

DELEGATE MARY A. LEHMAN
Legislative District 21
Prince George's and
Anne Arundel Counties

Environment and Transportation
Committee



The Maryland House of Delegates
6 Bladen Street, Room 317
Annapolis, Maryland 21401
301-858-3114 · 410-841-3114
800-492-7122 Ext. 3114
Mary.Lehman@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

HOUSE BILL 1297

INDIVIDUAL SURFACE WATER DISCHARGE PERMITS – STUDY AND PERMIT DECISIONS

(ZOMBIE PERMIT ELIMINATION ACT)

March 4, 2020

CHAIRMAN BARVE, VICE CHAIR STEIN, MEMBERS OF THE ENVIRONMENT AND TRANSPORTATION COMMITTEE, HOUSE BILL 1297 REQUIRES THE MARYLAND DEPARTMENT OF ENVIRONMENT TO MAKE TIMELY DECISIONS ABOUT THE RENEWAL OF SURFACE WATER DISCHARGE PERMITS AND TO STOP ADMINISTRATIVE EXTENSIONS OF THOSE PERMITS, WHICH ALLOW THE HOLDER TO RELEASE POINT SOURCE POLLUTION INTO WATERWAYS.

THE PROBLEM: UNDER THE FEDERAL CLEAN WATER ACT, MDE IS DELEGATED THE AUTHORITY TO ISSUE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS THAT REGULATE THE AMOUNT OF POLLUTION INDUSTRIAL FACILITIES AND MUNICIPAL AND PRIVATE WASTEWATER TREATMENT PLANTS CAN RELEASE. THE PERMITS MUST BE RENEWED EVERY FIVE YEARS; HOWEVER, MDE HAS FALLEN SO FAR BEHIND IN ITS TECHNICAL REVIEW OF PERMIT APPLICATIONS THAT MORE THAN 40 PERCENT HAVE EXPIRED BUT THE HOLDER HAS BEEN ALLOWED TO CONTINUE OPERATING AND RELEASING POLLUTANTS INTO RIVERS AND STREAMS.

WHEN MDE ADMINISTRATIVELY EXTENDS A PERMIT, THE HOLDER WILL NOT BE USING THE MOST UP-TO-DATE TECHNOLOGY TO CONTROL ITS POLLUTION DISCHARGE AND LIMIT THE DAMAGE TO THE RECEIVING WATERS. ADMINISTRATIVE EXTENSIONS ALSO WAIVE THE PUBLIC'S RIGHT TO ENGAGE IN THE NPDES RENEWAL PROCESS, WHICH IS A REQUIREMENT UNDER FEDERAL LAW.

CASE IN POINT: IN CRAFTING NEW LAWS, WE OFTEN SPEAK OF HARMFUL SITUATIONS AND PROBLEMS THAT NEED TO BE ADDRESSED ACROSS OUR STATE. I WANT TO ILLUSTRATE THIS WITH THE CASE OF A

DORCHESTER COUNTY COMPANY, VALLEY PROTEIN. I WAS CONTACTED BY CITIZENS GROUP IN DORCHESTER COUNTY ABOUT THIS PERMIT HOLDER NEAR HURLOCK, ON THE BANKS OF THE TRANSQUAKING RIVER. VALLEY PROTEIN PROCESSES CHICKEN OFFAL – THE INTERNAL ORGANS OF A BUTCHERED ANIMAL. OFFAL INCLUDES BLOOD, ENTRAILS AND FEATHERS. THE EFFLUENT FROM THIS FACILITY GOES DIRECTLY INTO THE TRANSQUAKING RIVER AND FLOWS INTO FISHING BAY AND THEN THE CHESAPEAKE BAY.

VALLEY PROTEIN HAS BEEN FINED AT LEAST TWICE IN THE LAST THREE YEARS FOR EXCEEDING DISCHARGE LIMITS ESTABLISHED IN ITS 2006 PERMIT. IN 2014, VALLEY PROTEIN EXPANDED ITS TREATED DISCHARGE CAPACITY FROM OVER 100,000 GAL/DAY TO OVER 500,000 GAL/DAY. VALLEY PROTEIN HAS BEEN ALLOWED TO OPERATE USING ITS ORIGINAL 2006 DISCHARGE PERMIT SINCE 2014, DESPITE THE FIVE-FOLD INCREASE IN ITS DISCHARGE RATE AND INDEPENDENT WATER TESTING AND ANALYSIS SHOWING CRITICALLY LOW LEVELS OF DISSOLVED OXYGEN AND HIGH LEVELS OF NITROGEN AND PHOSPHOROUS POLLUTION.

WHAT THE BILL DOES: THE BILL HAS THREE MAJOR FEATURES:

1. IT DIRECTS MDE TO STUDY AND RECOMMEND WAYS TO MAKE THE NPDES PERMITTING PROCESS MORE EFFICIENT;
2. IT MANDATES THAT MDE REVIEW AND EITHER RENEW OR REJECT AN NPDES PERMIT APPLICATION WITHIN 180 DAYS OF ITS SCHEDULED EXPIRATION; IF MDE DOES NOT DO THIS IT THEN HAS FIVE (5) BUSINESS DAYS TO RENEW OR REJECT THE APPLICATION;
3. IT REQUIRES MDE TO DEVISE A PLAN TO ADDRESS THE BACKLOG OF ADMINISTRATIVELY EXTENDED PERMITS.

COLLEAGUES, WE ASSUME THAT FEDERAL LAW COMBINED WITH STATE PERMITTING AND ENFORCEMENT GUARANTEE A CERTAIN WATER QUALITY STANDARD FOR OUR RIVERS AND STREAMS. WITH MDE'S PRACTICE OF ADMINISTRATIVELY EXTENDING NPDES PERMITS, THAT QUALITY IS BEING COMPROMISED. MDE MUST PROCESS SURFACE WATER DISCHARGE PERMITS IN A TIMELY WAY BUT NOT WITHOUT A TECHNICAL REVIEW, AND IT MUST END THE PRACTICE OF ADMINISTRATIVE EXTENSIONS.

MR. CHAIR, COLLEAGUES THANK YOU AND I URGE A FAVORABLE REPORT ON HB 1297.

###