

SB0471/893521/1

BY: Education, Energy, and the Environment Committee

AMENDMENTS TO SENATE BILL 471
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Water Pollution Control –**” and substitute “**Sediment Control Plans,**”; in the same line, strike “**Permits –**” and substitute “**Permits for**”; in line 3, after “**Activity**” insert “**, and Notice and Comment Requirements**”; in line 4, after the first “of” insert “**requiring the Department of the Environment to review and update specifications for sediment control plans in a certain manner on or before a certain date and periodically thereafter;**”; in the same line, strike “of the Environment”; strike beginning with “and” in line 6 down through “under” in line 7 and substitute “**unless**”; in line 7, strike “circumstances” and substitute “**requirements are satisfied**”; strike beginning with “prohibiting” in line 7 down through “authorizing” in line 9 and substitute “**requiring**”; in line 10, strike “enforcement” and substitute “**public notice and comment**”; strike beginning with “has” in line 10 down through “permit” in line 12 and substitute “**makes a certain request**”; in line 12, after “to” insert “**sediment control plans,**”; in line 13, after “activity” insert “**, and notice and comment requirements**”; after line 13, insert:

“BY repealing and reenacting, with amendments,

Article - Environment

Section 4-105(a)

Annotated Code of Maryland

(2013 Replacement Volume and 2022 Supplement)”;

and strike in their entirety lines 24 through 28, inclusive.

AMENDMENT NO. 2

On page 2, after line 3, insert:

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“4-105.

(a) (1) (i) In this section, “construction” means land clearing, grubbing, topsoil stripping, soil movement, grading, cutting and filling, transporting, or otherwise disturbing land for any purpose.

(ii) “Construction” includes land disturbing activities for the purpose of:

1. Constructing buildings;
2. Mining minerals;
3. Developing golf courses; and
4. Constructing roads and installing utilities.

(2) (i) Before any person begins any construction, the appropriate approval authority shall first receive, review, and approve the proposed earth change and the sediment control plan.

(ii) Except as provided in subsection (b) of this section, the approval authority is:

1. The appropriate soil conservation district;
2. A municipal corporation in Montgomery County that is designated by a soil conservation district under paragraph (6) of this subsection;
3. Any municipality not within a soil conservation district;

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4. If a State or federal unit undertakes any construction, the Department or the Department's designee;

5. For abandoned mine reclamation projects conducted by the Department pursuant to Title 15, Subtitles 5, 6, and 11 of this article, the Department; or

6. For large redevelopment sites, the Department.

(iii) Criteria used by the Department or the Department's designee for review and approvals under subparagraph (ii)4 of this paragraph:

1. Shall meet or exceed current Maryland standards and specifications for soil erosion and sediment control; or

2. If alternative standards are applied, shall be reviewed and approved by the Department.

(3) A person may not begin or perform any construction unless the person:

(i) Obtains an approved sediment control plan;

(ii) Implements the measures contained in the approved sediment control plan;

(iii) Conducts the construction as specified in the sequence of construction contained in the approved sediment control plan;

(iv) Maintains the provisions of the approved sediment control plan; and

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(v) Implements any sediment control measures reasonably necessary to control sediment runoff.

(4) In consultation with the person responsible for performing the construction, the Department, jurisdictions delegated enforcement authority under § 4–103(e)(2) of this subtitle, or the appropriate approval agency may require modifications to an approved sediment control plan if the approved plan is not adequate to control sediment or erosion.

(5) A person performing construction that proposes a major change to an approved sediment control plan shall submit the proposed change to the appropriate approval authority for review and approval.

(6) A soil conservation district may delegate approval authority under paragraph (2) of this subsection to a municipal corporation in Montgomery County that:

(i) Has its own sediment control review provisions that are at least as stringent as the provisions of the grading and sediment control plan of the soil conservation district;

(ii) Issues sediment control permits; and

(iii) Meets the necessary performance standards established by written agreement between the district and the municipal corporation.

(7) (I) ON OR BEFORE DECEMBER 1, 2024, AND EVERY 5 YEARS THEREAFTER, THE DEPARTMENT SHALL REVIEW AND UPDATE THE SPECIFICATIONS FOR SEDIMENT CONTROL PLANS.

(II) IN REVIEWING AND UPDATING THE SPECIFICATIONS FOR SEDIMENT CONTROL PLANS UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL:

1. REVISE WATER QUANTITY CONTROL STANDARDS USING THE MOST RECENT PRECIPITATION DATA AVAILABLE;

2. AS NECESSARY, ENSURE THAT ANY UPDATES AND REVISIONS ARE DESIGNED TO PROTECT THE WATERS OF THE STATE FROM POLLUTION; AND

3. CONSULT WITH EROSION AND SEDIMENT CONTROL EXPERTS FROM THE FOLLOWING GROUPS AND STAKEHOLDERS REGARDING PROPOSED UPDATES TO SEDIMENT CONTROL REGULATIONS:

A. AN ACADEMIC INSTITUTION;

B. A WATERSHED PROTECTION ORGANIZATION;

C. THE MARYLAND ASSOCIATION OF COUNTIES;

D. THE MARYLAND MUNICIPAL LEAGUE;

E. A PRIVATE SECTOR ORGANIZATION WITH DESIGN AND CONSTRUCTION EXPERIENCE; AND

F. THE MARYLAND ASSOCIATION OF SOIL CONSERVATION DISTRICTS.

(III) BEFORE THE DEPARTMENT FINALIZES AN UPDATE TO THE SPECIFICATIONS OF SEDIMENT CONTROL PLANS IN ACCORDANCE WITH THIS PARAGRAPH, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN

(Over)

ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE PROPOSED UPDATE.

AMENDMENT NO. 3

On page 2, strike beginning with “(1)” in line 9 down through “(1)” in line 26; in line 26, strike “PARAGRAPH (2) OF THIS SUBSECTION” and substitute “SUBSECTION (C) OF THIS SECTION AND FOR A CONSTRUCTION SITE WITH A TOTAL PROPOSED DISTURBED AREA OF 5 ACRES OR MORE”; in line 29, strike “AND SHALL INSTEAD REQUIRE AN INDIVIDUAL DISCHARGE PERMIT” and substitute “UNTIL THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION ARE SATISFIED”.

On pages 2 and 3, strike beginning with “IF:” in line 29 on page 2 down through “MORE,” in line 2 on page 3 and substitute “IF”.

On page 3, in lines 4, 7, and 8, strike “1.”, “2.”, and “3.”, respectively, and substitute “(1)”, “(2)”, and “(3)”, respectively; in line 8, after “FLOODPLAIN” insert “IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY”; strike beginning with the semicolon in line 8 down through “PERMIT” in line 16; after line 16, insert:

“(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE DEPARTMENT RECEIVES A WRITTEN REQUEST WITHIN THE PUBLIC NOTIFICATION PERIOD OF THE GENERAL DISCHARGE PERMIT, THE DEPARTMENT SHALL EXTEND THE PUBLIC NOTICE PERIOD TO 60 DAYS TO PROVIDE THE REQUESTOR AN OPPORTUNITY TO COMMENT ON THE POTENTIAL IMPACT OF INADEQUATE CONSTRUCTION SITE CONTROLS ON WATERS OF THE STATE.

(2) THE DEPARTMENT SHALL PROMPTLY:

(I) ACKNOWLEDGE RECEIPT OF THE WRITTEN REQUEST;

(II) NOTIFY THE APPLICANT FOR THE GENERAL DISCHARGE PERMIT OF THE WRITTEN REQUEST AND INCLUDE DETAILS REGARDING POTENTIAL INADEQUACIES OF PROPOSED CONSTRUCTION SITE CONTROLS;

(III) REQUEST AN ELECTRONIC COPY OF THE APPROVED SEDIMENT CONTROL PLAN FROM THE APPLICANT AND PROVIDE A COPY TO THE REQUESTOR; AND

(IV) NOTIFY THE APPLICANT IF ANY UPDATES TO THE SEDIMENT CONTROL PLAN ARE REQUIRED PRIOR TO FINAL AUTHORIZATION OF THE GENERAL DISCHARGE PERMIT.”;

in line 17, strike “(2)” and substitute “(C)”; and in the same line, strike “SUBSECTION” and substitute “SECTION”.

On pages 3 through 6, strike in their entirety the lines beginning with line 23 on page 3 through line 26 on page 6, inclusive.

On page 6, after line 26, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That on or before November 1, 2023, the Department of the Environment shall report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the Department’s plans for reviewing and updating specifications for sediment control plans.”;

and in line 27, strike “2.” and substitute “3.”.