

HOUSE BILL 1025

Unofficial Copy
M3

1998 Regular Session
(8lr6134)

ENROLLED BILL

-- Environmental Matters/Economic and Environmental Affairs --

Introduced by **Chairman, Environmental Matters Committee (Departmental - Environment)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Environment - Drinking Water**

3 FOR the purpose of altering the definition of a public water system; defining certain
4 terms; requiring each public supplier of water to provide certain public notice if
5 a certain system fails to meet certain standards; prohibiting a supplier of water
6 from making a false representation to the Department of Environment;
7 prohibiting a person from tampering with a public water system; imposing
8 certain civil penalties for tampering with a public water system; imposing
9 certain criminal penalties for making a false representation to the Department;
10 ~~authorizing the Department to impose certain administrative penalties for~~
11 ~~certain violations related to safe drinking water; authorizing the Department to~~
12 ~~impose certain administrative penalties for certain violations related to safe~~
13 ~~drinking water;~~ providing for hearing and appeal procedures related to
14 administrative ~~penalties~~ penalties and orders; imposing certain performance
15 requirements on new public water systems after a certain date; making a
16 portion of this Act contingent on the taking effect of certain federal regulations;

1 and generally relating to public water systems and drinking water standards
2 and requirements.

3 BY repealing and reenacting, with amendments,
4 Article - Environment
5 Section 9-401, 9-410, 9-412, and 9-413
6 Annotated Code of Maryland
7 (1996 Replacement Volume and 1997 Supplement)

8 BY adding to
9 Article - Environment
10 Section 9-412.1, 9-414, 9-415, 9-416, and 9-417
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1997 Supplement)

13 BY adding to
14 Article - Environment
15 Section 9-413(d)
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1997 Supplement)
18 (As enacted by Section 1 of this Act)

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

21 **Article - Environment**

22 9-401.

23 (a) In this subtitle the following words have the meanings indicated.

24 (b) "Administrator" means the Administrator of the United States
25 Environmental Protection Agency.

26 (C) "COMMUNITY WATER SYSTEM" MEANS A PUBLIC WATER SYSTEM THAT:

27 (1) SERVES AT LEAST 15 SERVICE CONNECTIONS USED BY YEAR-ROUND
28 RESIDENTS OF THE AREA SERVED BY THE SYSTEM; OR

29 (2) REGULARLY SERVES AT LEAST 25 YEAR-ROUND RESIDENTS.

30 [(c)] (D) "Contaminant" means any chemical, biological, or radioactive
31 substance that is harmful to health if in the water.

32 [(d)] (E) "Federal Act" means the federal Safe Drinking Water Act.

1 [(e)] (F) "Federal agency" means any department, agency, or instrumentality
2 of the United States.

3 [(f)] (G) "National primary drinking water regulations" means the primary
4 drinking water rules or regulations that the Administrator adopts under the Federal
5 Act.

6 (H) "NONCOMMUNITY WATER SYSTEM" MEANS A PUBLIC WATER SYSTEM
7 THAT IS NOT A COMMUNITY WATER SYSTEM.

8 (I) "NONTRANSIENT NONCOMMUNITY WATER SYSTEM" MEANS A PUBLIC
9 WATER SYSTEM THAT IS NOT A COMMUNITY SYSTEM AND THAT REGULARLY SERVES
10 AT LEAST 25 OF THE SAME INDIVIDUALS OVER 6 MONTHS PER YEAR.

11 [(g)] (J) "Person" includes:

12 (1) The Washington Suburban Sanitary Commission;

13 (2) Any State, county, municipal corporation, or federal agency;

14 (3) Any special taxing area or district that operates a public water
15 system; and

16 (4) Any officer, agent, or employee of any of these.

17 [(h)] (K) "Primary drinking water regulation" means a rule or regulation that:

18 (1) Applies to public water systems;

19 (2) Specifies contaminants that, in the judgment of the Secretary, would
20 have an adverse effect on the health of human beings;

21 (3) Specifies for each contaminant either:

22 (i) A maximum contaminant level if, in the judgment of the
23 Secretary, it is economically and technologically feasible to determine the level of the
24 contaminant in water in public water systems; or

25 (ii) If, in the judgment of the Secretary, it is not economically or
26 technologically feasible to determine the level of the contaminant, each treatment
27 technique known to the Secretary that leads to a reduction in the level of the
28 contaminant sufficient to satisfy the requirements of this subtitle; and

29 (4) Contains standards and procedures:

30 (i) To ensure a supply of drinking water that dependably complies
31 with the maximum contaminant levels, including quality control and testing
32 procedures for compliance with those levels;

33 (ii) To ensure proper operation and maintenance of the system; and

1 (iii) To establish requirements as to:
 2 1. The minimum quality of water that may be taken into the
 3 system; and

4 2. Siting for new facilities for public water systems.

5 [(i)] (L) (1) "Public water system" means a system that:

6 (i) Provides to the public [piped] water for human [consumption;]
 7 CONSUMPTION THROUGH PIPES OR OTHER CONSTRUCTED CONVEYANCES; and

8 (ii) 1. Has at least 15 service connections; or

9 2. Regularly serves at least 25 individuals.

10 (2) "Public water system" includes:

11 (i) Any collection, treatment, storage, or distribution facility that is
 12 under the control of the operator of the system and is used primarily in connection
 13 with the system; and

14 (ii) Any collection or pretreatment storage facility that is not under
 15 the control of the operator of the system and is used primarily in connection with the
 16 system.

17 [(j)] (M) "Supplier of water" means any person who owns or operates a public
 18 water system.

19 (N) "TRANSIENT NONCOMMUNITY WATER SYSTEM" MEANS A
 20 NONCOMMUNITY WATER SYSTEM THAT DOES NOT REGULARLY SERVE AT LEAST 25
 21 OF THE SAME INDIVIDUALS OVER 6 MONTHS PER YEAR.

22 (O) "TAMPER" MEANS TO:

23 (1) INTRODUCE A CONTAMINANT INTO A PUBLIC WATER SYSTEM WITH
 24 THE INTENTION OF HARMING A PERSON; OR

25 (2) OTHERWISE INTERFERE WITH THE OPERATION OF A PUBLIC WATER
 26 SYSTEM WITH THE INTENTION OF HARMING A PERSON.

27 9-410.

28 (a) [Each public water system shall notify the Department, the Administrator,
 29 and the communications media serving the area served by the public water system
 30 whenever the system] EACH SUPPLIER OF WATER SHALL GIVE NOTICE TO THE
 31 DEPARTMENT AND THE PERSONS SERVED BY THE SYSTEM WHENEVER THE SYSTEM:

32 (1) [Is not in compliance with the State primary drinking water
 33 regulations] FAILS TO COMPLY WITH AN APPLICABLE MAXIMUM CONTAMINANT
 34 LEVEL, TREATMENT TECHNIQUE REQUIREMENT, OR TESTING PROCEDURE

1 PRESCRIBED BY A DRINKING WATER REGULATION OR FAILS TO PERFORM REQUIRED
2 MONITORING;

3 (2) [Fails to perform the monitoring required by the rules and
4 regulations adopted by the Secretary;

5 (3)] Is subject to variance granted for an inability to meet a maximum
6 contaminant [level requirement] LEVEL;

7 [(4)] (3) Is subject to an exemption; [or]

8 [(5)] (4) Fails to comply with the requirements set by a variance or
9 exemption; OR

10 (5) ~~EXCEEDS THE LEVEL OF AN UNREGULATED CONTAMINANT FOR~~
11 ~~WHICH THE STATE REQUIRES PUBLIC NOTICE HAS CONCENTRATION LEVELS OF AN~~
12 ~~UNREGULATED CONTAMINANT FOR WHICH THE STATE MAY REQUIRE NOTICE DUE~~
13 ~~TO THE RISK TO PUBLIC HEALTH.~~

14 (b) [The] EACH notice shall:

15 (1) State the nature and possible health effects that may result;

16 [(2) Be published by the public water system in a newspaper of general
17 circulation, as determined by the Secretary, within the area served by the water
18 system at least once every 3 months as long as the violation, variance, or exemption
19 continues; and

20 (3) Be included with the water bills of the water system as follows so
21 long as the violation, variance, or exemption continues:

22 (i) If the water bills of the public water system are issued more
23 often than once every 3 months, the notice shall be included in at least 1 water bill of
24 the system for each customer every 3 months; or

25 (ii) If the system issues its water bills less often than once every 3
26 months, the notice shall be included in every water bill issued by the system for each
27 customer]

28 (2) BE PROVIDED TO THE PERSONS SERVED BY THE WATER SYSTEM;

29 (3) BE ISSUED IN A TIMELY MANNER BY MEANS OF RADIO, TELEVISION,
30 NEWSPAPER OF GENERAL CIRCULATION, WRITTEN NOTICE, OR OTHER MEANS
31 ACCEPTABLE TO THE DEPARTMENT; AND

32 (4) BE IN A FORM READILY UNDERSTANDABLE BY THE AFFECTED
33 POPULATION.

34 (c) (1) By rule or regulation, the Secretary [may] SHALL adopt notice
35 requirements [alternative] to MEET [those in] THE REQUIREMENTS OF this section.

1 (2) THE RULES AND REGULATIONS SHALL ESTABLISH NOTIFICATION
2 STANDARDS AND PROCEDURES THAT INCLUDE THE MANNER, FREQUENCY, FORM,
3 AND CONTENT OF THE NOTICES.

4 (D) FOR VIOLATIONS WITH THE POTENTIAL TO HAVE SERIOUS ADVERSE
5 EFFECTS ON HUMAN HEALTH AS A RESULT OF SHORT-TERM EXPOSURE, THE
6 SUPPLIER OF WATER SHALL PROVIDE NOTICE AS SOON AS PRACTICABLE, BUT NOT
7 LATER THAN 24 HOURS AFTER THE OCCURRENCE OF THE VIOLATION.

8 (E) FOR VIOLATIONS OTHER THAN THE VIOLATIONS DESCRIBED IN
9 SUBSECTION (D) OF THIS SECTION, THE SUPPLIER OF WATER SHALL PROVIDE
10 WRITTEN NOTICE TO EACH PERSON SERVED BY THE SYSTEM IN AN ANNUAL REPORT,
11 OR BY MAIL NOT LATER THAN 1 YEAR AFTER THE VIOLATION.

12 9-412.

13 (a) A supplier of water may not:

14 (1) Fail to comply with § 9-410 of this subtitle;

15 (2) Disseminate any false or misleading information in or about any
16 notice required under § 9-410 of this subtitle or about any remedial action being
17 undertaken to achieve compliance with State primary drinking water regulations;

18 (3) KNOWINGLY MAKE ANY FALSE STATEMENT, REPRESENTATION, OR
19 CERTIFICATION IN ANY APPLICATION, RECORD, REPORT, PLAN, OR OTHER
20 DOCUMENT FILED OR PERMIT ADOPTED OR ISSUED UNDER THIS SUBTITLE;

21 [(3)] (4) Fail to comply with the rules and regulations adopted under §
22 9-407 of this subtitle; or

23 [(4)] (5) Fail to comply with any conditions for variances or exemptions
24 authorized under § 9-409 of this subtitle.

25 (b) A person may not:

26 (1) [fail] FAIL to comply with any order issued by the Secretary under [§
27 9-405 of] this subtitle; OR

28 (2) FALSIFY OR KNOWINGLY RENDER INACCURATE ANY MONITORING
29 DEVICE OR METHOD REQUIRED TO BE MAINTAINED UNDER THIS SUBTITLE OR ANY
30 RULE, REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED UNDER THIS
31 SUBTITLE.

32 9-412.1.

33 (A) ~~IN THIS SECTION, "TAMPER" MEANS TO:~~

34 (1) ~~INTRODUCE A CONTAMINANT INTO A PUBLIC WATER SYSTEM WITH~~
35 ~~THE INTENTION OF HARMING PERSONS;~~

1 ~~(2)~~ ~~INTERFERE WITH THE OPERATION OF A PUBLIC WATER SYSTEM~~
2 ~~WITH THE INTENTION OF HARMING PERSONS; OR~~

3 ~~(3)~~ ~~ALTER, WITHOUT AUTHORIZATION, OPERATION OF A PUBLIC WATER~~
4 ~~SYSTEM WITH THE INTENTION OF HARMING PERSONS.~~

5 ~~(B)~~ ~~(A)~~ A PERSON MAY NOT TAMPER, ATTEMPT TO TAMPER, OR MAKE A
6 THREAT TO TAMPER WITH A PUBLIC WATER SYSTEM.

7 ~~(C)~~ ~~(B)~~ (1) THE DEPARTMENT MAY BRING A CIVIL ACTION AGAINST ANY
8 PERSON WHO TAMPERS, ATTEMPTS TO TAMPER, OR MAKES A THREAT TO TAMPER
9 WITH A PUBLIC WATER SYSTEM.

10 (2) THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN
11 \$50,000 FOR ACTUAL TAMPERING, OR NOT MORE THAN \$20,000 FOR EACH ATTEMPT TO
12 TAMPER.

13 9-413.

14 (a) A person who willfully violates § 9-412(a) [(3)] (4) or [(4)] (5) of this
15 subtitle is subject to a civil penalty of up to \$5,000 for each day on which the violation
16 exists.

17 (b) A person who violates § 9-412(a)(1), [or] (2), OR (3) of this subtitle is guilty
18 of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 for each
19 day on which the violation occurs or failure to comply continues.

20 (c) In an action brought in the appropriate court to enforce the order, a person
21 who willfully violates or fails or refuses to comply with any order issued by the
22 Secretary under [§ 9-405 of] this subtitle may be fined not more than \$5,000 for each
23 day on which the violation occurs or failure to comply continues.

24 ~~(D)~~ ~~(1)~~ ~~IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW AND~~
25 ~~AFTER AN OPPORTUNITY FOR A HEARING, WHICH MAY BE WAIVED IN WRITING BY~~
26 ~~THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY IMPOSE A PENALTY~~
27 ~~FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY ORDER, REGULATION,~~
28 ~~OR PLAN ADOPTED OR ISSUED UNDER THIS SUBTITLE.~~

29 ~~(2)~~ ~~THE PENALTY IMPOSED ON A PERSON UNDER THIS SUBSECTION~~
30 ~~SHALL BE:~~

31 ~~(I)~~ ~~UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING~~
32 ~~\$25,000 TOTAL; AND~~

33 ~~(II)~~ ~~ASSESSED WITH CONSIDERATION GIVEN TO:~~

34 ~~I.~~ ~~THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO~~
35 ~~WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY~~
36 ~~THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED~~
37 ~~REASONABLE CARE;~~

1 2. ~~ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN~~
2 ~~HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF~~
3 ~~THIS STATE OR THE NATURAL RESOURCES OF THE STATE;~~

4 3. ~~THE COST OF CLEANUP AND THE COST OF RESTORATION~~
5 ~~OF NATURAL RESOURCES;~~

6 4. ~~THE NATURE AND DEGREE OF INJURY TO OR~~
7 ~~INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;~~

8 5. ~~THE EXTENT TO WHICH THE LOCATION OF THE~~
9 ~~VIOLATION, INCLUDING LOCATION NEAR WATERS OF THIS STATE OR AREAS OF~~
10 ~~HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT~~
11 ~~OR TO HUMAN HEALTH OR SAFETY;~~

12 6. ~~THE AVAILABLE TECHNOLOGY AND ECONOMIC~~
13 ~~REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;~~

14 7. ~~THE DEGREE OF HAZARD POSED BY THE PARTICULAR~~
15 ~~POLLUTANT OR POLLUTANTS INVOLVED;~~

16 8. ~~THE EXTENT TO WHICH THE CURRENT VIOLATION IS~~
17 ~~PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION~~
18 ~~COMMITTED BY THE VIOLATOR; AND~~

19 9. ~~WHETHER OR NOT PENALTIES WERE ASSESSED OR WILL~~
20 ~~BE ASSESSED UNDER OTHER PROVISIONS OF THIS SUBTITLE.~~

21 (3) ~~EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER~~
22 ~~THIS SUBSECTION.~~

23 (4) ~~ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO~~
24 ~~THE STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE~~
25 ~~COLLECTION OF PENALTIES.~~

26 (5) ~~ALL PENALTIES COLLECTED UNDER THIS SUBTITLE SHALL BE PAID~~
27 ~~INTO THE MARYLAND CLEAN WATER FUND CREATED UNDER § 9-320 OF THIS~~
28 ~~ARTICLE.~~

29 9-414.

30 (A) THE DEPARTMENT MAY ISSUE AN ORDER OR NOTICE IF THE DEPARTMENT
31 HAS REASONABLE GROUNDS TO BELIEVE THAT A PERSON TO WHOM THE ORDER OR
32 NOTICE IS DIRECTED HAS VIOLATED:

33 (1) THIS SUBTITLE;

34 (2) ANY RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE; OR

35 (3) ANY ORDER OR PERMIT ISSUED UNDER THIS SUBTITLE.

- 1 (B) AN ORDER OR ~~PERMIT~~ NOTICE ISSUED UNDER THIS SUBTITLE SHALL:
- 2 (1) SPECIFY THE PROVISION THAT ALLEGEDLY HAS BEEN VIOLATED;
- 3 (2) STATE THE ALLEGED FACTS THAT CONSTITUTE THE VIOLATION;
- 4 (3) STATE THE ACTIONS NECESSARY TO CORRECT THE VIOLATION AND
5 THE TIME ALLOWED FOR CORRECTIONS; AND
- 6 (4) STATE THE PROCEDURE FOR REQUESTING A HEARING TO RESPOND
7 TO THE VIOLATION ALLEGED IN THE ORDER.

8 (C) IF THE PERSON SERVED WITH AN ORDER DOES NOT REQUEST A HEARING
9 WITHIN 30 DAYS, THE ORDER BECOMES A FINAL ORDER.

10 (D) ANY NOTICE OR ORDER ISSUED BY THE DEPARTMENT UNDER THIS
11 SUBTITLE MAY BE SERVED ON THE PERSON TO WHOM IT IS DIRECTED:

- 12 (1) PERSONALLY;
- 13 (2) BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE
14 PERSON'S LAST KNOWN ADDRESS AS SHOWN ON THE DEPARTMENT'S RECORDS; OR
- 15 (3) BY PUBLICATION.

16 9-415.

17 (A) THE DEPARTMENT SHALL GIVE NOTICE AND HOLD HEARINGS UNDER
18 THIS SUBTITLE IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

19 (B) (1) WITHIN 30 DAYS AFTER SERVICE OF THE ORDER UNDER THIS
20 SUBTITLE THE PERSON SERVED MAY REQUEST IN WRITING A HEARING BEFORE THE
21 DEPARTMENT.

22 (2) (I) IF A PERSON SERVED WITH AN ORDER UNDER THIS
23 SUBSECTION MAKES A TIMELY REQUEST FOR A HEARING, THE DEPARTMENT SHALL
24 GIVE THE PERSON WRITTEN NOTICE OF THE DATE, TIME, AND PLACE OF THE
25 HEARING, AT LEAST 10 DAYS BEFORE THE HEARING DATE.

26 (II) THE ORDER BECOMES FINAL WHEN THE DEPARTMENT
27 RENDERS ITS DECISION FOLLOWING THE HEARING.

28 (C) THE DEPARTMENT MAY MAKE A VERBATIM RECORD OF THE
29 PROCEEDINGS OF ANY HEARING HELD UNDER THIS SUBTITLE.

30 (D) (1) IN CONNECTION WITH ANY HEARING UNDER THIS SUBTITLE, THE
31 DEPARTMENT MAY:

- 32 (I) SUBPOENA ANY PERSON OR EVIDENCE; AND
- 33 (II) ORDER A WITNESS TO GIVE EVIDENCE.

1 (2) A SUBPOENAED WITNESS SHALL RECEIVE THE SAME FEES AND
2 MILEAGE REIMBURSEMENT AS IF THE HEARING WERE PART OF A CIVIL ACTION.

3 (3) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR ORDER
4 ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE DEPARTMENT, A CIRCUIT
5 COURT, BY ORDER MAY:

6 (I) COMPEL OBEDIENCE TO THE DEPARTMENT'S ORDER OR
7 SUBPOENA; OR

8 (II) COMPEL TESTIMONY OR THE PRODUCTION OF EVIDENCE.

9 (4) THE COURT MAY PUNISH AS CONTEMPT ANY FAILURE TO OBEY ITS
10 ORDER ISSUED UNDER THIS SECTION.

11 (5) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE
12 DEPARTMENT IN CONNECTION WITH AN ORDER OR A PERMIT ISSUED UNDER THIS
13 SUBTITLE MAY TAKE JUDICIAL APPEAL IN ACCORDANCE WITH THE ADMINISTRATIVE
14 PROCEDURES ACT.

15 9-416.

16 (A) THE DEPARTMENT MAY BRING AN ACTION FOR AN INJUNCTION AGAINST
17 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY RULE,
18 REGULATION, ORDER, OR PERMIT ADOPTED OR ISSUED BY THE DEPARTMENT UNDER
19 THIS SUBTITLE.

20 (B) IN AN ACTION FOR AN INJUNCTION UNDER THIS SECTION, ANY FINDING
21 OF THE DEPARTMENT AFTER A HEARING IS PRIMA FACIE EVIDENCE OF EACH FACT
22 THE DEPARTMENT DETERMINES.

23 9-417.

24 EACH NEW COMMUNITY AND NONTRANSIENT NONCOMMUNITY WATER SUPPLY
25 SYSTEM THAT COMMENCES OPERATION AFTER OCTOBER 1, 1999 SHALL
26 DEMONSTRATE TO THE DEPARTMENT THAT IT HAS THE TECHNICAL, MANAGERIAL,
27 AND FINANCIAL CAPACITY TO OPERATE THE PROPOSED WATER SYSTEM IN
28 ACCORDANCE WITH THE DRINKING WATER REGULATIONS IN EFFECT, OR LIKELY TO
29 BE IN EFFECT, ON THE DATE OF THE COMMENCEMENT OF OPERATIONS.

30 SECTION 2. AND BE IT FURTHER ENACTED, That the laws of Maryland
31 read as follows:

32 Article - Environment

33 9-413.

34 (D) (1) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW AND
35 AFTER AN OPPORTUNITY FOR A HEARING, WHICH MAY BE WAIVED IN WRITING BY
36 THE PERSON ACCUSED OF A VIOLATION, THE DEPARTMENT MAY IMPOSE A PENALTY

1 FOR VIOLATION OF ANY PROVISION OF THIS SUBTITLE OR ANY ORDER, REGULATION,
2 OR PLAN ADOPTED OR ISSUED UNDER THIS SUBTITLE.

3 (2) THE PENALTY IMPOSED ON A SUPPLIER OF WATER SERVING A
4 POPULATION OF MORE THAN 10,000 UNDER THIS SUBSECTION SHALL BE:

5 (I) UP TO \$1,000 FOR EACH VIOLATION, BUT NOT EXCEEDING
6 \$25,000 TOTAL; AND

7 (II) ASSESSED WITH CONSIDERATION GIVEN TO:

8 1. THE WILLFULNESS OF THE VIOLATION, THE EXTENT TO
9 WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO BUT UNCORRECTED BY
10 THE VIOLATOR, AND THE EXTENT TO WHICH THE VIOLATOR EXERCISED
11 REASONABLE CARE;

12 2. ANY ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN
13 HEALTH, INCLUDING INJURY TO OR IMPAIRMENT OF THE USE OF THE WATERS OF
14 THIS STATE OR THE NATURAL RESOURCES OF THE STATE;

15 3. THE COST OF CLEANUP AND THE COST OF RESTORATION
16 OF NATURAL RESOURCES;

17 4. THE NATURE AND DEGREE OF INJURY TO OR
18 INTERFERENCE WITH GENERAL WELFARE, HEALTH, AND PROPERTY;

19 5. THE EXTENT TO WHICH THE LOCATION OF THE
20 VIOLATION, INCLUDING LOCATION NEAR WATERS OF THIS STATE OR AREAS OF
21 HUMAN POPULATION, CREATES THE POTENTIAL FOR HARM TO THE ENVIRONMENT
22 OR TO HUMAN HEALTH OR SAFETY;

23 6. THE AVAILABLE TECHNOLOGY AND ECONOMIC
24 REASONABLENESS OF CONTROLLING, REDUCING, OR ELIMINATING THE VIOLATION;

25 7. THE DEGREE OF HAZARD POSED BY THE PARTICULAR
26 POLLUTANT OR POLLUTANTS INVOLVED;

27 8. THE EXTENT TO WHICH THE CURRENT VIOLATION IS
28 PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION
29 COMMITTED BY THE VIOLATOR; AND

30 9. WHETHER OR NOT PENALTIES WERE ASSESSED OR WILL
31 BE ASSESSED UNDER OTHER PROVISIONS OF THIS SUBTITLE.

32 (3) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER
33 THIS SUBSECTION.

34 (4) ANY PENALTY IMPOSED UNDER THIS SUBSECTION IS PAYABLE TO
35 THE STATE AND COLLECTIBLE IN ANY MANNER PROVIDED AT LAW FOR THE
36 COLLECTION OF PENALTIES.

1 (5) ALL PENALTIES COLLECTED UNDER THIS SUBTITLE SHALL BE PAID
2 INTO THE MARYLAND CLEAN WATER FUND CREATED UNDER § 9-320 OF THIS
3 ARTICLE.

4 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
5 take effect when required by federal regulation promulgated under the Federal Safe
6 Drinking Water Act.

7 SECTION ~~2. 4.~~ AND BE IT FURTHER ENACTED, That, subject to Section 3
8 of this Act, this Act shall take effect October 1, 1998.