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By: **Senator Frosh**

Introduced and read first time: February 2, 2001

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Issuance and Renewal of Discharge Permits - Procedures**

3 FOR the purpose of authorizing the Department of the Environment to issue or renew  
4 a discharge permit under certain circumstances; prohibiting the Department  
5 from staying certain permit terms and conditions except under certain  
6 circumstances; specifying a certain standard of judgment in the event of a  
7 certain stay; requiring a person to apply for a certain permit at a certain time;  
8 requiring the Department to complete a certain review and to provide certain  
9 notice within a certain time; authorizing the Department to extend a certain  
10 response time under certain circumstances; requiring the Department to  
11 establish, update, and make available a certain permit docket; requiring the  
12 Department to provide a certain statement to a permit applicant within a  
13 certain time, and requiring the applicant to remit a certain payment to the  
14 Department within a certain time; requiring the Department to adopt certain  
15 regulations; repealing the requirement that the Department consult with  
16 industry and make a certain provision regarding a certain fee; making certain  
17 technical corrections; making certain stylistic changes; and generally relating to  
18 procedures for the issuance and renewal of certain discharge permits.

19 BY renumbering

20 Article - Environment  
21 Section 9-326 and 9-327, respectively  
22 to be Section 9-327 and 9-328, respectively  
23 Annotated Code of Maryland  
24 (1996 Replacement Volume and 2000 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article - Environment  
27 Section 9-324 and 9-325  
28 Annotated Code of Maryland  
29 (1996 Replacement Volume and 2000 Supplement)

30 BY adding to

31 Article - Environment

1 Section 9-325  
2 Annotated Code of Maryland  
3 (1996 Replacement Volume and 2000 Supplement)

4 BY repealing  
5 Article - Environment  
6 Section 9-328  
7 Annotated Code of Maryland  
8 (1996 Replacement Volume and 2000 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
10 MARYLAND, That Section(s) 9-326 and 9-327, respectively, of Article - Environment  
11 of the Annotated Code of Maryland be renumbered to be Section(s) 9-327 and 9-328,  
12 respectively.

13 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
14 read as follows:

15 **Article - Environment**

16 9-324.

17 (a) (1) Subject to the provisions of this [section] PART, AND AFTER  
18 ADMINISTRATIVE REVIEW IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE  
19 DEPARTMENT, the Department may issue OR RENEW FOR ANOTHER TERM a  
20 discharge permit if [the]:

21 (I) THE Department finds that the discharge meets OR WILL MEET:

22 [(1)] 1. All applicable State and federal water quality standards and  
23 effluent limitations; and

24 [(2)] 2. All other requirements of this subtitle; AND

25 (II) THE PERMIT APPLICANT PAYS ALL APPLICATION FEES AND, AS  
26 APPLICABLE, ALL PERMIT FEES ASSESSED BY THE DEPARTMENT UNDER THIS  
27 SUBTITLE.

28 (2) (I) UNLESS A DISCHARGE PERMIT IS RENEWED FOR ANOTHER  
29 TERM, IT EXPIRES ON THE EXPIRATION DATE THE DEPARTMENT SETS AT ISSUANCE  
30 OR RENEWAL.

31 (II) THE DEPARTMENT MAY NOT ISSUE A DISCHARGE PERMIT FOR  
32 A TERM LONGER THAN 5 YEARS.

33 (b) (1) Before issuing OR RENEWING a discharge permit, the Department  
34 shall comply with ALL OF the provisions of THIS PART AND OF Title 1, Subtitle 6 of  
35 this article.

1 [(c)] (2) The information meeting required by Title 1, Subtitle 6 of this article  
2 shall be held in the geographical area that will be most directly affected if the  
3 discharge permit is issued.

4 [(d)] (3) The Department shall give public notice of each application for a  
5 discharge permit as required by Title 1, Subtitle 6 of this article, and by making  
6 available to the public appropriate documents, permit applications, supporting  
7 material, plans, and other relevant information.

8 (4) (I) EXCEPT AS AUTHORIZED UNDER SUBPARAGRAPH (II) OF THIS  
9 PARAGRAPH, IF A PERMIT APPLICANT REQUESTS A CONTESTED CASE HEARING  
10 UNDER TITLE 1, SUBTITLE 6 OF THIS ARTICLE, THE DEPARTMENT MAY NOT STAY THE  
11 TERMS AND CONDITIONS OF THE PERMIT.

12 (II) PENDING FINAL RESOLUTION OF A CONTESTED CASE  
13 HEARING, THE DEPARTMENT MAY STAY THE TERMS AND CONDITIONS OF A PERMIT  
14 IF IMPLEMENTATION OF THE TERMS AND CONDITIONS:

15 1. IS THE SUBJECT OF THE CONTESTED CASE HEARING; AND  
16 2. WOULD CAUSE UNDUE FINANCIAL HARDSHIP TO THE  
17 APPLICANT.

18 (III) THE GRANTING OF A STAY UNDER SUBPARAGRAPH (II) OF THIS  
19 PARAGRAPH SHALL BE DETERMINED IN ACCORDANCE WITH AN ARBITRARY AND  
20 CAPRICIOUS STANDARD.

21 9-325.

22 (A) (1) A PERSON SHALL APPLY FOR A PERMIT UNDER THIS PART AT LEAST  
23 18 MONTHS BEFORE A PERMIT MAY BE ISSUED OR RENEWED.

24 (2) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION,  
25 WITHIN 12 MONTHS AFTER THE DATE ON WHICH AN APPLICATION IS FILED, THE  
26 DEPARTMENT SHALL COMPLETE ITS ADMINISTRATIVE REVIEW PROCEDURES AND:

27 (I) PUBLISH A DRAFT PERMIT FOR NOTICE AND COMMENT; OR

28 (II) INFORM THE PERMIT APPLICANT THAT THE APPLICATION HAS  
29 BEEN DENIED.

30 (B) THE DEPARTMENT MAY EXTEND ITS 12-MONTH RESPONSE TIME UNDER  
31 SUBSECTION (A)(2) OF THIS SECTION IF:

32 (1) (I) THE DEPARTMENT DETERMINES THAT ADDITIONAL TIME IS  
33 NECESSARY IN ORDER TO ACQUIRE INFORMATION RELATED TO THE  
34 ESTABLISHMENT OF EFFLUENT LIMITATIONS OR APPROPRIATE WATER QUALITY  
35 STANDARDS; OR

1 (II) 1. THE PERMIT IS PART OF A WATERSHED CYCLING  
2 STRATEGY THAT REQUIRES THE ISSUANCE OF COORDINATED PERMITS; AND

3 2. THE WATERSHED CYCLING STRATEGY IS SCHEDULED TO  
4 BEGIN NO MORE THAN 2 YEARS AFTER THE DATE ON WHICH THE APPLICATION WAS  
5 FILED;

6 (2) THE DEPARTMENT INFORMS THE PRESIDENT OF THE SENATE AND  
7 THE SPEAKER OF THE HOUSE OF DELEGATES BY LETTER AND THE GENERAL PUBLIC  
8 BY PUBLICATION OF A NOTICE IN THE MARYLAND REGISTER OF:

9 (I) THE REASONS WHY EXTENSION OF THE 12-MONTH DEADLINE  
10 IS NECESSARY;

11 (II) THE AMOUNT OF ADDITIONAL TIME NECESSARY TO PROCESS  
12 THE APPLICATION; AND

13 (III) THE DEPARTMENT'S REASONABLE ESTIMATE OF THE DATE ON  
14 WHICH THE PERMIT IS LIKELY TO BECOME EFFECTIVE; AND

15 (3) IF THE APPLICATION IS FOR THE RENEWAL OF A PERMIT:

16 (I) THE DEPARTMENT ESTABLISHES INTERIM DISCHARGE  
17 LIMITATIONS THAT APPLY BEST AVAILABLE TECHNOLOGY STANDARDS TO THE MOST  
18 RECENT PRODUCTION DATA AVAILABLE; AND

19 (II) THE INTERIM DISCHARGE LIMITATIONS DO NOT EXPIRE UNTIL  
20 A RENEWAL PERMIT IS ISSUED.

21 (C) UNTIL A PERMIT IS ISSUED, INFORMATION PROVIDED TO THE PRESIDENT  
22 OF THE SENATE, THE SPEAKER OF THE HOUSE OF DELEGATES, AND THE GENERAL  
23 PUBLIC UNDER SUBSECTION (B)(2) OF THIS SECTION SHALL BE UPDATED EVERY 6  
24 MONTHS IN THE SAME FORMAT AS THE ORIGINAL NOTICE.

25 (D) THE DEPARTMENT SHALL:

26 (1) ESTABLISH A PERMIT DOCKET THAT INCLUDES:

27 (I) ALL INFORMATION USED TO DETERMINE THE TERMS AND  
28 CONDITIONS OF A PERMIT; AND

29 (II) A COMPLETE RECORD OF ALL CORRESPONDENCE AND OTHER  
30 COMMUNICATIONS BETWEEN THE APPLICANT AND THE DEPARTMENT REGARDING  
31 THE PERMIT OR RENEWAL APPLICATION;

32 (2) UPDATE THE DOCKET REGULARLY AS INFORMATION RELEVANT TO A  
33 PERMIT APPLICATION OR RENEWAL OR INTERIM DISCHARGE LIMITATIONS BECOMES  
34 AVAILABLE; AND

35 (3) PROVIDE THE GENERAL PUBLIC WITH REASONABLE ACCESS TO THE  
36 DOCKET.

1 [9-325.] 9-326.

2 (a) The Department [may] SHALL adopt [rules and] regulations that relate  
3 to application for, RENEWAL OF, issuance of, revocation of, or modification of  
4 discharge permits. The [rules and] regulations [may] SHALL require submission of  
5 plans, specifications, and other information.

6 (b) (1) The [rules and] regulations adopted under this section shall set a  
7 reasonable application fee in an amount designed to cover the cost of the ENTIRE  
8 permit procedure, INCLUDING DEPARTMENTAL PERSONNEL COSTS AND ANY COSTS  
9 ASSOCIATED WITH THE DEPARTMENT'S CONSULTATION OF OTHER EXPERTS.

10 (2) THE DEPARTMENT SHALL PROVIDE AN APPLICANT WITH AN  
11 ITEMIZED STATEMENT OF ITS COSTS WITHIN 30 DAYS AFTER THE COSTS ARE  
12 INCURRED.

13 (3) THE APPLICANT SHALL REMIT IN FULL TO THE DEPARTMENT ALL  
14 COSTS RELATED TO THE ENTIRE PERMIT PROCEDURE WITHIN 30 DAYS OF RECEIPT  
15 OF THE DEPARTMENT'S ITEMIZED STATEMENT.

16 (c) [(1)] The [rules and] regulations adopted under this section shall set a  
17 reasonable permit fee schedule for industrial users based on:

18 [(i)] (1) The anticipated cost of monitoring and regulating the  
19 permitted facility;

20 [(ii)] (2) The flow of effluent discharge from the permitted facility;  
21 and

22 [(iii)] (3) The anticipated needs for program development activities  
23 that relate to management of the discharge of pollutants into the waters of this State.

24 [(2) In adopting the rules and regulations under this subsection, the  
25 Department shall consult with industry and provide that the permit fee not exceed a  
26 certain dollar amount.]

27 [9-328.

28 (a) (1) Unless it is renewed for another term, a discharge permit expires on  
29 the expiration date the Department sets at issuance or renewal.

30 (2) The Department may not issue a discharge permit for a term longer  
31 than 5 years.

32 (b) Before a discharge permit expires, the Department may renew the  
33 discharge permit for another term:

34 (1) After administrative review in accordance with the rules and  
35 regulations that the Department adopts;

36 (2) After notice and opportunity for public hearing on the subject;

- 1                   (3)     On the condition that the discharge meets or will meet:
- 2                           (i)     Any applicable State or federal water quality standards or  
3 effluent limitations; and
- 4                           (ii)    Any applicable requirement of this subtitle; and
- 5                   (4)     If the permit holder pays all application and permit fees assessed by  
6 the Department under this subtitle.
- 7           (c)     Administrative review proceedings under this section shall be completed at  
8 least 60 days before the expiration date of the permit.]
- 9     SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2001.