

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 95

(Chair, Environmental Matters Committee)(By Request -  
Departmental - Environment)

Environmental Matters

Education, Health, and Environmental Affairs

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**Environment - Permits - New Source Performance Standards**

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This departmental bill alters the public participation requirements associated with the issuance of an air pollution permit to sources that must comply with specified federal air quality (New Source Performance Standards or “NSPS”) regulations. Prior to issuing a permit for a source that must comply with NSPS standards, the Maryland Department of the Environment (MDE) may provide notice either through the current public participation process or by (1) electronically posting a notice of the permit application on MDE’s website; (2) giving notice to the chief executive of any local government in which a portion of the source is located or proposed to be located; and (3) receiving comments from the public.

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**Fiscal Summary**

**State Effect:** Workloads for the Air and Radiation Management Administration within MDE decrease beginning in FY 2014 due to the additional flexibility in satisfying public participation requirements. State expenditures (all funds) may decrease minimally beginning in FY 2014 for State agencies to comply with public participation requirements for proposed NSPS sources. Revenues are not affected.

**Local Effect:** Local government expenditures to comply with the public participation process and any costs incurred due to permitting delays decrease minimally for jurisdictions that apply for NSPS air quality permits. Revenues are not affected.

**Small Business Effect:** MDE has determined that this bill has minimal or no impact on small business (attached). The Department Legislative Services concurs with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

**Current Law:** MDE must issue a permit before an applicant may construct, modify, or replace components for a source of air pollution. Prior to permit issuance, MDE must comply with specified public participation requirements of Title 1 of the Environment Article, including holding a hearing in the county in which the source is to be located for (1) any source which is required to obtain a permit to operate under State air quality regulations; (2) any source subject to federal NSPS or other federal air quality standards; or (3) any source that, after control, discharges 25 tons or more per year of specified pollutants located in specified zip codes within Baltimore City. The public participation provisions govern the timing and manner of providing required notice, the process for requesting and holding informational meetings, the requirement to prepare tentative and final determinations on permit applications, and the process for judicial review and exemptions from contested case hearings. Under these provisions, permit applicants are required to bear all costs incurred by MDE in providing notice.

As part of these public participation requirements, MDE must electronically post notice of an application on its website and provide a method for interested persons to electronically request any additional notices related to an application for a permit. The notice must include specified information, including a description of the location and nature of the activity for which the permit has been sought and the time and place of any scheduled informational meeting or public hearing, or a description of where this information can be found.

**Background:** According to MDE, the current public participation requirement for NSPS sources was established during a period when NSPS permits were being issued for large sources such as incinerators. However, MDE advises that sources subject to federal NSPS standards now typically include small electric generators commonly found at hospitals, schools, and government facilities; medium size boilers commonly found at universities; and small biomass gas-to-energy facilities. MDE advises that it currently receives little or no interest in permit applications for NSPS sources, as evidenced by the submission of very few comments and low or no attendance at many public hearings.

According to MDE, the current public participation requirements add time to the permitting process, generate additional work for the Air Quality Permits Program, and impose additional costs to permit applicants, with little or no benefit. The modified process authorized by the bill for NSPS sources provides MDE with additional flexibility in satisfying the public participation requirements and is intended to simplify the process for some period application.

**Small Business Effect:** Small business applicants for NSPS permits, as well as contractors involved in the construction, modification, replacement, and installation work

on NSPS sources, may realize additional benefits from a shorter permit application process and lowered costs associated with ensuring that the public participation requirements are met. MDE advises that permitting delays typically range from four to six months, and that current public participation costs range from several hundred to several thousand dollars. A small diesel generator is an example of a typical NSPS source for which compliance with the current public participation process is required before a small business may obtain a permit. Under this bill, a more simplified process is authorized, which should take less time and be less expensive.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Anne Arundel, Carroll, Charles, Frederick, Garrett, and Harford counties; Baltimore City; Maryland Department of the Environment; Department of Legislative Services

**Fiscal Note History:** First Reader - February 4, 2013  
mc/lgc Revised - House Third Reader - March 21, 2013

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Environment – Permits – New Source Performance Standards

BILL NUMBER: HB 95

PREPARED BY: Maryland Department of the Environment

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

Local governments frequently need to obtain air quality permits to construct. To the extent that this legislation would simplify the air permitting process, there would be a positive impact on local government.