SENATE BILL 492

By: Senators Pinsky, Guzzone, Elfreth, Lam, Patterson, Rosapepe, and Washington
Introduced and read first time: January 27, 2022
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Environment – Discharge Permits – Inspections and Administrative Continuations

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

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–328
Annotated Code of Maryland
(2014 Replacement Volume and 2021 Supplement)

BY adding to
Article – Environment
Section 9–328.1
Annotated Code of Maryland
(2014 Replacement Volume and 2021 Supplement)

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

Article – Environment

9–328.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
SENATE BILL 492

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

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

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

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

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

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

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

   (ii) Any applicable requirement of this subtitle; and

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

(c) (1) On or after July 1, 2022, the Department may not administratively continue a discharge permit for a period longer than 3 years.

(2) On or after January 1, 2027, the Department may not administratively continue a discharge permit for a period longer than 1 year.

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

9–328.1.

(A) In this section, “administratively continued permit” means a discharge permit that has been administratively continued under Department regulations in accordance with 40 C.F.R. § 122.6(d).

(B) To ensure compliance with the terms of a discharge permit, at least once per month the Department shall inspect the operations of:
(1) Each permit holder operating under an administratively continued permit; and

(2) Each permit holder that the Department has determined to be in significant noncompliance of an applicable State or federal water quality standard, effluent limitation, or other applicable requirement of the Department or the U.S. Environmental Protection Agency.

(C) (1) This subsection applies to a permit holder that:

(I) Is determined by the Department to be in significant noncompliance of an applicable State or federal water quality standard, effluent limitation, or other applicable requirement of the Department or the U.S. Environmental Protection Agency two or more times in a year;

(II) Reports exceeding effluent limitations for two or more parameters required to be monitored under the discharge permit; or

(III) Reports exceeding, by 200% or more, effluent limitations for any single parameter required to be monitored under the discharge permit.

(2) The Department shall require a permit holder specified under paragraph (1) of this subsection to submit a written report to the Department detailing:

(I) How violations reported by the permit holder or noted by the Department will be addressed; and

(II) The timeline for addressing the violations.

(D) (1) If a permit holder remains in significant noncompliance for the same underlying condition after 2 consecutive months of inspections conducted under subsection (B)(2) of this section, the permit holder shall be subject to an administrative penalty of:

(I) For a permit holder classified by the Department as a minor facility:
SENATE BILL 492

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

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

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

(II) FOR A PERMIT HOLDER CLASSIFIED BY THE DEPARTMENT
AS A MAJOR FACILITY:

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, “Department” means the Department of the Environment.

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

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

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

(i) clear the backlog of administratively continued discharge
permits, as required by subsection (c) of this section; and
(ii) process discharge permit renewals in a timely manner, as required by § 9–328(c) of the Environment Article, as enacted by Section 1 of this Act.

(2) The Department shall request:

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

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

(e) On or before December 31, 2025, the Department shall report to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly on the progress toward meeting the requirements of this section.

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