

SENATE BILL 227

M3

(PRE-FILED)

1r1753
CF HB 295

By: **Senators Elfreth, Hester, and Pinsky**

Requested: November 1, 2020

Introduced and read first time: January 13, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Water Pollution – Stormwater Management Regulations and Watershed**
3 **Implementation Plans – Review and Update**

4 FOR the purpose of requiring the Department of the Environment to review and update
5 certain regulations with a certain frequency; requiring the Department to propose
6 the first update to certain regulations on or before a certain date; requiring the
7 Department to review and update certain regulations in a certain manner; requiring
8 the Department to take certain actions a certain amount of time before the proposal
9 of regulations under this Act; altering the time by which the Department must hold
10 a certain public hearing; requiring the Department to incorporate certain
11 requirements and standards into certain permits; requiring the Department to
12 submit a certain addendum and certain milestones to the U.S. Environmental
13 Protection Agency; requiring the Department to fully implement the addendum and
14 milestones on or before a certain date; making stylistic changes and a technical
15 correction; and generally relating to water pollution in the State.

16 BY repealing and reenacting, with amendments,
17 Article – Environment
18 Section 4–203
19 Annotated Code of Maryland
20 (2013 Replacement Volume and 2020 Supplement)

21 BY adding to
22 Article – Environment
23 Section 4–901 to be under the new subtitle “Subtitle 9. Miscellaneous”
24 Annotated Code of Maryland
25 (2013 Replacement Volume and 2020 Supplement)

26 Preamble

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, On December 29, 2010, the U.S. Environmental Protection Agency
2 established the Chesapeake Bay Total Maximum Daily Load (Bay TMDL), requiring that
3 Chesapeake Bay watershed jurisdictions take all actions necessary to meet the
4 jurisdictions' water quality standards for dissolved oxygen, water clarity, underwater bay
5 grasses, and chlorophyll a by December 31, 2025; and

6 WHEREAS, The Bay TMDL is a combination of 92 smaller TMDLs for individual
7 Chesapeake Bay tidal segments, the restoration of which will deliver local water quality
8 improvements to communities across Maryland; and

9 WHEREAS, The Watershed Implementation Plans (WIP) under the Bay TMDL are
10 required to be submitted by Chesapeake Bay jurisdictions and play a critical role as part of
11 the Chesapeake Bay accountability framework developed by the U.S. Environmental
12 Protection Agency; and

13 WHEREAS, Maryland is a signatory to the 2014 Chesapeake Bay Watershed
14 Agreement in which the State agreed to take actions to increase the Chesapeake Bay's
15 resiliency to withstand the adverse impacts from changing environmental and climate
16 conditions; and

17 WHEREAS, In December 2017, the Chesapeake Bay Program's Principals' Staff
18 Committee agreed to include a narrative strategy in Phase III WIPs that describes the
19 jurisdictions' current action plans and strategies to address climate change, as well as the
20 jurisdiction-specific nutrient and sediment pollution loadings due to 2025 climate change
21 conditions; and

22 WHEREAS, The Chesapeake Bay Program and the U.S. Environmental Protection
23 Agency expect Chesapeake Bay jurisdictions to account for additional nutrient and
24 sediment pollutant loads caused by climate change conditions in a Phase III WIP addendum
25 or 2-year milestones beginning in 2022; and

26 WHEREAS, Maryland and local regulatory agencies rely on outdated precipitation
27 estimates and storm design standards in developing water pollution control permits that
28 must be updated in order to provide Chesapeake Bay and local water quality resiliency;
29 and

30 WHEREAS, Outdated precipitation and storm design standards result in
31 insufficient stormwater controls that fail to protect households and communities from
32 precipitation-based flooding; now, therefore,

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

35 **Article – Environment**

36 4–203.

1 (a) The Department of the Environment shall implement the provisions of this
2 subtitle and shall consult the Department of Natural Resources from time to time,
3 including during the adoption of regulations, concerning the impact of stormwater on
4 waters of the State.

5 (b) (1) The Department shall adopt rules and regulations which establish
6 criteria and procedures for stormwater management in Maryland.

7 (2) The rules and regulations shall:

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

11 [(2)] (II) Make allowance for the difference in hydrologic characteristics
12 and stormwater management needs of different parts of the State;

13 [(3)] (III) Specify that watershed-wide analyses may be necessary to
14 prevent undesirable downstream effects of increased stormwater runoff;

15 [(4)] (IV) Specify the exemptions a county or municipality may grant from
16 the requirements of submitting a stormwater management plan;

17 [(5) (i)] (V) 1. Specify the minimum content of the local
18 ordinances or the rules and regulations of the affected county governing body to be adopted
19 which may be done by inclusion of a model ordinance or model rules and regulations; and

20 [(ii)] 2. Establish regulations and a model ordinance that require:

21 [1.] A. The implementation of environmental site design to
22 the maximum extent practicable;

23 [2.] B. The review and modification, if necessary, of
24 planning and zoning or public works ordinances to remove impediments to environmental
25 site design implementation; and

26 [3.] C. A developer to demonstrate that[:

27 A. Environmental] ENVIRONMENTAL site design has been
28 implemented to the maximum extent practicable[;] and

29 [B. Standard] STANDARD best management practices have
30 been used only where absolutely necessary;

31 [(6)] (VI) Indicate that water quality practices may be required for any
32 redevelopment, even when predevelopment runoff characteristics are maintained;

1 [(7)] (VII) Specify the minimum requirements for inspection and
2 maintenance of stormwater practices;

3 [(8)] (VIII) Specify that all stormwater management plans shall be designed
4 to:

5 [(i)] 1. Prevent soil erosion from any development project;

6 [(ii)] 2. Prevent, to the maximum extent practicable, an increase
7 in nonpoint pollution;

8 [(iii)] 3. Maintain the integrity of stream channels for their
9 biological function, as well as for drainage;

10 [(iv)] 4. Minimize pollutants in stormwater runoff from new
11 development and redevelopment in order to:

12 [1.] A. Restore, enhance, and maintain the chemical,
13 physical, and biological integrity of the waters of the State;

14 [2.] B. Protect public health;

15 [3.] C. Safeguard fish and aquatic life and scenic and
16 ecological values; and

17 [4.] D. Enhance the domestic, municipal, recreational,
18 industrial, and other uses of water as specified by the Department;

19 [(v)] 5. Protect public safety through the proper design and
20 operation of stormwater management facilities;

21 [(vi)] 6. Maintain 100% of average annual predevelopment
22 groundwater recharge volume for the site;

23 [(vii)] 7. Capture and treat stormwater runoff to remove pollutants
24 and enhance water quality;

25 [(viii)] 8. Implement a channel protection strategy to reduce
26 downstream erosion in receiving streams; and

27 [(ix)] 9. Implement quantity control strategies to prevent
28 increases in the frequency and magnitude of out-of-bank flooding from large, less frequent
29 storm events; and

30 [(9)] (i) (IX) 1. Establish a comprehensive process for approving

