

HOUSE BILL 24

M3
HB 840/23 – ENT & ECM

(PRE-FILED)

4r0810
CF SB 96

By: **Delegate Boyce**

Requested: October 3, 2023

Introduced and read first time: January 10, 2024

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Impact of Environmental Permits and State Agency Actions**

3 FOR the purpose of requiring the Department of the Environment to conduct a certain
4 evaluation regarding the impact of issuing an approval for certain environmental
5 permits; requiring the Department to provide opportunities for certain
6 communication with certain residents in a certain manner; requiring the
7 Department to deposit certain money in certain funds under certain circumstances;
8 altering certain reporting requirements for certain State agencies; and generally
9 relating to the impact of actions on climate and environmental justice and equity.

10 BY repealing and reenacting, without amendments,

11 Article – Environment

12 Section 1–601(a), 1–701(a)(1), (5), (7), and (8), 1–702(b), 2–107(a), and 7–218

13 Annotated Code of Maryland

14 (2013 Replacement Volume and 2023 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Environment

17 Section 1–702(a), 2–107(b), 2–1305, and 7–219

18 Annotated Code of Maryland

19 (2013 Replacement Volume and 2023 Supplement)

20 BY adding to

21 Article – Environment

22 Section 1–7A–01 through 1–7A–05 to be under the new subtitle “Subtitle 7A. Impact
23 of Environmental Permits on Climate and Environmental Equity”

24 Annotated Code of Maryland

25 (2013 Replacement Volume and 2023 Supplement)

26 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Environment
2 Section 9–320(a)
3 Annotated Code of Maryland
4 (2014 Replacement Volume and 2023 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Environment
7 Section 9–320(b)
8 Annotated Code of Maryland
9 (2014 Replacement Volume and 2023 Supplement)

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

12 **Article – Environment**

13 1–601.

14 (a) Permits issued by the Department under the following sections shall be issued
15 in accordance with this subtitle:

16 (1) Air quality control permits to construct subject to § 2–404 of this article;

17 (2) Permits to install, materially alter, or materially extend landfill
18 systems, incinerators for public use, or rubble landfills subject to § 9–209 of this article;

19 (3) Permits to discharge pollutants to waters of the State issued pursuant
20 to § 9–323 of this article;

21 (4) Permits to install, materially alter, or materially extend a structure
22 used for storage or distribution of any type of sewage sludge issued, renewed, or amended
23 pursuant to § 9–234.1 or § 9–238 of this article;

24 (5) Permits to own, operate, establish, or maintain a controlled hazardous
25 substance facility issued pursuant to § 7–232 of this article;

26 (6) Permits to own, operate, or maintain a hazardous material facility
27 issued pursuant to § 7–103 of this article;

28 (7) Permits to own, operate, establish, or maintain a low-level nuclear
29 waste facility issued pursuant to § 7–233 of this article; and

30 (8) Potable reuse permits issued in accordance with § 9–303.2 of this
31 article.

32 1–701.

1 (a) (1) In this section the following words have the meanings indicated.

2 (5) “Environmental justice” means equal protection from environmental
3 and public health hazards for all people regardless of race, income, culture, and social
4 status.

5 (7) “Overburdened community” means any census tract for which three or
6 more of the following environmental health indicators are above the 75th percentile
7 statewide:

8 (i) Particulate matter (PM) 2.5;

9 (ii) Ozone;

10 (iii) National Air Toxics Assessment (NATA) diesel PM;

11 (iv) NATA cancer risk;

12 (v) NATA respiratory hazard index;

13 (vi) Traffic proximity;

14 (vii) Lead paint indicator;

15 (viii) National Priorities List Superfund site proximity;

16 (ix) Risk Management Plan facility proximity;

17 (x) Hazardous waste proximity;

18 (xi) Wastewater discharge indicator;

19 (xii) Proximity to a Concentrated Animal Feeding Operation (CAFO);

20 (xiii) Percent of the population lacking broadband coverage;

21 (xiv) Asthma emergency room discharges;

22 (xv) Myocardial infarction discharges;

23 (xvi) Low-birth-weight infants;

24 (xvii) Proximity to emitting power plants;

25 (xviii) Proximity to a Toxic Release Inventory (TRI) facility;

26 (xix) Proximity to a brownfields site;

1 (xx) Proximity to mining operations; and

2 (xxi) Proximity to a hazardous waste landfill.

3 (8) “Underserved community” means any census tract in which, according
4 to the most recent U.S. Census Bureau Survey:

5 (i) At least 25% of the residents qualify as low-income;

6 (ii) At least 50% of the residents identify as nonwhite; or

7 (iii) At least 15% of the residents have limited English proficiency.

8 1–702.

9 (a) On or before December 31, ~~2023~~ **2024**, the Department, in consultation with
10 the Commission on Environmental Justice and Sustainable Communities, shall:

11 (1) Subject to subsection (b) of this section, adopt a methodology for
12 identifying communities disproportionately affected by climate impacts;

13 (2) Develop specific strategies to address geographical impact concerns,
14 reduce emissions of greenhouse gases and co-pollutants, and build climate equity and
15 resilience within communities disproportionately affected by climate impacts;

16 (3) Set appropriate goals for the percentage of State funding for greenhouse
17 gas emission reduction measures that should be used for the benefit of disproportionately
18 affected communities; and

19 (4) Report to the Maryland Commission on Climate Change and, in
20 accordance with § 2–1257 of the State Government Article, the General Assembly on the
21 policies and programs developed under this subsection.

22 (b) In evaluating methodologies under subsection (a)(1) of this section, the
23 Department shall, at a minimum, include:

24 (1) Underserved communities;

25 (2) Overburdened communities; and

26 (3) Areas that are vulnerable to climate impacts, such as flooding, storm
27 surges, and urban heat island effects, due to low levels of tree coverage, high levels of
28 impervious surfaces, or other factors.

29 **SUBTITLE 7A. IMPACT OF ENVIRONMENTAL PERMITS ON CLIMATE AND**
30 **ENVIRONMENTAL EQUITY.**

1 **1-7A-01.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "APPLICANT" MEANS A PERSON APPLYING FOR A PERMIT LISTED
5 UNDER § 1-601(A) OF THIS TITLE.

6 (C) "ENVIRONMENTAL JUSTICE" HAS THE MEANING STATED IN § 1-701 OF
7 THIS TITLE.

8 (D) "OVERBURDENED COMMUNITY" HAS THE MEANING STATED IN § 1-701
9 OF THIS TITLE.

10 (E) "PERMIT" MEANS A PERMIT LISTED UNDER § 1-601(A) OF THIS TITLE.

11 (F) "UNDERSERVED COMMUNITY" HAS THE MEANING STATED IN § 1-701 OF
12 THIS TITLE.

13 **1-7A-02.**

14 (A) (1) IF, AFTER REVIEWING AN EJ SCORE IN ACCORDANCE WITH §
15 1-601.1(B) OF THIS TITLE, THE DEPARTMENT DETERMINES THAT ISSUING AN
16 APPROVAL FOR A NEW PERMIT MAY IMPACT AN UNDERSERVED COMMUNITY OR
17 AN OVERBURDENED COMMUNITY, THE DEPARTMENT SHALL CONDUCT A CLIMATE
18 AND ENVIRONMENTAL EQUITY EVALUATION OF THE PERMIT.

19 (2) THE CLIMATE AND ENVIRONMENTAL EQUITY EVALUATION
20 REQUIRED UNDER THIS SECTION SHALL INCLUDE AN ANALYSIS OF:

21 (I) EXISTING ENVIRONMENTAL AND CLIMATE DATA REGARDING
22 THE AFFECTED COMMUNITY, INCLUDING MONITORING, MODELING, OR ANY OTHER
23 DATA DEEMED APPROPRIATE;

24 (II) THE APPLICANT FACILITY'S COMPLIANCE RECORD; AND

25 (III) POTENTIAL METHODS TO MINIMIZE OR MITIGATE POTENTIAL
26 ADVERSE EFFECTS IN THE AFFECTED COMMUNITY.

27 (B) IN ADDITION TO THE EVALUATION REQUIRED UNDER SUBSECTION (A) OF
28 THIS SECTION, THE DEPARTMENT, IN COORDINATION WITH THE MARYLAND
29 DEPARTMENT OF HEALTH, MAY CONDUCT A HEALTH IMPACT ASSESSMENT OF THE

1 PERMIT.

2 (C) (1) IN CONDUCTING A CLIMATE AND EQUITY EVALUATION OR A HEALTH
3 IMPACT ASSESSMENT IN ACCORDANCE WITH THIS SECTION, THE DEPARTMENT MAY
4 CONSIDER CUMULATIVE IMPACTS, AS DEFINED IN THE U.S. ENVIRONMENTAL
5 PROTECTION AGENCY'S REPORT ON CUMULATIVE IMPACTS RESEARCH:
6 RECOMMENDATIONS FOR EPA'S OFFICE OF RESEARCH AND DEVELOPMENT.

7 (2) THE DEPARTMENT SHALL COMPLETE A CLIMATE AND EQUITY
8 EVALUATION AND, IF APPLICABLE, A HEALTH IMPACT ASSESSMENT WITHIN 60 DAYS
9 AFTER MAKING A DETERMINATION UNDER SUBSECTION (A) OF THIS SECTION THAT
10 ISSUING AN APPROVAL FOR A NEW PERMIT MAY IMPACT AN UNDERSERVED
11 COMMUNITY OR AN OVERBURDENED COMMUNITY.

12 1-7A-03.

13 (A) THE DEPARTMENT SHALL REGULARLY PROVIDE OPPORTUNITIES FOR
14 RESIDENTS OF THE STATE TO OPT IN TO TEXT, PHONE, E-MAIL, OR REGULAR MAIL
15 NOTIFICATIONS REGARDING ANY FACILITY WITH A PENDING OR FINAL PERMIT
16 APPROVAL IN OR ADJACENT TO THE RESIDENT'S CENSUS TRACT.

17 (B) (1) IF AN APPLICANT IS APPLYING FOR MORE THAN ONE PERMIT FOR
18 THE SAME FACILITY, THE DEPARTMENT SHALL COMPLY WITH THE REQUIREMENTS
19 UNDER § 1-7A-02 OF THIS SUBTITLE ONLY ONCE UNLESS THE DEPARTMENT
20 DETERMINES THAT MORE THAN ONE EVALUATION IS NECESSARY DUE TO THE
21 COMPLEXITY OF THE APPLICATIONS.

22 (2) PARAGRAPH (1) OF THIS SUBSECTION MAY NOT BE CONSTRUED
23 TO LIMIT THE AUTHORITY OF THE DEPARTMENT TO HOLD OR REQUIRE ADDITIONAL
24 PUBLIC HEARINGS FOR A PERMIT.

25 (C) THE DEPARTMENT MAY DENY OR ALTER A DECISION OR AMEND THE
26 CONDITIONS UNDER A PENDING PERMIT BASED ON THE DEPARTMENT'S FINDINGS
27 UNDER THIS SUBTITLE.

28 1-7A-04.

29 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN ADDITION TO ANY
30 OTHER FEE AUTHORIZED BY LAW OR REGULATION, THE DEPARTMENT MAY CHARGE
31 A REASONABLE FEE TO COVER THE DEPARTMENT'S COSTS ASSOCIATED WITH THE
32 IMPLEMENTATION OF THIS SUBTITLE, INCLUDING COSTS TO PROVIDE TECHNICAL
33 ASSISTANCE TO PERMIT APPLICANTS AND RESIDENTS OF RELEVANT CENSUS
34 TRACTS AS NEEDED TO COMPLY WITH THIS SUBTITLE.

1 **(B) THE DEPARTMENT SHALL DEPOSIT ANY MONEY FROM FEES THAT**
2 **REMAINS AFTER COVERING COSTS IN ACCORDANCE WITH SUBSECTION (A) OF THIS**
3 **SECTION INTO:**

4 **(1) THE MARYLAND CLEAN WATER FUND;**

5 **(2) THE MARYLAND CLEAN AIR FUND; OR**

6 **(3) THE STATE HAZARDOUS SUBSTANCE CONTROL FUND.**

7 **1-7A-05.**

8 **THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
9 **SUBTITLE.**

10 **2-107.**

11 (a) There is a Maryland Clean Air Fund.

12 (b) **(1)** Except as provided in § 2-1002(g) of this title, all application fees,
13 permit fees, renewal fees, and funds collected by the Department under this title, Title 6,
14 Subtitle 4 of this article, or received from the Maryland Strategic Energy Investment Fund
15 under § 9-20B-05(g)(3)(iii) of the State Government Article, including any civil or
16 administrative penalty or any fine imposed by a court under these provisions, shall be paid
17 into the Maryland Clean Air Fund.

18 **(2) THE MARYLAND CLEAN AIR FUND MAY RECEIVE MONEY IN**
19 **ACCORDANCE WITH § 1-7A-04(B) OF THIS ARTICLE.**

20 **2-1305.**

21 (a) (1) Each State agency shall review its planning, regulatory, and fiscal
22 programs to identify and recommend actions to more fully integrate the consideration of
23 Maryland's greenhouse gas reduction goal and the impacts of climate change.

24 (2) The review shall include the consideration of:

25 (i) Sea level rise;

26 (ii) Storm surges and flooding;

27 (iii) Increased precipitation and temperature; [and]

28 (iv) Extreme weather events; AND

1 **(V) WHETHER AGENCY DECISIONS CONTRIBUTE TO LOCAL**
2 **DETERIORATION OF PUBLIC HEALTH OR INCREASES IN POLLUTION ASSOCIATED**
3 **WITH HEALTH AND ENVIRONMENTAL BURDENS FOR UNDERSERVED AND**
4 **OVERBURDENED COMMUNITIES.**

5 (b) Each State agency shall identify and recommend specific policy, planning,
6 regulatory, and fiscal changes to existing programs that do not currently support the State's
7 greenhouse gas reduction efforts or address climate change.

8 (c) (1) **[The] ON OR BEFORE DECEMBER 1 EACH YEAR, THE** following State
9 agencies shall report **[annually]** on the status of programs that support the State's
10 greenhouse gas reduction efforts or address climate change **TO THE GENERAL**
11 **ASSEMBLY**, in accordance with § 2-1257 of the State Government Article, **AND** to the
12 Commission and the Governor:

13 (i) The Department;

14 (ii) The Department of Agriculture;

15 (iii) The Department of General Services;

16 (iv) The Department of Housing and Community Development;

17 (v) The Department of Natural Resources;

18 (vi) The Department of Planning;

19 (vii) The Department of Transportation;

20 (viii) The Maryland Energy Administration;

21 (ix) The Maryland Insurance Administration;

22 (x) The Public Service Commission; and

23 (xi) The University of Maryland Center for Environmental Science.

24 (2) The report required **[in] UNDER** paragraph (1) of this subsection shall
25 include **THE FOLLOWING INFORMATION RELATING TO THE WORK OF EACH STATE**
26 **AGENCY FOR THE IMMEDIATELY PRECEDING 12-MONTH PERIOD:**

27 (i) Program descriptions and objectives;

28 (ii) Implementation milestones, whether or not they have been met;

1 (iii) Enhancement opportunities;

2 (iv) Funding;

3 (v) Challenges;

4 (vi) Estimated greenhouse gas emissions reductions, by program, for
5 the prior calendar year; [and]

6 (vii) **AGENCY CONTRIBUTIONS OR IMPEDIMENTS TO**
7 **ENVIRONMENTAL JUSTICE; AND**

8 **(VIII)** Any other information that the agency considers relevant.

9 **(3) EACH STATE AGENCY SHALL MAKE THE REPORT REQUIRED**
10 **UNDER PARAGRAPH (1) OF THIS SUBSECTION PUBLICLY AVAILABLE ON ITS**
11 **WEBSITE.**

12 (d) Each State agency, when conducting long-term planning, developing policy,
13 and drafting regulations, shall take into consideration:

14 (1) The likely climate impact of the agency’s decisions relative to
15 Maryland’s greenhouse gas emissions reduction goals; and

16 (2) The likely impact of the agency’s decisions on disproportionately
17 affected communities identified according to the methodology adopted by the Department
18 under § 1-702 of this article.

19 7-218.

20 There is a State Hazardous Substance Control Fund.

21 7-219.

22 **(A)** All application and permit fees, renewal fees, transporting vehicle certification
23 fees, and all other funds collected by the Department under this subtitle, including any civil
24 or administrative penalty or any fine imposed by a court under the provisions of this
25 subtitle, shall be paid into the State Hazardous Substance Control Fund.

26 **(B) THE STATE HAZARDOUS SUBSTANCE CONTROL FUND MAY RECEIVE**
27 **MONEY IN ACCORDANCE WITH § 1-7A-04(B) OF THIS ARTICLE.**

28 9-320.

29 (a) There is a Maryland Clean Water Fund.

1 (b) (1) The following payments shall be made into the Maryland Clean Water
2 Fund:

3 [(1)] (I) All application fees, permit fees, renewal fees, and funds
4 collected by the Department under this subtitle, including any civil or administrative
5 penalty or any fine imposed by a court under the provisions of this subtitle;

6 [(2)] (II) Any civil penalty or any fine imposed by a court under the
7 provisions of Title 5, Subtitle 5 of this article relating to water appropriation and use;

8 [(3)] (III) Any civil or administrative penalty or any fine imposed by a court
9 under the provisions of Title 4, Subtitle 1 of this article;

10 [(4)] (IV) Any fees or funds that the Department collects under Subtitle 2,
11 Part III of this title and §§ 9–269 and 9–270 of this title and any civil or administrative
12 penalty or fine imposed by a court under the provisions of Subtitle 2 of this title; and

13 [(5)] (V) Any fees or funds that the Department collects under Subtitle 24
14 of this title and any civil or administrative penalty or fine imposed by a court under the
15 provisions of Subtitle 24 of this title.

16 (2) THE MARYLAND CLEAN WATER FUND MAY RECEIVE MONEY IN
17 ACCORDANCE WITH § 1–7A–04(B) OF THIS ARTICLE.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2024.