

SENATE BILL 889

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By: **Senator Jennings**

Introduced and read first time: February 9, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Hazardous Substance Facility Permit – Research Facilities**
3 **– Chemical Warfare Material Requirements**

4 FOR the purpose of providing that certain provisions of law regarding chemical warfare
5 material requirements under a controlled hazardous substance facility permit do not
6 apply to certain research facilities under certain circumstances; making a
7 conforming change; defining a certain term; and generally relating to controlled
8 hazardous substance facility permits.

9 BY repealing and reenacting, with amendments,
10 Article – Environment
11 Section 7–239.2, 7–239.3, and 7–239.4
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2020 Supplement)

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

16 **Article – Environment**

17 7–239.2.

18 (a) The State of Maryland finds that the chemical warfare materials specified
19 under § 7–239.1 of this subtitle were designed for warfare, specifically the destruction of
20 human beings, and for no legitimate civilian industrial use.

21 (b) The State recognizes the need to dispose of these chemical warfare materials
22 as safely as possible, ensuring the health and safety of State residents by the regulation of
23 their release into the environment.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) [Since these chemical warfare materials are highly toxic or carcinogenic,]
2 **EXCEPT AS PROVIDED IN § 7-239.3(B) AND § 7-239.4(B) OF THIS SUBTITLE AND** in
3 addition to any other applicable requirements at law, the State shall require without
4 exemption or waiver that an applicant for the treatment by incineration of chemical
5 warfare materials shall comply with all the requirements of this subtitle and all regulations
6 adopted under this subtitle.

7 7-239.3.

8 (A) IN THIS SECTION, "RESEARCH FACILITY" MEANS A FACILITY
9 DESIGNATED BY THE U.S. DEPARTMENT OF DEFENSE FOR THE RESEARCH,
10 DEVELOPMENT, AND DEMONSTRATION OF TECHNOLOGIES RELATED TO CHEMICAL
11 WARFARE MATERIALS.

12 (B) THIS SECTION DOES NOT APPLY TO THE INCINERATION OF CHEMICAL
13 WARFARE MATERIALS AT A RESEARCH FACILITY IF THE INCINERATION IS DONE FOR
14 RESEARCH, DEVELOPMENT, OR DEMONSTRATION PURPOSES.

15 [(a)] (C) A chemical warfare material that is a solid waste is a controlled
16 hazardous substance.

17 [(b)] (D) In addition to any other applicable requirements, the Department may
18 not issue a permit for the construction, material alteration, or operation of a controlled
19 hazardous substance facility to be used for the treatment by incineration of a chemical
20 warfare material unless:

21 (1) The permit applicant demonstrates to the satisfaction of the
22 Department prior to issuance of a controlled hazardous substance facility permit:

23 (i) That the proposed incinerator technology has consistently met
24 all applicable federal and State performance standards in an operational facility
25 comparable to the proposed facility for a period of time and under conditions acceptable to
26 the Department;

27 (ii) That emissions and monitoring data from a comparable facility
28 demonstrate compliance with State toxic air pollutant standards established under Title 2
29 of this article;

30 (iii) That a destruction and removal efficiency of 99.9999 percent is
31 achievable for each chemical warfare material to be incinerated at the facility;

32 (iv) That the applicant has made adequate provision to support and
33 fund the development of a plan that demonstrates the capability of removing, sheltering,
34 and protecting persons from the largest area at risk from a worst-case release, as defined
35 by the Department;

1 (v) That an emergency preparedness plan has been developed with
2 adequate public participation that provides training, coordination, and equipment
3 necessary for State and local emergency response personnel and community members to
4 respond to a release of a chemical warfare material from the proposed facility; and

5 (vi) That the emergency preparedness plan has been presented at
6 public meetings in each county potentially impacted by a worst-case release;

7 (2) The Department finds that the applicant has fully evaluated all
8 reasonable alternative methods for treatment or disposal including transport to a less
9 populated disposal site in order to create less risk of release or harm to the general public
10 or the environment; and

11 (3) The local governing body of each county and municipal corporation
12 included in the worst-case release has a reasonable opportunity to review and provide
13 comment on the facility permit application and the emergency preparedness plan under
14 paragraph (1)(v) of this subsection.

15 7-239.4.

16 **(A) IN THIS SECTION, "RESEARCH FACILITY" MEANS A FACILITY**
17 **DESIGNATED BY THE U.S. DEPARTMENT OF DEFENSE FOR THE RESEARCH,**
18 **DEVELOPMENT, AND DEMONSTRATION OF TECHNOLOGIES RELATED TO CHEMICAL**
19 **WARFARE MATERIALS.**

20 **(B) THIS SECTION DOES NOT APPLY TO THE INCINERATION OF CHEMICAL**
21 **WARFARE MATERIALS AT A RESEARCH FACILITY IF THE INCINERATION IS DONE FOR**
22 **RESEARCH, DEVELOPMENT, OR DEMONSTRATION PURPOSES.**

23 **[(a)] (C)** The Department shall require as conditions of operation of a controlled
24 hazardous substance facility to be used for the treatment by incineration of a chemical
25 warfare material that:

26 (1) Treatment by incineration be monitored on a continuous basis;

27 (2) Monitoring data be regularly reviewed by a qualified independent third
28 party selected by the Department; and

29 (3) Monitoring data and reviews be reported to the Department in the
30 manner and frequency determined appropriate by the Department.

31 **[(b)] (D)** Any permit issued under this section shall be for a quantity that is
32 specifically identified and:

33 (1) May be renewed for good cause as to the length of time for completion
34 of the incineration authorized under the permit; but

1 (2) May not be modified as to the amount of controlled hazardous substance
2 to be destroyed.

3 ~~[(c)]~~ **(E)** After destruction of the specific quantity of the controlled hazardous
4 substance allowed by the terms of the permit issued under this section, the incinerator shall
5 be disassembled and disposed of in accordance with all applicable federal and State
6 performance standards and in a time period established by the permit.

7 ~~[(d)]~~ **(F)** In addition to the facility permit fee required under § 7-237 of this
8 subtitle, the applicant shall pay the compensation of an independent third party with whom
9 the Department may contract for the review of application materials and monitoring data.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2021.