

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 626 (Delegate Kipke)
Environmental Matters

Environment - Discharge of Pollutants - Permit Exemption

This bill establishes an exemption from the requirement to hold a water discharge permit for a facility, outlet, or any other establishment that makes less than 50 yards of a concrete product per week if the Maryland Department of the Environment (MDE) determines that the entity does not cause or increase the discharge of any pollutant into the waters of the State.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: Federal fund revenues may decrease significantly beginning in FY 2013 as the bill results in a violation of MDE's delegation agreement with the U.S. Environmental Protection Agency (EPA), which authorizes MDE to implement federally required water discharge permitting activities consistent with federal law. MDE operations and finances may be significantly impacted to the extent EPA undertakes certain permitting activities instead of MDE. To the extent any activities become exempt from permitting as a result of the bill, special fund revenues from permit fees may decrease, but any such decrease cannot be reliably estimated at this time.

Local Effect: The bill is not anticipated to directly affect local operations or finances.

Small Business Effect: Potential meaningful benefit to some small business concrete producers to the extent they become exempt from permitting requirements as a result of the bill. However, it is unclear whether the bill's exemption will result in any benefit if EPA continues to regulate these businesses under federal law, notwithstanding the exemption established by the bill.

Analysis

Current Law/Background: A person must hold a discharge permit issued by MDE before constructing, installing, modifying, extending, altering, or operating an industrial, commercial, or recreational facility or disposal system, a State-owned treatment facility, or any other outlet or establishment, if the operation could cause or increase the discharge of pollutants into the waters of the State. MDE may also require by regulation a discharge permit for any other activity. Application fees and annual permit fees vary depending on the volume of discharge, and they are paid into the Maryland Clean Water Fund.

The “waters of the State” are defined as both surface and underground waters within the boundaries of Maryland subject to its jurisdiction, including part of the Atlantic Ocean, the Chesapeake Bay and its tributaries, and all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems, other than those designed and used to collect, convey, or dispose of sanitary sewage, as well as the flood plain of free-flowing waters determined by the Department of Natural Resources on the basis of the 100-year flood frequency.

The Water Management Administration within MDE issues permits to protect Maryland’s water resources by controlling industrial and municipal wastewater discharges. Surface water discharges are regulated through combined State and federal permits under the National Pollutant Discharge Elimination System. Groundwater discharges are regulated through State-issued groundwater permits.

MDE advises that it currently has the authority to exempt a facility from the requirement to hold a discharge permit if the facility does not discharge to the waters of the State. However, MDE may not establish a permit exemption for a class of facilities that are not specifically exempt under the federal Clean Water Act. Specifically, certain concrete production facilities are required under federal law to obtain a discharge permit for stormwater runoff regardless of whether the runoff increases the discharge of pollutants into waters of the State, unless the facility also certifies that its operations have no exposure to stormwater.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Carroll, Cecil, Montgomery, and St. Mary's counties; Department of Natural Resources; Maryland Department of the Environment; Department of General Services; Maryland Department of Transportation; Department of Legislative Services

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mlm/lgc

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