Appeal Process for Well, On-Site Sewage Disposal, Subdivision, and Shared Facility Decisions

The following section outlines the appeal rights for certain water and sewage decisions by the Maryland Department of the Environment (MDE) and the Talbot County Health Department (TCHD).

Right to Appeal

The Administrative Procedure Act (Title 10, Subtitle 2 of the State Government Article of the Annotated Code of Maryland) sets forth the procedures for appealing a final decision issued by MDE or an Approving Authority regarding the grant, denial, renewal suspension or amendment of a license, certificate, charter, permit or registration that is required by statute. The appeal is in the form of a contested case hearing with the Office of Administrative Hearings (OAH).
In addition to the Administrative Procedure Act, both MDE and OAH have regulations that govern rules of procedure for contested case hearings (COMAR 26.01.01 et seq and COMAR 28.02.01 et seq).

Decisions That Can Be Appealed to MDE

This appeal right applies to the following final decisions:

● Sewage disposal where public sewage systems are not available (Code of Maryland Regulations (COMAR) 26.04.02);
● Water supply and sewage systems in subdivisions (COMAR 26.04.03);
● Well construction (COMAR 26.04.04); and
● Water supply, sewage disposal and solid waste as part of shared facilities (COMAR 26.04.05).

Notice of Right to Appeal

When MDE or TCHD issues a final decision as referenced above, a written notice letter will be issued to the applicant seeking MDE or TCHD approval. The notice will include appeal rights and required timeframes to file an appeal.

Requesting an Appeal

1) It is recommended that you contact the Office of Environmental Health to discuss the reason that your permit application was not approved and to determine if there is a possible resolution to the denial. The phone number for the Office of Environmental Health is (410) 770-6880.

2) If there is not a simple resolution, you can request an informal conference with the Health Officer and the Director of Environmental Health to have a more in-depth discussion. You

may invite your consultant or other qualified professional to accompany you at the meeting since the potential solutions are often technical in nature.

3) If an informal conference does not resolve the issue leading to a denial and you are issued a final denial by the TCHD or MDE, you have the right to request a formal appeal with the Maryland Department of Environment. All requests for contested case hearings shall be filed with MDE's Water and Science Management Administration Director, 1800 Washington Blvd, Baltimore, MD 21230 within thirty (30) calendar days after notification of the final decision by MDE or the Talbot County Health Department.

   The written request for a contested case hearing must include a hearing request and attach a copy of the MDE or Approving Authority notice letter that is being appealed. The request should also include a brief statement of the factual and legal basis for the appeal. After receiving the request for a contested case hearing, MDE will transmit the request to the Office of Administrative Hearings (OAH).

4) Upon receipt of the filing, OAH will send written notices to the parties, confirming the filing and notice of relevant hearing dates. The hearing will be conducted as provided for in the Administrative Appeals Act, as well as OAH and MDE procedure regulations.

Loss of Appeal Rights

If a request for a contested case, hearing is not made within thirty (30) calendar days, the final decision of MDE or the Approving Authority is no longer appealable and the decision is considered final. The applicant must comply with any terms and conditions of the final decision.