~~9-299.4.~~

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

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

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

~~(i) ALTERNATIVE UTILIZATION METHODS;~~

~~(ii) CONTROL OF PATHOGENS AND POLLUTANTS OF CONCERN IDENTIFIED BY THE DEPARTMENT;~~

~~(iii) ADVERTISING REQUIREMENTS FOR PUBLIC HEARINGS AND PUBLIC INFORMATION MEETINGS;~~

~~(iv) PERFORMANCE BONDS, LIABILITY INSURANCE, OR OTHER FORMS OF SECURITY;~~

~~(v) PROCEDURES FOR NOTIFYING UNITS OF LOCAL GOVERNMENT AND OTHER INTERESTED PARTIES;~~

~~(vi) ADEQUATE STANDARDS FOR TRANSPORTING INDUSTRIAL SLUDGE;~~

~~(vii) EXISTING LAWS AND REGULATIONS GOVERNING THE APPLICATION AND SUITABILITY OF SOIL AMENDMENTS FOR LAND APPLICATION;~~

~~(viii) METHODS FOR CALCULATING LOADING RATES THAT:~~

~~1. WILL ENSURE NONDEGRADATION OF THE GROUNDWATER; AND~~

~~2. ARE LIMITED BY THE NUTRIENT REQUIREMENTS OF CROP OR COVER VEGETATION, AS RECOMMENDED BY THE DEPARTMENT OF AGRICULTURE;~~

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

~~(X) THE NATURE OF ANY NEARBY SURFACE WATER OR GROUNDWATER;~~

~~(XI) THE CHARACTER OF ANY AFFECTED AREA;~~

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

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

~~(XIV) THE DEFINITIONS OF:~~

~~1. INDUSTRIAL SLUDGE THAT IS UNSUITABLE FOR APPLICATION TO AGRICULTURAL LAND;~~

~~2. AGRICULTURAL LAND;~~

~~3. MARGINAL LAND; AND~~

~~4. COMPOST;~~

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

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

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

~~(c) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH AND UPDATE PERMIT APPLICATION FEES.~~

~~(2) (i) THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR PUBLIC INPUT ON THE DEVELOPMENT OF A FEE SCHEDULE UNDER THIS SECTION.~~

~~(ii) A FEE SCHEDULE DEVELOPED UNDER THIS SECTION SHALL INCLUDE CONSIDERATION OF:~~

~~1. THE ANTICIPATED COSTS OF MONITORING AND REGULATING INDUSTRIAL SLUDGE UTILIZATION SITES;~~

~~2. THE ANTICIPATED COSTS OF IMPLEMENTING THIS PART; AND~~

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

8-8A-12.

(A) IN ADDITION TO ANY OTHER ACTION AUTHORIZED UNDER THIS SUBTITLE, THE DEPARTMENT MAY IMPOSE ADMINISTRATIVE PENALTIES UP TO \$5,000 PER DAY, NOT TO EXCEED \$50,000 IN TOTAL PENALTIES, FOR A VIOLATION OF THIS SUBTITLE, REGULATIONS ADOPTED UNDER THIS SUBTITLE, OR ANY CONDITION OF THE PERMIT.

(B) THE PENALTY SHALL BE ASSESSED WITH CONSIDERATION GIVEN TO:

(1) THE WILLFULNESS OF THE VIOLATION;

(2) THE EXTENT TO WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT UNCORRECTED BY THE VIOLATOR;

(3) THE EXTENT TO WHICH THE VIOLATOR EXERCISED REASONABLE CARE;

(4) THE EXTENT TO WHICH THE VIOLATION RESULTED IN ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY;

(5) THE NATURE AND DEGREE OF INJURY TO OR INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

(6) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION COMMITTED BY THE VIOLATOR; AND

(7) THE EXTENT TO WHICH THE VIOLATION CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY.

8-8A-13.

(A) THERE IS A FOOD PROCESSING RESIDUALS ADMINISTRATION FUND.

(B) (1) THE DEPARTMENT SHALL SET REASONABLE FEES NECESSARY TO CARRY OUT ITS RESPONSIBILITIES REGULATING THE UTILIZATION OF FOOD PROCESSING RESIDUALS UNDER THIS TITLE.

(2) THE FEES CHARGED SHALL BE SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF ADMINISTERING THE DEPARTMENT'S RESPONSIBILITIES REGULATING THE UTILIZATION OF FOOD PROCESSING RESIDUALS UNDER THIS TITLE.

(C) (1) THE DEPARTMENT SHALL PAY ALL FEES COLLECTED UNDER THE PROVISIONS OF THIS SUBTITLE TO THE COMPTROLLER ~~OF THE STATE.~~

(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES RECEIVED FROM THE DEPARTMENT TO THE FOOD PROCESSING RESIDUALS ADMINISTRATION FUND.

(D) THE FOOD PROCESSING RESIDUALS ADMINISTRATION FUND SHALL BE USED EXCLUSIVELY TO COVER THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE DEPARTMENT AS PROVIDED BY THE PROVISIONS OF THIS TITLE.

(E) (1) THE FOOD PROCESSING RESIDUALS ADMINISTRATION FUND IS A CONTINUING, NONLAPSING *SPECIAL FUND THAT IS NOT* SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) ANY UNSPENT PORTION OF THE FOOD PROCESSING RESIDUALS ADMINISTRATION FUND MAY NOT BE TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FOOD PROCESSING RESIDUALS ADMINISTRATION FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS TITLE.

(F) (1) ~~A DESIGNEE OF THE DEPARTMENT~~ *THE SECRETARY OR THE SECRETARY'S DESIGNEE* SHALL ADMINISTER THE FUND.

(2) MONEY IN THE FUND MAY BE EXPENDED ONLY FOR ANY LAWFUL PURPOSE AUTHORIZED UNDER THE PROVISIONS OF THIS TITLE.

(G) ~~THE LEGISLATIVE AUDITOR SHALL AUDIT THE~~ ACCOUNTS AND TRANSACTIONS OF THE FUND SHALL BE SUBJECT TO AUDIT AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

8-8A-14.

(A) (1) EACH PERSON ISSUED A PERMIT UNDER THIS SUBTITLE SHALL SUBMIT TO THE DEPARTMENT ON A FORM THAT THE DEPARTMENT REQUIRES:

(I) A SEMIANNUAL WRITTEN STATEMENT OF THE TONNAGE OF FOOD PROCESSING RESIDUALS UTILIZED IN CONJUNCTION WITH AN AGRICULTURAL OPERATION IN THE STATE; AND

(II) ANY OTHER INFORMATION THE DEPARTMENT DEEMS NECESSARY IN ADMINISTERING THIS PROGRAM.

(2) THE STATEMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE UTILIZATIONS FOR THE PERIODS JANUARY 1 THROUGH JUNE 30 AND JULY 1 THROUGH DECEMBER 31.

(B) (1) THE PERMIT HOLDER SHALL KEEP RECORDS NECESSARY OR REQUIRED BY THE DEPARTMENT TO INDICATE ACCURATELY THE TONNAGE OF FOOD PROCESSING RESIDUALS UTILIZED IN CONJUNCTION WITH AGRICULTURAL OPERATIONS IN THE STATE.

(2) THE DEPARTMENT HAS THE RIGHT TO EXAMINE THE RECORDS TO VERIFY ANY STATEMENT OF TONNAGE.

8-8A-15.

(A) THE DEPARTMENT, IN CONSULTATION WITH THE MARYLAND DEPARTMENT OF THE ENVIRONMENT, SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) THE REGULATIONS ADOPTED BY THE DEPARTMENT MAY INCLUDE:

(1) ADEQUATE STANDARDS FOR HAULING FOOD PROCESSING RESIDUALS;

(2) ADEQUATE STANDARDS GOVERNING THE APPLICATION AND SUITABILITY OF SOIL CONDITIONERS FOR LAND APPLICATION, INCLUDING STANDARDS GOVERNING THE NUMBER OF APPLICATIONS PER FIELD PER SEASON CONSISTENT WITH GOOD HUSBANDRY AND SOUND AGRONOMIC PRACTICES;

(3) THE CROPS THAT ARE TO BE GROWN ON LAND ON WHICH FOOD PROCESSING RESIDUALS MAY BE APPLIED;

(4) THE CHARACTER OF NEARBY EXISTING LAND USES ~~AND~~ TRANSPORTATION ROUTES;

(5) ACCEPTABLE NUTRIENT APPLICATION RATES, INCLUDING RATES FOR NITROGEN, PHOSPHORUS, AND HEAVY METALS, CONSISTENT WITH RECOMMENDATIONS PUBLISHED OR ACCEPTED BY THE DEPARTMENT FOR NUTRIENT MANAGEMENT;

(6) REASONABLE BUFFER AREAS TO SEPARATE ANY HOME OR OTHER PROPERTY ON WHICH FOOD PROCESSING RESIDUALS MAY BE APPLIED;

(7) METHODS FOR CALCULATING NUTRIENT APPLICATION RATES THAT ARE LIMITED BY THE NUTRIENT REQUIREMENTS OF THE HARVESTABLE CROP OR COVER CROP; AND

(8) ANY OTHER STANDARDS DEEMED NECESSARY BY THE DEPARTMENT.

SUBTITLE 11. COMMERCIAL HAULER CERTIFICATION PROGRAM.

8-1101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "FOOD PROCESSING RESIDUALS" HAS THE MEANING STATED IN § 8-8A-01 OF THIS TITLE.

(C) "HAULING" MEANS TRANSPORTING, MOVING, AND THE LAND APPLICATION OF FOOD PROCESSING RESIDUALS.

8-1102.

(A) THE DEPARTMENT MAY ADMINISTER A COMMERCIAL HAULER CERTIFICATION PROGRAM FOR THE PURPOSE OF CERTIFYING INDIVIDUALS WHO HAUL FOOD PROCESSING RESIDUALS.

(B) (1) THE DEPARTMENT MAY DEVELOP TRAINING AND EDUCATIONAL REQUIREMENTS, TESTING, AND OTHER CRITERIA IT DEEMS NECESSARY FOR CERTIFICATION.

(2) THE TRAINING DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY ADDRESS THE FOLLOWING TOPICS:

(I) LAWS AND REGULATIONS PERTAINING TO THE HAULING OF FOOD PROCESSING RESIDUALS;

(II) INFORMATION NECESSARY FOR UNDERSTANDING AND FOLLOWING A NUTRIENT MANAGEMENT PLAN; AND

(III) BEST MANAGEMENT PRACTICES WITH RESPECT TO:

- 1. HAULING;**
- 2. TRANSPORTATION SAFETY PROCEDURES;**
- 3. CALIBRATION OF APPLICATION RATES FOR VARIOUS TYPES OF APPLICATION EQUIPMENT;**
- 4. SETBACKS FROM WATER SOURCES AND PROPERTY LINES;**
- 5. NUTRIENT RUNOFF CONCERNS;**
- 6. INCORPORATION AND INJECTION TECHNIQUES; AND**
- 7. RECORD-KEEPING REQUIREMENTS ESTABLISHED BY THE DEPARTMENT FOR HAULING.**

8-1103.

THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF THE ENVIRONMENT, MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

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

Approved by the Governor, May 9, 2024.