

HOUSE BILL 1408

M3

EMERGENCY BILL

0lr2814

By: **Delegate G. Clagett**

Introduced and read first time: February 19, 2010

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Stormwater Management – Regulations – Delay and Adoption of New**
3 **Regulations**

4 FOR the purpose of making certain stormwater management regulations adopted by
5 the Department of the Environment applicable to certain new development and
6 redevelopment projects that do not have certain final approvals by a certain
7 date; prohibiting the Department from enforcing certain regulations that are in
8 conflict with this Act; requiring the Department to propose to repeal certain
9 stormwater management regulations and replace the regulations with certain
10 new stormwater management regulations, developed in consultation with
11 certain stakeholder groups, by a certain date; requiring the Department to
12 submit certain new proposed regulations to the Joint Committee on
13 Administrative, Executive, and Legislative Review by a certain date; making
14 this Act an emergency measure; and generally relating to stormwater
15 management.

16 BY repealing and reenacting, with amendments,
17 Article – Environment
18 Section 4–203
19 Annotated Code of Maryland
20 (2007 Replacement Volume and 2009 Supplement)

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

23 **Article – Environment**
24 4–203.

25 (a) The Department of the Environment shall implement the provisions of
26 this subtitle and shall consult the Department of Natural Resources from time to time,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 including during the adoption of regulations, concerning the impact of stormwater on
2 waters of the State.

3 (b) [The] **SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE**
4 Department shall adopt rules and regulations which establish criteria and procedures
5 for stormwater management in Maryland. The rules and regulations shall:

6 (1) Indicate that the primary goal of the State and local programs will
7 be to maintain after development, as nearly as possible, the predevelopment runoff
8 characteristics;

9 (2) Make allowance for the difference in hydrologic characteristics and
10 stormwater management needs of different parts of the State;

11 (3) Specify that watershed-wide analyses may be necessary to prevent
12 undesirable downstream effects of increased stormwater runoff;

13 (4) Specify the exemptions a county or municipality may grant from
14 the requirements of submitting a stormwater management plan;

15 (5) (i) Specify the minimum content of the local ordinances or the
16 rules and regulations of the affected county governing body to be adopted which may
17 be done by inclusion of a model ordinance or model rules and regulations; and

18 (ii) Establish regulations and a model ordinance that require:

19 1. The implementation of environmental site design to
20 the maximum extent practicable;

21 2. The review and modification, if necessary, of planning
22 and zoning or public works ordinances to remove impediments to environmental site
23 design implementation; and

24 3. A developer to demonstrate that:

25 A. Environmental site design has been implemented to
26 the maximum extent practicable; and

27 B. Standard best management practices have been used
28 only where absolutely necessary;

29 (6) Indicate that water quality practices may be required for any
30 redevelopment, even when predevelopment runoff characteristics are maintained;

31 (7) Specify the minimum requirements for inspection and
32 maintenance of stormwater practices;

- 1 (8) Specify all stormwater management plans shall be designed to:
- 2 (i) Prevent soil erosion from any development project;
- 3 (ii) Prevent, to the maximum extent practicable, an increase in
4 nonpoint pollution;
- 5 (iii) Maintain the integrity of stream channels for their biological
6 function, as well as for drainage;
- 7 (iv) Minimize pollutants in stormwater runoff from new
8 development and redevelopment in order to:
- 9 1. Restore, enhance and maintain the chemical,
10 physical, and biological integrity of the waters of the State;
- 11 2. Protect public health;
- 12 3. Safeguard fish and aquatic life and scenic and
13 ecological values; and
- 14 4. Enhance the domestic, municipal, recreational,
15 industrial, and other uses of water as specified by the Department;
- 16 (v) Protect public safety through the proper design and
17 operation of stormwater management facilities;
- 18 (vi) Maintain 100% of average annual predevelopment
19 groundwater recharge volume for the site;
- 20 (vii) Capture and treat stormwater runoff to remove pollutants
21 and enhance water quality;
- 22 (viii) Implement a channel protection strategy to reduce
23 downstream erosion in receiving streams; and
- 24 (ix) Implement quantity control strategies to prevent increases
25 in the frequency and magnitude of out-of-bank flooding from large, less frequent
26 storm events;
- 27 (9) (i) Establish a comprehensive process for approving grading
28 and sediment control plans and stormwater management plans; and
- 29 (ii) Specify that the comprehensive process established under
30 subparagraph (i) of this paragraph takes into account the cumulative impacts of both
31 plans.

1 (c) Before the regulations required under this subsection are final, the
2 Department shall hold at least one public hearing in the affected immediate
3 geographic areas of the State and shall consult with the affected counties and
4 municipalities.

5 (d) The Department shall provide technical assistance, training, research,
6 and coordination in stormwater management technology to the local governments
7 consistent with the purposes of this subtitle.

8 **(E) A REGULATION THAT ESTABLISHES CRITERIA AND PROCEDURES**
9 **FOR STORMWATER MANAGEMENT AND IS ADOPTED IN ACCORDANCE WITH**
10 **SUBSECTION (B)(5)(II), (8), AND (9) OF THIS SECTION SHALL APPLY TO ALL NEW**
11 **DEVELOPMENT AND REDEVELOPMENT PROJECTS THAT DO NOT HAVE FINAL**
12 **APPROVAL FOR EROSION AND SEDIMENT CONTROL AND STORMWATER**
13 **MANAGEMENT PLANS BY MAY 4, 2012.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the
15 Environment may not enforce any provision of Title 26, Subtitle 17, Chapter 2 of the
16 Code of Maryland Regulations (Stormwater Management) that is in conflict with §
17 4-203(e) of the Environment Article, as enacted by Section 1 of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That, by January 1, 2011, the
19 Department of the Environment shall:

20 (a) Propose to repeal Title 26, Subtitle 17, Chapter 2 of the Code of Maryland
21 Regulations (Stormwater Management) and replace these regulations with new
22 stormwater management regulations, developed in consultation with representatives
23 from stakeholder groups; and

24 (b) Submit the proposed new stormwater management regulations to the
25 Joint Committee on Administrative, Executive, and Legislative Review.

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
27 measure, is necessary for the immediate preservation of the public health or safety,
28 has been passed by a yea and nay vote supported by three-fifths of all the members
29 elected to each of the two Houses of the General Assembly, and shall take effect from
30 the date it is enacted.