

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 820 (Delegate Lam, *et al.*)
Environment and Transportation

Reducing Environmental Degradation for the Underserved Through Community
Engagement (The REDUCE Act)

This bill requires a specified applicant for an air quality permit to construct to (1) estimate and report specified information related to diesel vehicle trips and emissions to the Maryland Department of the Environment (MDE) and (2) solicit specified information from an “affected community” located around a source or proposed source. MDE must publish this information on its website before issuing a permit. “Affected community” means a U.S. Census tract in which the source or proposed source is located that meets specified income and race criteria. Before issuing such a permit, MDE must (1) at the request of an individual in an affected community, solicit specified information from the appropriate county or local health department related to incidences of specified health ailments within the affected community and (2) coordinate with the permit applicant to disseminate the information to interested parties.

Fiscal Summary

State Effect: MDE can develop guidance documents and host an educational seminar for affected sources, solicit information required from local health departments, coordinate with permit applicants, and disseminate information using existing budgeted resources. Potential operational impact on State agencies that apply for an affected air quality permit to construct due to delays in permit review times.

Local Effect: Minimal, assuming local health departments only need to provide MDE with any information that is already available, as discussed below.

Small Business Effect: Minimal. Small business permit applicants could be affected if the bill lengthens permit review times or increases public hearing and notice costs.

Analysis

Bill Summary: An “affected community” means a U.S. Census tract in which a source or proposed source is located and (1) the median household income is less than or equal to two times the federal poverty rate or less, for a household of four individuals, or (2) more than 35% of the population identifies as a race or ethnicity other than white.

The bill applies to the construction of a new source or the modification of an existing permitted source that is making a physical or operational change that results in a significant net increase in emissions of any pollutant if the source is located in an affected community and engages in the following activities:

- the use of crushers, hammermills, shredders, grinders, or classifying screens of at least five tons per hour throughput;
- coal or ore export loading or unloading installations;
- asphalt blowing or asphalt building products saturation or roll coating installations; or
- hot-mix asphalt concrete production installations.

Before issuing an air quality permit to construct for any of the affected activities, MDE must require the applicant to (1) estimate and report the number of diesel vehicle trips per day needed to service the source or proposed source during construction and operation and the associated emissions from the diesel vehicle trips and (2) solicit input from the affected community and community advisory board or similar organization that is located within a one-mile radius of the source or proposed source on diesel vehicle trip routes and times, impacts on road infrastructure and traffic safety, and idling policies. MDE must publish that information on its website before issuing a permit.

An individual in an affected community may request that MDE solicit any available information pertaining to the incidences within the affected community of respiratory illness or mortality, cardiovascular disease, or other health disparities of concern from the appropriate county health department or any other local health department. Before a permit is issued, MDE must coordinate with the permit applicant to disseminate that information to various stakeholders within the affected community.

Current Law: Prior to issuing a permit to construct or modify any source that is required to obtain a permit to operate (which includes all of the sources affected by the bill), MDE must comply with the general public participation requirements of Title 1 of the Environment Article, including holding a hearing in the county in which the source is to be located. These public participation provisions govern the timing and manner of providing required notice, the process for requesting and holding informational meetings,

the requirement to prepare tentative and final determinations on permit applications, and the process for judicial review and exemptions from contested case hearings. The requirements of the public participation subtitle also include that:

- notice has to be published at least once a week for two consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the proposed facility is located;
- MDE may require notice of an informational meeting or a public hearing by mail to each person requesting the meeting or hearing or to their authorized representatives;
- MDE may provide additional notice by requiring the notice to be posted at the proposed facility or at public facilities in the geographical area of the proposed facility; and
- MDE must electronically post notice of the application on its website with specified information, including how interested persons request additional notice.

In addition, Chapters 500 and 501 of 2013 require MDE to ensure that notice is immediately provided to the governing body of each local government within one mile of the subject of the application, as well as each member of the General Assembly representing any part of a county located within one mile of the subject of the application.

Local Expenditures: The Maryland Association of County Health Officers (MACHO) advises that data related to disease incidence are not available by U.S. Census tract. Montgomery County further adds that it is likely that this information will never be available at the Census tract level because the Maryland Health Services Cost Review Commission holds the data confidentially due to Health Insurance Portability and Accountability Act (more commonly known as HIPAA) and other health information confidentiality regulations. Because the bill only requires local health departments to provide *any available information*, and because there is no available information at the Census tract level, it is assumed that this provision does not materially affect local health departments. If local health departments are required to develop or obtain that information at the Census tract level, costs increase, potentially significantly. For example, Montgomery County advises that obtaining this information requires contracting with an outside organization to perform a community health assessment, which could cost as much as \$100,000 per assessment.

MACHO and Montgomery County both advise, however, that the information specified in the bill is readily available by *zip code* and that local health departments can provide the information at the zip code level with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: SB 398 (Senator Ramirez, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Carroll, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Maryland Association of County Health Officers; Maryland Department of the Environment; Department of General Services; Maryland Department of Planning; Maryland Department of Transportation; Department of Legislative Services

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