

SENATE BILL 706

M3

4lr2440
CF 4lr2444

By: **Senators Benson, Madaleno, Manno, Pinsky, Ramirez, and Rosapepe**

Introduced and read first time: January 31, 2014

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Permit Determinations – Cumulative Impact Assessments**

3 FOR the purpose of requiring the Department of the Environment to conduct a
4 cumulative impact assessment before preparing a tentative determination on
5 certain permit applications; requiring a cumulative impact assessment to
6 address the likely impact on the environment and on human populations that
7 will result from certain incremental impacts; authorizing the Department to
8 take certain actions with respect to a permit on the basis of a cumulative impact
9 assessment conducted under this Act; requiring the Department to include a
10 summary of the results of a cumulative environmental impact conducted under
11 this Act in certain tentative or final permit determinations; requiring the
12 Department to adopt regulations necessary to implement this Act; providing for
13 the application of this Act; defining a certain term; and generally relating to
14 cumulative impact assessments.

15 BY repealing and reenacting, with amendments,

16 Article – Environment

17 Section 1–604

18 Annotated Code of Maryland

19 (2013 Replacement Volume)

20 BY adding to

21 Article – Environment

22 Section 1–901 through 1–903 to be under the new subtitle “Subtitle 9.

23 Cumulative Impact Assessments”

24 Annotated Code of Maryland

25 (2013 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Environment

1–604.

(a) (1) After the Department receives the permit application, the Department shall prepare a tentative determination, which shall include the following information:

(i) A proposal to issue or to not issue a permit;

(ii) Any proposed permit limitations and conditions;

(iii) A brief explanation of the Department's tentative determination; [and]

(IV) A BRIEF SUMMARY OF THE RESULTS OF THE CUMULATIVE IMPACT ASSESSMENT REQUIRED UNDER § 1–902 OF THIS TITLE; AND

[(iv)] (V) Any proposed schedule of compliance.

(2) If the tentative determination is to issue a permit, the tentative determination shall include a draft permit, which shall be available to the public for inspection and copying.

(3) The Department shall publish a notice of the tentative determination. This publication shall allow 30 calendar days for public comment before the issuance of the final determination.

(4) (i) The Department shall schedule a public hearing on the tentative determination when a written request for a public hearing is made within 20 days of publication of a notice of the tentative determination.

(ii) The public hearing may be canceled if all persons who made timely written requests withdraw the requests prior to the meeting. In addition, the Department may schedule a public hearing on a tentative determination at its discretion.

(b) (1) The Department shall prepare a final determination if:

(i) Written comments adverse to the tentative determination were received by the Department within 30 days after the publication of the notice of tentative determination pursuant to this section;

(ii) Comments adverse to the tentative determination were received in writing at, or within 5 days after, the public hearing conducted pursuant to this section;

(iii) Comments adverse to the tentative determination were received orally at the public hearing conducted pursuant to this section and the Department prepared a transcript of the comments made at the hearing; or

(iv) The final determination is substantively different from the tentative determination and all persons aggrieved by the final determination have not waived, in writing, their right to request a contested case hearing.

(2) If the Department is required to prepare a final determination under this section, the Department shall publish a notice of the final determination.

(3) If the Department is not required to prepare a final determination under this section, the tentative determination is a final decision by the Department when the permit is issued or denied.

SUBTITLE 9. CUMULATIVE IMPACT ASSESSMENTS.

1-901.

IN THIS SUBTITLE, "POLLUTION" MEANS:

(1) "AIR POLLUTION" AS DEFINED IN § 2-101 OF THIS ARTICLE;
AND

(2) "POLLUTION" AS DEFINED IN § 5-101 OF THIS ARTICLE.

1-902.

(A) THIS SECTION APPLIES ONLY TO THE FOLLOWING PERMITS ISSUED BY THE DEPARTMENT:

(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 § 9-204 OF THIS ARTICLE;

(3) PERMITS TO DISCHARGE POLLUTANTS TO WATERS OF THE STATE ISSUED IN ACCORDANCE WITH § 9-323 OF THIS ARTICLE;

1 **(4) PERMITS TO INSTALL, MATERIALLY ALTER, OR MATERIALLY**
2 **EXTEND A STRUCTURE USED FOR STORAGE OR DISTRIBUTION OF ANY TYPE OF**
3 **SEWAGE SLUDGE ISSUED, RENEWED, OR AMENDED IN ACCORDANCE WITH §**
4 **9-231 OF THIS ARTICLE;**

5 **(5) PERMITS TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A**
6 **CONTROLLED HAZARDOUS SUBSTANCE FACILITY ISSUED IN ACCORDANCE WITH**
7 **§ 7-232 OF THIS ARTICLE;**

8 **(6) PERMITS TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A**
9 **HAZARDOUS MATERIAL FACILITY ISSUED IN ACCORDANCE WITH § 7-103 OF THIS**
10 **ARTICLE; AND**

11 **(7) PERMITS TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A**
12 **LOW-LEVEL NUCLEAR WASTE FACILITY ISSUED IN ACCORDANCE WITH § 7-232**
13 **OF THIS ARTICLE.**

14 **(B) (1) BEFORE PREPARING A TENTATIVE DETERMINATION ON AN**
15 **APPLICATION FOR A PERMIT LISTED UNDER SUBSECTION (A) OF THIS SECTION,**
16 **THE DEPARTMENT SHALL CONDUCT A CUMULATIVE IMPACT ASSESSMENT.**

17 **(2) THE CUMULATIVE IMPACT ASSESSMENT SHALL ADDRESS THE**
18 **LIKELY IMPACT ON THE ENVIRONMENT AND ON HUMAN POPULATIONS THAT**
19 **WILL RESULT FROM THE INCREMENTAL IMPACT OF THE ACTIVITY AUTHORIZED**
20 **UNDER THE PERMIT WHEN ADDED TO THE IMPACT OF OTHER PAST, PRESENT,**
21 **AND REASONABLY FORESEEABLE FUTURE SOURCES OF POLLUTION.**

22 **(C) ON THE BASIS OF A CUMULATIVE IMPACT ASSESSMENT CONDUCTED**
23 **UNDER THIS SECTION, THE DEPARTMENT MAY:**

24 **(1) MAKE A DETERMINATION TO ISSUE OR TO NOT ISSUE A**
25 **PERMIT; OR**

26 **(2) PROPOSE ANY PERMIT LIMITATIONS OR CONDITIONS THE**
27 **DEPARTMENT DETERMINES NECESSARY TO MITIGATE ADVERSE IMPACTS ON**
28 **THE ENVIRONMENT AND HUMAN POPULATIONS.**

29 **(D) THE DEPARTMENT SHALL INCLUDE A SUMMARY OF THE RESULTS**
30 **OF THE CUMULATIVE IMPACT ASSESSMENT CONDUCTED UNDER THIS SECTION**
31 **IN ANY TENTATIVE OR FINAL DETERMINATION ISSUED UNDER § 1-604 OF THIS**
32 **TITLE.**

33 **1-903.**

1 **THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO**
2 **IMPLEMENT THIS SUBTITLE.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
4 construed to apply only prospectively and may not be applied or interpreted to have
5 any effect on or application to any permit application submitted to the Department of
6 the Environment before the effective date of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2014.