

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2014 Legislative Session, Legislative Day No. : September 9, 2014

Bill No.: 1296

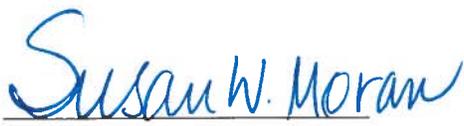
Expiration Date: November 13, 2014

Introduced by: Mr. Bartlett, Mr. Duncan, Mr. Hollis, Mr. Pack, Ms. Price

A BILL TO ESTABLISH INSPECTION, OPERATION, AND MAINTENANCE REQUIREMENTS FOR ON-SITE SEWAGE DISPOSAL SYSTEMS UTILIZING BEST AVAILABLE TECHNOLOGY (“BAT”) FOR THE REMOVAL OF NITROGEN; TO REQUIRE ANNUAL INSPECTION, AND IF NECESSARY MAINTENANCE AND REPAIR OF BAT SYSTEMS BY A CERTIFIED SERVICE PROVIDER OR BY THE PROPERTY OWNER, IF CERTIFIED PURSUANT TO REGULATIONS APPROVED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (“MDE”), AND TO PROVIDE FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER

By the Council: September 9, 2014

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, October 14, 2014 at 2:00 p.m. at the Bradley Meeting Room, Talbot County Courthouse, South Wing, 11 North Washington Street, Easton, Maryland 21601.

By Order 
Susan W. Moran, Secretary

A BILL TO ESTABLISH INSPECTION, OPERATION, AND MAINTENANCE REQUIREMENTS FOR ON-SITE SEWAGE DISPOSAL SYSTEMS UTILIZING BEST AVAILABLE TECHNOLOGY (“BAT”) FOR THE REMOVAL OF NITROGEN; TO REQUIRE ANNUAL INSPECTION, AND IF NECESSARY MAINTENANCE AND REPAIR OF BAT SYSTEMS BY A CERTIFIED SERVICE PROVIDER OR BY THE PROPERTY OWNER, IF CERTIFIED PURSUANT TO REGULATIONS APPROVED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT (“MDE”), AND TO PROVIDE FOR COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER

KEY	
Boldface	Heading or defined term
<u>Underlining</u>	Added to existing law by original bill
Strikethrough	Deleted from existing law by original bill
<u><u>Double underlining</u></u>	Added to bill by amendment
<u>Double strikethrough</u>	Deleted from bill by amendment
* * *	Existing law unaffected

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that Chapter 146 of the Talbot County Code, entitled *Septic Systems Inspection, Operation and Maintenance of Bat Systems*, shall be and is hereby adopted as set forth herein:

§ 146-1. Definitions

- (a) **“BAT” or “System”** means an on-site sewage disposal system that has been approved by the Maryland Department of the Environment as a best available technology for removing nitrogen.
- (b) **“Certified Service Provider”** – means an individual who is certified by the Maryland Department of Environment to perform operation and maintenance on BAT Systems.
- (c) **“Department”** – means the Talbot County Department of Public Works.
- (d) **“MDE”** – means the Maryland Department of the Environment.
- (e) **“On-site sewage disposal system”** means a sewage treatment unit, collection system, disposal area, and related appurtenances related to on-site sewage disposal.

§ 146-2. Rules of Construction

- (a) The State of Maryland has adopted laws and regulations concerning inspection, operation and maintenance of BAT Systems, COMAR 26.04.02.07. This ordinance shall not be construed or applied to supersede or contravene State laws or regulations as amended from time to time. This ordinance shall be construed as consistent with all State laws and regulations regarding inspection, operation, and maintenance of BAT Systems unless such construction would be unreasonable, and in that event the regulation that imposes the higher standard or stricter requirement shall control.
- (b) The singular includes the plural, the masculine gender includes the feminine, “shall” is mandatory, “may” is permissive. “Herein”, “hereby”, “hereunder”, “hereof”, “hereinbefore,” “hereinafter” and other equivalent words refer to this ordinance and not solely to the particular portion thereof in which any such word is used. “And” includes the disjunctive and “or” includes the conjunctive. Whenever the words “include,” “includes” or “including” are used in this ordinance, they shall be deemed to be followed by the words “without limitation.”

§ 146-3. Annual inspection, maintenance and operation, and reporting

- (a) Inspection. All Systems shall be inspected by a certified service provider at least once every 12 months following installation to ensure that the System is operating in accordance with the manufacturer’s recommendations and in compliance with reasonable performance standards adopted by the Department or MDE, whichever imposes the higher standard.
- (b) Maintenance and repair. All Systems shall be maintained and repaired by a certified service provider throughout the life of the system in compliance with the requirements of this Chapter. A property owner may become a certified service provider in accordance with applicable MDE regulations to inspect, operate and maintain the property owner’s BAT System.
- (c) The Department is authorized to conduct compliance inspections of grant-funded Systems to ensure that the Systems are being operated and maintained in compliance with the requirements of this Chapter.

§ 146-4. Owners’ responsibilities

- (a) Property owners shall ensure that each System on their property is inspected at least once every 12 months pursuant to § 146-3 (a) and that it receives all required maintenance and repairs in accordance with § 146-3 (b).
- (b) The property owner shall provide the Department with the contact information of the certified service provider responsible for inspection, maintenance, and repair of their System. The Department may communicate directly with the certified service provider regarding inspection results, maintenance, or repair of the System.

§ 146-5. Certified service provider’s responsibilities

Certified service providers shall maintain records of all inspections, maintenance, and repairs performed on Systems under § 146-3 (a) and (b), and shall furnish copies of such records to the Department and MDE at least annually.

§ 146-6. Compliance

(a) A person who fails to comply with the requirements of this Chapter shall be subject to the following remedies, which are alternative and cumulative, and not exclusive:

(i) Notice. The Department may send a written *Notice of Non-compliance and Request for Compliance* advising the property owner or certified service provider to comply with the requirements of this Chapter within thirty (30) days from the date of the notice.

(ii) Administrative abatement orders, civil fines and penalties. Upon failure to comply with any notice under § 146-6 (a) (i), above, the County may issue administrative abatement orders or assess civil fines and penalties in accordance with Chapter 58, Talbot County Code.

(iii) Inspection, maintenance, and repair. Upon failure to comply with a notice under § 146-6 (a) (i) or an administrative abatement order under § 146-6 (a) (ii):

(1) Performance. The Department, through an employee or an independent certified service provider, may perform inspections, maintenance, and repairs necessary to bring Systems into compliance with the requirements of this Chapter.

(2) Prior written notice. The Department shall provide the owner not less than 72-hours advance written notice of the date and time scheduled for the Department or its agent to inspect or to perform any maintenance or repairs pursuant to § 146-6 (a) (iii) (1).

(3) Right of entry. Provided the Department has provided notice under § 146-6 (a) (iii) (2), the Department's agents or employees may enter upon the property to inspect, maintain, and repair the System as necessary to bring it into compliance with the requirements of this Chapter.

(4) The property owner shall reimburse the County for the costs incurred to perform such services. All such costs shall be due and payable in addition to any civil fines or penalties imposed for any violation.

(5) If any civil fine or penalty, or any invoice for any costs incurred by the County to perform such services, is not paid within thirty (30) days from the date any assessment or invoice was mailed to the property owner, the invoice or assessment shall be delivered to the Finance Office, and when so delivered shall become a lien on the real property against which the fine or penalty has been assessed or for which such services have been provided. All such liens

shall have the same priority and shall be subject to the same penalties, interest, and collection remedies as unpaid County real estate taxes.

SECTION TWO: The Department's BAT Inspection program may be eligible for grant funding from the State of Maryland's Bay Restoration Fund. The Department shall, from time to time, apply for such grant funding as may be available to reimburse the County for costs associated with the administration and enforcement of the BAT inspection program.

SECTION THREE: BE IT FURTHER ENACTED, that the title and a summary of this Bill shall be published once on the first publication date after enactment of the Bill in accordance with County Charter § 213 (c). The title is not a substantive part of this Bill. If the Bill is amended, the title may be administratively revised if required to conform the title to the content of the Bill as finally enacted.

SECTION FOUR: BE IT FURTHER ENACTED, that if any provision of this Bill or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of the Bill which can be given effect without the invalid provision or application, and for this purpose the provisions of this Bill are declared severable.

SECTION FIVE: BE IT FURTHER ENACTED, that the Publishers of the Talbot County Code or the Talbot County Office of Law, in consultation with and subject to the approval of the County Manager, may make non-substantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any internal or external reference or citation included in this Bill, as finally adopted, that are incorrect or obsolete, with no further action required by the County Council. All such corrections shall be adequately referenced and described in an editor's note following the section affected.

SECTION SIX: AND BE IT FURTHER ENACTED, that this ordinance shall take effect sixty (60) days from the date of its passage.

PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. 1296 having been published, a public hearing was held on Tuesday, October 14, 2014 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the third time.

ENACTED: **October 14, 2014**

By Order Susan W. Moran
Susan W. Moran, Secretary

- Pack - Aye
- Hollis - Aye (via absentee ballot)
- Bartlett - Aye
- Price - Aye
- Duncan - Aye

Effective date: **December 13, 2014**

