



March 29, 2023

The Honorable Kumar P. Barve, Chair
Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

Re: Senate Bill 471 - Water Pollution Control – Discharge Permits – Stormwater Associated with Construction Activity

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed Senate Bill 471 and would like to provide the following information. MDE has met with the sponsor and advocates of this legislation and appreciates all the work on the amendments to address our concerns.

Senate Bill 471 proposes to enhance transparency during the Department's authorization for stormwater discharges under the General Permit for Stormwater Discharges Associated with Construction Activity (General Permit). For specific sites over 5 acres, the bill proposes to allow third parties to request 60 days Public Notification Period, in order to recommend changes on the already approved E&SC plans. SB 471 also modifies Environment Article 4 Subtitle 4-105 to require the Department to revisit and update the state's standards and specification for erosion and sediment control plans on or before December 1, 2024 and every 5 years thereafter. SB 471 requires the Department to consult with a group of stakeholders regarding the proposed updates and to submit to the General Assembly, by November 1, 2023, a plan to complete these requirements. SB 471 also requires the Department to report to the General Assembly on any proposed updates prior to them being finalized.

If passed, SB 471 will require additional MDE staff, an RCE I, to allow the additional public notification and in those cases review already approved plans. MDE staff would be in position to require changes where plans are deemed insufficient. The requirements to update the state standards for sediment and erosion control on a prescribed schedule will result in an additional workload for the Department. Any new statutory requirements will require the program to shift resources for administering the State's erosion and sediment control and stormwater management programs. If no additional resources are provided, other important functions in administering and providing local oversight of the State's programs will be compromised.

In 2022, the construction general permit (20CP) underwent a significant revision which included two public comment periods and a public hearing. The final permit was issued on December 27, 2022 with an effective date of April 1, 2023. MDE sought comment on revising the 14 day public notice period to begin only after we receive a complete application submission, which includes an approved Erosion and Sediment Control plan, a signed Stormwater Pollution Prevention Plans, and completed anti-degradation documentation.

Updates to the 2011 Erosion and Sediment Control Standards and Specifications will require research, assessment, and significant coordination among the stakeholders listed in SB 471 as well as other state agencies, including the Department of Natural Resources (DNR) and the Maryland Department of

Transportation (MDOT), and all of the Soil Conservation Districts (SCDs). Extensive engineering design work, modeling, testing, and field analysis will be required to ensure proper construction and function of any new design standards and specifications. Having effective engineering designs to mitigate pollutants and flooding is imperative considering changing climatic conditions, including the more frequent, high intensity storms that Maryland is experiencing.

MDE will utilize existing staff in the strategic development and publishing of the November 2023 planning report, including discussions with SCDs, DNR, and MDOT. The Department will pursue federal grants to:

- Fund the research, engineering design and calculations, and modeling needed to update the erosion and sediment control standards for climate change and quantity management;
- Perform the literature reviews and research of new practices that have been tested and accepted in other parts of the country with similar climate conditions as Maryland; and
- Develop the manual to include drafting engineering design specifications, text writing, and production.

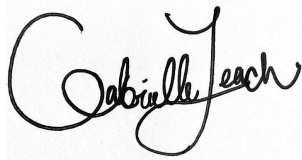
If such federal grants are obtained, the Department estimates that additional staff will be required to manage the grants and the contracts required for the engineering services needed. MDE will also need 1 additional RCE Sr and 1 additional RCE III to develop and implement outreach and training materials, manage the stakeholder process, coordinate with the Soil Conservation Districts, DNR, and MDOT, revise the requirements for local government delegation and oversight, and integrate and implement the revised standards and specifications.

In addition, any modifications to the erosion and sediment control design standards will require an update to Maryland's Responsible Personnel Training Program. There are currently 23,931 people that have been certified since 2014 that would need a refresher course on the new standards and specifications. Additional contractor resources would be necessary and the Department will pursue federal grant funding for this update.

In the FY 2024 budget, it states that one of the PINs the Department was to receive for the implementation of HB 649 of 2022 must now be used for the implementation of this bill. The PINs requested in the budget bill only represent half of what is needed to fully implement HB 649 of 2022, which imposed a significant workload burden on the Department. Restricting the use of one of those PINs does not resolve that this bill creates a new workload burden.

Thank you for considering the Department's information regarding this legislation. We will continue to monitor SB 471 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at gabrielle.leach@maryland.gov.

Sincerely,

A handwritten signature in black ink that reads "Gabrielle Leach". The signature is written in a cursive, flowing style.

Gabrielle Leach
Deputy Director
Legislative and Intergovernmental Relations

Cc: The Honorable Sarah Elfreth
Lee Currey, Director, Water and Science Administration