

Department of Legislative Services
 Maryland General Assembly
 2001 Session

FISCAL NOTE

Senate Bill 689 (Senator Frosh)
 Economic and Environmental Affairs

Issuance and Renewal of Discharge Permits - Procedures

This bill repeals existing provisions and establishes new provisions relating to the Maryland Department of the Environment's (MDE) authority with respect to industrial discharge permits.

Fiscal Summary

State Effect: Special fund revenues would increase significantly and would offset not only the increase in costs for the permitting program (\$130,200 in FY 2002), but also the current general and federal fund expenditures associated with the permitting process. Special fund expenditures would increase accordingly, and general fund and federal fund expenditures would decrease accordingly. Future year estimates are annualized, adjusted for inflation, and reflect ongoing operating costs related to only the increase in costs as a result of the bill.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
SF Revenue	-	-	-	-	-
GF Expenditure	(-)	(-)	(-)	(-)	(-)
SF Expenditure	130,200	223,300	235,600	248,800	263,000
FF Expenditure	(-)	(-)	(-)	(-)	(-)
Net Effect	(\$130,200)	(\$223,300)	(\$235,600)	(\$248,800)	(\$263,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: After administrative review in accordance with regulations, MDE may issue or renew a discharge permit if: (1) it finds that the discharge meets or will meet all applicable State and federal water quality standards and effluent limitations and all other requirements; and (2) the permit applicant pays all application fees, and, as applicable, all permit fees assessed by MDE. Unless a discharge permit is renewed for another term, it expires on the expiration date MDE sets at issuance or renewal. MDE may not issue a discharge permit for a term longer than five years. Before issuing or renewing a discharge permit, MDE must comply with specified provisions of current law.

If a permit applicant requests a contested case hearing, MDE may not stay the terms and conditions of the permit. Pending final resolution of a contested case hearing, MDE may stay the terms and conditions of a permit under specified conditions.

A person must apply for a permit at least 18 months before a permit may be issued or renewed. Within 12 months after the date on which an application is filed, MDE must complete its administrative review procedures and publish a draft permit for notice and comment or inform the permit applicant that the application has been denied. MDE may extend its 12-month response time under specified conditions. MDE must establish a permit docket, update the docket regularly, and provide the general public with reasonable access to the docket.

MDE must adopt regulations that relate to the application for, renewal of, issuance of, revocation of, or modification of discharge permits. The regulations shall require submission of plans, specifications, and other information. The regulations must set a reasonable application fee in an amount designed to cover the cost of the entire permit procedure, including departmental personnel costs and any costs associated with MDE's consultation of other experts. MDE must provide an applicant with an itemized statement of its costs within 30 days after costs are incurred. The applicant must remit in full to MDE all costs related to the entire permit procedure within 30 days of receipt of the department's itemized statement.

Current Law: MDE may issue a discharge permit if it finds that the discharge meets all applicable State and federal water quality standards and effluent limitations and all other requirements of current law. Before issuing a discharge permit, MDE must comply with specified provisions of current law. MDE may adopt rules and regulations that relate to the application for, issuance of, revocation of, or modification of discharge permits. The rules and regulations may require submission of plans, specifications, and other information. The rules and regulations must set a reasonable application fee in an amount designed to cover the cost of the permit procedure. In adopting rules and regulations, MDE must consult with the industry and provide that the permit fee not

exceed a certain dollar amount. Unless it is renewed for another term, a discharge permit expires on the expiration date MDE sets at issuance or renewal. MDE may not issue a discharge permit for a term longer than five years. Before a discharge permit expires, MDE may renew the discharge permit for another term under specified conditions. Administrative review proceedings must be completed at least 60 days before the expiration date of the permit.

State Fiscal Effect: MDE’s current industrial discharge permitting program is funded through a combination of general funds, special funds, and federal funds. Because MDE tracks several permitting programs together, the actual amount of expenditures for the program is unknown. MDE collected approximately \$546,000 in special fund revenues from discharge permit fees in 1999. These permit fees are paid into the Maryland Clean Water Fund and used to offset a portion of the program costs. Under this bill, MDE would charge applicants for the full cost of the permitting procedure, including personnel costs. Accordingly, the bill would result in an increase in special fund revenues. The special fund revenues generated as a result of the bill would not only offset the increase in costs associated with the bill, but also the costs of the existing permit program. Accordingly, special fund expenditures would increase (to cover the cost of the entire permitting program), and general fund and federal fund expenditures would decrease.

Because the bill expands MDE’s responsibilities with respect to discharge permits, total expenditures for the permitting process could increase by \$130,200 in fiscal 2002, which accounts for the bill’s October 1, 2001 effective date and a 90-day start-up delay. This estimate reflects the cost of hiring one public health engineer to write permits, three employees (one records management specialist, one administrative officer, and one environmental specialist) to assist with data entry, records management, public participation, public information requests, and the development of dockets, and one grants specialist to maintain the new billing and accounting system. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

- currently, there are approximately 300 active industrial discharge permits; and
- industrial discharge permits are valid for five years.

Salaries and Fringe Benefits	\$105,700
Equipment	22,800
Operating Expenses	<u>1,700</u>
Total FY 2002 State Expenditures	\$130,200

Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The bill is not anticipated to significantly affect the number of contested cases related to industrial discharge permit decisions.

Small Business Effect: There are 300 active industrial discharge permits. The number of permittees that are considered small businesses is unknown. MDE advises that the current fee structure is tiered so as to minimize costs to small businesses. By requiring that applicants pay the full cost of the permitting procedure, fees for some small businesses could increase significantly.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Office of Administrative Hearings, Department of Legislative Services

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