

# SENATE BILL 492

M3

2lr1566  
CF HB 649

---

By: **Senators Pinsky, Guzzone, Elfreth, Lam, Patterson, Rosapepe, ~~and Washington~~ Washington, and Jackson**

Introduced and read first time: January 27, 2022

Assigned to: Education, Health, and Environmental Affairs

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2022

Returned to second reading: March 4, 2022

Senate action: Adopted with floor amendments

Read second time: March 4, 2022

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Environment – Discharge Permits – Inspections and Administrative**  
3 **Continuations**

4 FOR the purpose of ~~limiting the period of time for which the Department of the~~  
5 ~~Environment may administratively continue certain water pollution discharge~~  
6 ~~permits~~; establishing inspection and reporting requirements for certain permit  
7 holders; establishing administrative penalties for certain permit holders determined  
8 to be in significant noncompliance of certain State or federal water quality  
9 standards, effluent limitations, or other requirements; requiring the Department to  
10 clear a certain backlog of administratively continued permits on or before a certain  
11 date; and generally relating to water pollution discharge permits.

12 BY repealing and reenacting, ~~with~~ without amendments,  
13 Article – Environment  
14 Section 9–328  
15 Annotated Code of Maryland  
16 (2014 Replacement Volume and 2021 Supplement)

17 BY adding to  
18 Article – Environment  
19 Section 9–328.1

---

### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
2 (2014 Replacement Volume and 2021 Supplement)

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

5 **Article – Environment**

6 9–328.

7 (a) (1) Unless it is renewed for another term, a discharge permit expires on  
8 the expiration date the Department sets at issuance or renewal.

9 (2) The Department may not issue a discharge permit for a term longer  
10 than 5 years.

11 (b) Before a discharge permit expires, the Department may renew the discharge  
12 permit for another term:

13 (1) After administrative review in accordance with the rules and  
14 regulations that the Department adopts;

15 (2) After notice and opportunity for public hearing on the subject;

16 (3) On the condition that the discharge meets or will meet:

17 (i) Any applicable State or federal water quality standards or  
18 effluent limitations; and

19 (ii) Any applicable requirement of this subtitle; and

20 (4) If the permit holder pays all application and permit fees assessed by the  
21 Department under this subtitle.

22 (c) ~~(1) ON OR AFTER JULY 1, 2022, THE DEPARTMENT MAY NOT~~  
23 ~~ADMINISTRATIVELY CONTINUE A DISCHARGE PERMIT FOR A PERIOD LONGER THAN~~  
24 ~~3 YEARS.~~

25 ~~(2) ON OR AFTER JANUARY 1, 2027, THE DEPARTMENT MAY NOT~~  
26 ~~ADMINISTRATIVELY CONTINUE A DISCHARGE PERMIT FOR A PERIOD LONGER THAN~~  
27 ~~1 YEAR.~~

28 ~~(D)~~ Administrative review proceedings under this section shall be completed at  
29 least 60 days before the expiration date of the permit.

30 **9–328.1.**

1 (A) (1) IN THIS SECTION, “ADMINISTRATIVELY CONTINUED PERMIT”  
2 MEANS A DISCHARGE PERMIT THAT HAS BEEN ADMINISTRATIVELY CONTINUED  
3 UNDER DEPARTMENT REGULATIONS IN ACCORDANCE WITH 40 C.F.R. § 122.6(D).

4 (2) “ADMINISTRATIVELY CONTINUED PERMIT” DOES NOT INCLUDE A  
5 DISCHARGE PERMIT THAT HAS BEEN CONTINUED BEYOND ITS ORIGINAL  
6 EXPIRATION DATE DUE TO AN ENFORCEMENT ACTION TAKEN DURING THE PERMIT  
7 TERM.

8 (B) (1) TO ENSURE COMPLIANCE WITH THE TERMS OF A DISCHARGE  
9 PERMIT, ~~AT LEAST ONCE PER MONTH~~ THE DEPARTMENT SHALL ~~INSPECT THE~~  
10 ~~OPERATIONS OF:~~ CONDUCT INSPECTIONS IN ACCORDANCE WITH THIS SUBSECTION.

11 ~~(1) EACH PERMIT HOLDER OPERATING UNDER AN~~  
12 ~~ADMINISTRATIVELY CONTINUED PERMIT; AND~~

13 ~~(2) EACH PERMIT HOLDER THAT THE DEPARTMENT HAS~~  
14 ~~DETERMINED TO BE IN SIGNIFICANT NONCOMPLIANCE OF AN APPLICABLE STATE~~  
15 ~~OR FEDERAL WATER QUALITY STANDARD, EFFLUENT LIMITATION, OR OTHER~~  
16 ~~APPLICABLE REQUIREMENT OF THE DEPARTMENT OR THE U.S. ENVIRONMENTAL~~  
17 ~~PROTECTION AGENCY.~~

18 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
19 PARAGRAPH, AND SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, BEGINNING  
20 JULY 1, 2022, AT LEAST ONCE PER MONTH THE DEPARTMENT SHALL INSPECT EACH  
21 FACILITY OR SITE THAT THE DEPARTMENT OR THE U.S. ENVIRONMENTAL  
22 PROTECTION AGENCY HAS DETERMINED TO BE IN SIGNIFICANT NONCOMPLIANCE  
23 WITH AN APPLICABLE STATE OR FEDERAL WATER QUALITY STANDARD, EFFLUENT  
24 LIMITATION, OR OTHER APPLICABLE REQUIREMENT OF THE DEPARTMENT OR THE  
25 U.S. ENVIRONMENTAL PROTECTION AGENCY.

26 (II) IF A FACILITY OR SITE IS DETERMINED TO BE IN  
27 SIGNIFICANT NONCOMPLIANCE SOLELY DUE TO THE FAILURE TO REPORT ANY  
28 REQUIRED INFORMATION TO THE DEPARTMENT OR THE U.S. ENVIRONMENTAL  
29 PROTECTION AGENCY, THE DEPARTMENT MAY:

30 1. DELAY INSPECTIONS UNDER SUBPARAGRAPH (I) OF  
31 THIS PARAGRAPH BY 1 MONTH WHILE THE DEPARTMENT REVIEWS THE  
32 COMPLIANCE STATUS OF THE FACILITY OR SITE THROUGH CORRESPONDENCE WITH  
33 THE OWNER OR OPERATOR OF THE FACILITY OR SITE OR OTHER APPROPRIATE  
34 METHODS; AND

1                   **2. BEGIN MONTHLY INSPECTIONS IN ACCORDANCE**  
2 **WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH IF, AFTER THE PERIOD SPECIFIED IN**  
3 **ITEM 1 OF THIS SUBPARAGRAPH, THE OWNER OR OPERATOR OF THE FACILITY OR**  
4 **SITE HAS NOT PROVIDED THE INFORMATION NECESSARY FOR THE DEPARTMENT TO**  
5 **DETERMINE THE COMPLIANCE STATUS OF THE FACILITY OR SITE.**

6                   **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
7 **PARAGRAPH AND SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, BEGINNING**  
8 **JULY 1, 2023, AT LEAST ONCE EVERY 90 DAYS, THE DEPARTMENT SHALL INSPECT**  
9 **EACH FACILITY OR SITE THAT HAS BEEN OPERATING UNDER AN ADMINISTRATIVELY**  
10 **CONTINUED PERMIT FOR LONGER THAN 365 DAYS.**

11                   **(II) THE DEPARTMENT IS NOT REQUIRED TO INSPECT THE**  
12 **OPERATIONS OF A FACILITY OR SITE OPERATING A GENERAL PERMIT THAT HAS**  
13 **BEEN ADMINISTRATIVELY CONTINUED, UNLESS THE DEPARTMENT OR THE U.S.**  
14 **ENVIRONMENTAL PROTECTION AGENCY HAS DETERMINED THE FACILITY OR SITE**  
15 **TO BE IN SIGNIFICANT NONCOMPLIANCE AS SPECIFIED UNDER PARAGRAPH (2) OF**  
16 **THIS SUBSECTION.**

17                   **(4) INSPECTIONS REQUIRED UNDER THIS SUBSECTION MAY BE**  
18 **CONDUCTED BY MEANS OTHER THAN AN IN-PERSON INSPECTION OF THE FACILITY**  
19 **OR SITE IF THE PRESENCE OF THE INSPECTOR WOULD RESULT IN AN**  
20 **UNREASONABLE RISK TO HEALTH, SAFETY, OR WELFARE.**

21                   **(C) (1) THIS SUBSECTION APPLIES TO A PERMIT HOLDER THAT:**

22                   **(I) IS IS DETERMINED BY THE DEPARTMENT OR THE U.S.**  
23 **ENVIRONMENTAL PROTECTION AGENCY TO BE IN SIGNIFICANT NONCOMPLIANCE**  
24 **OF AN APPLICABLE STATE OR FEDERAL WATER QUALITY STANDARD, EFFLUENT**  
25 **LIMITATION, OR OTHER APPLICABLE REQUIREMENT OF THE DEPARTMENT OR THE**  
26 **U.S. ENVIRONMENTAL PROTECTION AGENCY TWO OR MORE TIMES IN A YEAR;**

27                   **(II) REPORTS EXCEEDING EFFLUENT LIMITATIONS FOR TWO OR**  
28 **MORE PARAMETERS REQUIRED TO BE MONITORED UNDER THE DISCHARGE PERMIT;**  
29 **OR**

30                   **(III) REPORTS EXCEEDING, BY 200% OR MORE, EFFLUENT**  
31 **LIMITATIONS FOR ANY SINGLE PARAMETER REQUIRED TO BE MONITORED UNDER**  
32 **THE DISCHARGE PERMIT.**

33                   **(2) THE DEPARTMENT SHALL REQUIRE A PERMIT HOLDER**  
34 **SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO SUBMIT A WRITTEN**  
35 **REPORT TO THE DEPARTMENT DETAILING:**

1 (I) HOW VIOLATIONS REPORTED BY THE PERMIT HOLDER OR  
2 NOTED BY THE DEPARTMENT WILL BE ADDRESSED; AND

3 (II) THE TIMELINE FOR ADDRESSING THE VIOLATIONS.

4 (D) (1) IF A PERMIT HOLDER REMAINS IN SIGNIFICANT NONCOMPLIANCE  
5 FOR THE SAME UNDERLYING CONDITION AFTER 2 CONSECUTIVE MONTHS OF  
6 INSPECTIONS CONDUCTED UNDER SUBSECTION ~~(B)(2)~~ (B) OF THIS SECTION, THE  
7 PERMIT HOLDER SHALL BE SUBJECT TO AN ADMINISTRATIVE PENALTY OF:

8 (I) FOR A PERMIT HOLDER CLASSIFIED BY THE DEPARTMENT  
9 AS A MINOR ~~FACILITY~~ DISCHARGER:

10 1. \$250 WHEN THE CONDITION IS OBSERVED ON THE  
11 THIRD CONSECUTIVE INSPECTION;

12 2. \$500 WHEN THE CONDITION IS OBSERVED ON THE  
13 FOURTH CONSECUTIVE INSPECTION; AND

14 3. \$2,500 WHEN THE CONDITION IS OBSERVED ON THE  
15 FIFTH CONSECUTIVE INSPECTION OR ANY SUBSEQUENT CONSECUTIVE INSPECTION;  
16 AND

17 (II) FOR A PERMIT HOLDER CLASSIFIED BY THE DEPARTMENT  
18 AS A MAJOR ~~FACILITY~~ DISCHARGER:

19 1. \$1,000 WHEN THE CONDITION IS OBSERVED ON THE  
20 THIRD CONSECUTIVE INSPECTION;

21 2. \$5,000 WHEN THE CONDITION IS OBSERVED ON THE  
22 FOURTH CONSECUTIVE INSPECTION; AND

23 3. \$10,000 WHEN THE CONDITION IS OBSERVED ON THE  
24 FIFTH CONSECUTIVE INSPECTION OR ANY SUBSEQUENT CONSECUTIVE INSPECTION.

25 (2) THE PENALTIES PROVIDED UNDER THIS SUBSECTION ARE IN  
26 ADDITION TO ANY OTHER CIVIL OR CRIMINAL PENALTIES PROVIDED UNDER THIS  
27 SUBTITLE.

28 SECTION 2. AND BE IT FURTHER ENACTED, That:

29 (a) In this section, "Department" means the Department of the Environment.

1           (b) ~~Subject to subsection (e) of this section, this Act shall be interpreted to apply~~  
 2 ~~only prospectively to discharge permits issued, renewed, or administratively continued on~~  
 3 ~~or after the effective date of this Act.~~

4           ~~(e)~~ On or before December 31, 2026, the Department shall clear the backlog of  
 5 administratively continued discharge permits ~~existing on the effective date of this Act.~~

6           ~~(d)~~ (c) (1) On or before ~~December 31, 2023~~ October 1, 2022, the Department shall  
 7 report to the Governor and, in accordance with § 2-1257 of the State Government Article,  
 8 the General Assembly on the number of additional employees necessary to:

9                   (i) clear the backlog of administratively continued discharge  
 10 permits, as required by subsection ~~(e)~~ (b) of this section; and

11                   (ii) process discharge permit renewals in a timely manner, ~~as~~  
 12 ~~required by § 9-328(e) of the Environment Article, as enacted by Section 1 of this Act.~~

13           (2) The Department shall request:

14                   (i) on or before December 31, ~~2024~~ 2022, Position Identification  
 15 Numbers (PINs) for at least half of the additional employees identified in the report  
 16 required under paragraph (1) of this subsection; and

17                   (ii) on or before December 31, ~~2025~~ 2023, PINs for the full number  
 18 of additional employees identified in the report required under paragraph (1) of this  
 19 subsection.

20           ~~(d)~~ (d) On or before December 31, 2025, and each year thereafter, the Department  
 21 shall report to the Governor and, in accordance with § 2-1257 of the State Government  
 22 Article, the General Assembly on ~~the progress toward meeting the requirements of this~~  
 23 ~~section.~~

24                   (1) the number of facilities or sites subject to discharge permits that were  
 25 administratively continued or expired at the end of the prior fiscal year, by census tract;  
 26 and

27                   (2) the number of additional positions for the subsequent fiscal year that  
 28 the Department needs to ensure that any discharge permits that have been continued or  
 29 expired for more than 365 days are renewed in a timely manner.

30           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
 31 1, 2022.