

# SENATE BILL 120

M3  
SB 508/08 – EHE

9lr1582

---

By: **Senator Stone**  
Introduced and read first time: January 16, 2009  
Assigned to: Education, Health, and Environmental Affairs

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Permit Process – Modifications**

3 FOR the purpose of requiring the Department of the Environment to provide an  
4 opportunity for a contested case hearing under certain circumstances; altering  
5 certain public hearing and notice requirements; establishing an Environmental  
6 Leadership Group within the Department for a certain purpose; establishing  
7 the membership of the Group; providing the Secretary with the discretion to  
8 determine the term of membership, meeting dates and locations, and certain  
9 issues to be considered by the Group; requiring an applicant for a certain permit  
10 to prepare and submit an environmental impact statement to the Department;  
11 requiring the environmental impact statement to be prepared, submitted, and  
12 approved in accordance with certain regulations; and generally relating to the  
13 Department of the Environment and the permit process.

14 BY repealing and reenacting, with amendments,  
15 Article – Environment  
16 Section 1–601, 1–602, and 2–404  
17 Annotated Code of Maryland  
18 (2007 Replacement Volume and 2008 Supplement)

19 BY adding to  
20 Article – Environment  
21 Section 1–608  
22 Annotated Code of Maryland  
23 (2007 Replacement Volume and 2008 Supplement)

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

26 **Article – Environment**

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 1-601.

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

4 (1) Air quality control permits to construct subject to § 2-404 of this  
5 article;

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

8 (3) Permits to discharge pollutants to waters of the State issued  
9 pursuant to § 9-323 of this article;

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

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

15 (6) Permits to own, operate, or maintain a hazardous material facility  
16 issued pursuant to § 7-103 of this article; and

17 (7) Permits to own, operate, establish or maintain a low-level nuclear  
18 waste facility issued pursuant to § 7-233 of this article.

19 (b) [Notwithstanding any other provision of law to the contrary, the] **THE**  
20 Department is [not] required to provide an opportunity for a contested case hearing to  
21 any party [other than the applicant] **THAT MEETS THE REQUIREMENTS SET FORTH**  
22 **IN § 1-605(A) OF THIS SUBTITLE** in connection with any permit issued pursuant to  
23 this article [except the permits listed in subsection (a) of this section].

24 (c) (1) When this article requires more than one public informational  
25 meeting, public hearing, or contested case hearing, the Department may consolidate  
26 some or all of the meetings or hearings for the proposed facility with similar meetings  
27 or hearings.

28 (2) The Department shall hold public informational meetings and  
29 public hearings at a location in the [political subdivision and in close proximity to] **ZIP**  
30 **CODE OF** the location where the individual permit applies.

31 1-602.

32 (a) Wherever this subtitle requires the Department to publish notice:

1 (1) Notice shall be published at least once a week for 2 consecutive  
2 weeks in a daily or weekly newspaper of general circulation in the [geographical area]  
3 **ZIP CODE** in which the proposed facility is located;

4 (2) The Department may require notice of an informational meeting or  
5 a public hearing by mail to each person requesting the meeting or hearing or to their  
6 authorized representatives;

7 (3) The Department may provide additional notice by requiring the  
8 notice to be posted at the proposed facility or at public facilities in the geographical  
9 area of the proposed facility; and

10 (4) The applicant shall bear all costs incurred by the Department in  
11 providing notice.

12 (b) The Department may publish the notice or require the applicant to  
13 publish the notice.

14 **1-608.**

15 (A) **THERE IS AN ENVIRONMENTAL LEADERSHIP GROUP WITHIN THE**  
16 **DEPARTMENT TO CONSIDER AND ACT ON ENVIRONMENTAL MATTERS IN THE**  
17 **STATE, INCLUDING THOSE ACTIVITIES THAT REQUIRE PERMIT APPROVAL FROM**  
18 **LOCAL, STATE, AND FEDERAL GOVERNMENT AGENCIES.**

19 (B) **THE ENVIRONMENTAL LEADERSHIP GROUP SHALL BE COMPOSED**  
20 **OF THE FOLLOWING MEMBERS TO BE APPOINTED BY THE SECRETARY:**

21 (1) **A CITIZEN REPRESENTATIVE FROM EACH COUNTY IN THE**  
22 **STATE AND BALTIMORE CITY;**

23 (2) **A REPRESENTATIVE OF THE DEPARTMENT; AND**

24 (3) **A REPRESENTATIVE OF THE U.S. ENVIRONMENTAL**  
25 **PROTECTION AGENCY.**

26 (C) **THE SECRETARY MAY DETERMINE THE TERMS OF MEMBERSHIP,**  
27 **MEETING DATES AND LOCATIONS, AND ISSUES TO BE CONSIDERED AND ACTED**  
28 **ON BY THE ENVIRONMENTAL LEADERSHIP GROUP.**

29 2-404.

30 (a) This section applies to the following activities:

31 (1) Construction of a new source;

1           (2) Replacement of components of an existing permitted source, if the  
2 fixed capital cost of the replacement components exceeds one-half of the fixed capital  
3 cost that would be required to construct a new source comparable in process to the  
4 existing source; and

5           (3) Modification of an existing permitted source by making a physical  
6 or operational change to the source that will result in a significant net increase in  
7 emissions of any pollutant from that source.

8           (b) (1) Before accepting an application for a permit subject to subsection  
9 (c) of this section, the Department shall require the applicant to submit  
10 documentation:

11                   (i) That demonstrates that the proposal has been approved by  
12 the local jurisdiction for all zoning and land use requirements; or

13                   (ii) That the source meets all applicable zoning and land use  
14 requirements.

15           (2) Paragraph (1) of this subsection does not apply to any application  
16 for a permit to construct at an existing source unless the existing source is a  
17 nonconforming use.

18           (c) The Department shall comply with the provisions in subsection (d) of this  
19 section before issuing a permit for the activities listed in subsection (a) of this section  
20 at:

21                   (1) Any source which is required to obtain a permit to operate under  
22 regulations adopted under this subtitle;

23                   (2) Any source which is subject to federal standards under 40 C.F.R.  
24 Part 60 (New Source Performance Standards), 40 C.F.R. Part 61 (National Emission  
25 Standards for Hazardous Air Pollutants), or 40 C.F.R. 52.21 (Prevention of Significant  
26 Deterioration); or

27                   (3) Any source that will, after control, discharge 25 tons or more per  
28 year of a pollutant regulated under this title in the areas of Baltimore City designated  
29 by the United States Post Office as zip code numbers 21225, 21226, and 21230.

30           (d) (1) Before issuing a permit subject to subsection (c) of this section, the  
31 Department shall:

32                   (i) Comply with the provisions of Title 1, Subtitle 6 of this  
33 article; and

34                   (ii) Conduct any public hearing required by Title 1, Subtitle 6 of  
35 this article in the county in which the proposed source is located.

1           (2) In addition to the requirements under paragraph (1) of this  
2 subsection, before issuing a permit to construct a source described in subsection (c)(3)  
3 of this section, the Department shall require at the expense of the applicant the  
4 preparation of an ambient air quality impact analysis regarding the proposed  
5 construction.

6           (e) The provisions of this section do not apply to any permit to construct  
7 control equipment on an existing source or to any permit to operate.

8           **(F) (1) IN ADDITION TO THE REQUIREMENTS OF THIS SECTION, AN**  
9 **APPLICANT FOR A PERMIT TO CONSTRUCT UNDER SUBSECTION (A)(1) OF THIS**  
10 **SECTION SHALL PREPARE AND SUBMIT AN ENVIRONMENTAL IMPACT**  
11 **STATEMENT TO THE DEPARTMENT.**

12           **(2) THE ENVIRONMENTAL IMPACT STATEMENT SHALL BE**  
13 **PREPARED, SUBMITTED, AND APPROVED IN ACCORDANCE WITH THE**  
14 **PROCEDURAL REQUIREMENTS SET FORTH IN COMAR 26.03.11.09.**

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2009.