

# **SB492 Environmental Enforcement Legislation.pdf**

Uploaded by: Alexander Villazon

Position: FAV

February 15, 2022

**FAVORABLE WITH BILL – SB492: Environment – Discharge Permits – Inspections and Administrative Continuations**

Mr. Chairman and Members of the Committee,

We are writing in strong support of Senate Bill 492 on behalf of Waterkeepers Chesapeake, a coalition of seventeen Waterkeepers, Riverkeepers, and Coastkeepers working to make the waters of the Chesapeake and Coastal Bays swimmable and fishable. As we here at Waterkeepers work to protect and maintain the ability of the public to safely enjoy the waters of our State, we are in support of ensuring the safety of Maryland's public drinking water systems. Currently, hundreds of facilities are polluting our local waterways, severely endangering the public health through contamination of the drinking water supply that serves 5.5 million Marylanders. The Maryland Department of the Environment, the agency in charge of enforcement, is critically understaffed and is failing to identify, inspect, and enforce against pollution violations, consequently allowing them to continue for months or years. By passing this bill and requiring the MDE to react promptly in inspecting facilities with expired permits or in continual violation of their pollution limits, Maryland takes a massive step towards preventing a public health crisis like the tragedy in Flint, Michigan.

This past year has presented us with a number of significant, high-profile pollution incidents. For example, the two largest wastewater treatment plants in Baltimore illegally discharged millions of gallons of sewage into tributaries of the Chesapeake Bay. These illegal discharges threaten not only the public health of Marylanders but put the health of aquatic life at risk as well. In fact, this past fall, 25,000 gallons of untreated sewage overflowed into the St. George Creek in St. Mary's County, consequently leading to dozens contracting food-borne illnesses from tainted oysters. Following this incident, a spokesman for the MDE acknowledged that the agency failed to act promptly after receiving a report of the overflow. We believe the passage of this bill will not only further our goal of protecting Marylanders from the dangers of unsafe drinking water and food-borne illnesses, but also help protect and maintain an essential part of Maryland's seafood economy.

Alexander Villazon  
Waterkeepers Chesapeake

According to the MDE's annual enforcement and compliance reports, the number of enforcement actions taken by MDE's water administration for the 2021 fiscal year (627) were the lowest in almost two decades, despite the number of violations from these facilities being on the rise. Currently, there is a backlog of more than a hundred expired and administratively continued water pollution control permits. Considering the extent to which the MDE is understaffed, this backlog cannot come as much of a surprise. Just two months ago, Attorney General Frosh released a statement warning Governor Hogan of the dramatic understaffing of the MDE and potential safety risk to Marylander's health as a consequence. The AG cited a report that found a "severe gap" between the available staffing and funding resources for the MDE's Water Safety Program (WSP) and those that would be required to run the program. To illustrate the severity of this gap, the report found that the MDE needs "approximately 187% more full-time employees than currently staffed, and 93% more funding than currently available to effectively implement the program and ensure safe drinking water for the public." The passage of this bill will help provide the MDE with the procedures necessary to assess the current need for additional personnel, and then require the department to fill these positions within three years in order to help clear the backlog and effectively run the program.

Waterkeepers Chesapeake strongly believe SB 492 would provide helps further the goal of providing all Marylanders with **safe access to drinking water, preventing food-borne illnesses, and ensuring the MDE's WSP can be effectively run** to better serve and protect the health and welfare of Marylanders. From the establishment of monthly inspections of facilities in noncompliance, to the addressing of the severe understaffing of the MDE, Senate Bill 492 will provide the proper procedures to help reach these goals.

For these reasons, we urge a favorable report on SB 492.

**BWB SB492 Favorable.pdf**

Uploaded by: Alice Volpitta

Position: FAV



February 23, 2022

**Environment - Discharge Permits - Inspections and Administrative Continuations (SB492)**

**Position: FAVORABLE**

Dear Chair Pinsky and Members of the Education, Health, and Environmental Affairs Committee:

Blue Water Baltimore is a nonprofit organization with a mission to restore the quality of Baltimore's rivers, streams, and Harbor to foster a healthy environment, a strong economy, and thriving communities. We write today in strong support of "Environment - Discharge Permits - Inspections and Administrative Continuations" (Senate Bill 492).

One of our essential functions as a Waterkeeper organization is to receive and respond to tips on our Pollution Reporting Hotline about pollution that is degrading Baltimore's waterways and harming community members. These are pollution issues elevated by the people who are most severely impacted; the people fishing downstream of factories illegally discharging chemicals into the Jones Falls, and the people swimming in the Herring Run downstream of toxic illegal landfills. These aren't just hyperbolic examples. These are real-world issues that I've responded to in my capacity as your Baltimore Harbor Waterkeeper, and they are the types of problems that become disasters in the absence of adequate inspections and law enforcement.

When I receive those tips on our hotline and I begin the process of investigating suspected polluters, a troubling pattern begins to emerge. These facilities are typically in "Significant Noncompliance" with their discharge permits – sometimes due to limit exceedances, but oftentimes for simply failing to submit their required discharge monitoring reports at all.

In a system that relies almost entirely upon self-reporting to identify potential problems at these facilities, a failure to submit the required discharge monitoring reports is among the most serious violations of a facility's permit. Without adequate self-reporting, the entire system falls apart. There must be commensurate actions taken by the Maryland Department of the Environment (MDE) every time a facility falls into such significant noncompliance, or else the pollution will snowball and public trust will be eroded. Unfortunately, after years of lackluster enforcement, this is exactly what has happened in the Baltimore region.

Roughly 70% of facilities with industrial stormwater permits in Maryland are not in compliance with pollution controls. While this is a problem across the state, there are dozens of these types of facilities clustered in the Baltimore region, many of which are located in lower-income areas where people have fewer resources to speak out against the

pollution. Toxic heavy metals and sediment flow off of these sites during rainstorms, contaminating the streams and rivers throughout our watershed. These are facilities that are chronically flying under the radar, conducting business as usual while in Significant Noncompliance with their permits simply because they can. Because it's cheaper to run the risk of getting caught than it is to implement real solutions that reduce pollution and protect communities. The first and easiest step to curb the onslaught of pollution is to require site inspections for facilities as soon as they fall into MDE's "Significant Noncompliance" category.

This year we're celebrating the 50th anniversary of the federal Clean Water Act. This bedrock piece of legislation, combined with state water pollution control laws, gives us the power to protect our local streams and rivers for the good of the people. But laws without enforcement are just good advice, and MDE has chronically under-enforced these laws for years. Inadequate enforcement against repeat offenders only serves to incentivize bad actors who take advantage of a broken system. In Baltimore, our local waterways and overburdened communities are paying the price, a price which these polluters only see as the cost of doing business.

Senate Bill 492 puts common-sense guardrails around existing laws to ensure that they are adequately enforced for the good of the environment and the people of Maryland. If polluters are brazen enough to stop submitting their discharge monitoring reports under the belief that MDE just won't do anything about it, it's time to call their bluff. It's time to give the lion back its teeth.

**For these reasons, Blue Water Baltimore, on behalf of our thousands of members and supporters, respectfully urges a Favorable Report on SB 492.** Thank you.

Alice Volpitta  
Baltimore Harbor Waterkeeper  
Blue Water Baltimore  
avolpitta@bluewaterbaltimore.org

**SB0492 Support FHRP.docx.pdf**

Uploaded by: Anita Bryant

Position: FAV



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Staff

**PATRICIA DOWD**

February 16, 2022

Senate Education, Health, and Environmental Affairs Committee  
2 West, Miller Senate Office Building  
Annapolis, Maryland 21401

Dear Chairman Paul G. Pinsky, Vice-Chairwoman Cheryl C. Kagan, and Members of the Senate Education, Health, and Environmental Affairs Committee

**Support for SB0492 – Environment - Discharge Permits – Inspection and Administrative Continuations**

I am writing on behalf of the Friends of Herring Run Parks, Inc., a non-profit that works to preserve, protect, restore, and promote Herring Run Park and its stream valley for the benefit of present and future generations.

The current system which depends on self-reporting of discharge violations, and the current staffing of the Maryland Department of the Environment (MDE), are not adequate to protect the Herring Run Watershed and the people who enjoy its waters.

Our position is based on years of experience with the property at 4300 Shannon Drive in Baltimore that we call "Mt. Dirt". It operates under Industrial Planned Development Ordinance # 99-415, passed in 1999, that allows for a limited rock crushing operation, no more than four times a year, 15 days at a time, with tarpaulin-covered piles no more than 10 feet high. Instead, it has operated as a year-round illegal land fill that now towers over 120 feet above Herring Run Park which runs along its border.

For years the residents of nearby Armistead Gardens have been showered with dust blown off of this site with any strong wind. We have witnessed rockslides from Mt. Dirt that have destroyed the protective silt skirt around the perimeter and clogged Armistead Run, a tributary to the Herring Run. We have also witnessed young people on warm days swimming in Herring Run, just downstream from Mt. Dirt.

4300 Shannon Drive is now subject to its third enforcement action (CJ-21-2692) with MDE since 2012. We hope that with passage of SB0492, the stronger fines and greater enforcement capacity will finally bring and keep Mt. Dirt into compliance.

Sincerely,

Kate Scherr-Adams

President

Friends of Herring Run Parks Board of Directors

The Friends of Herring Run Parks, Inc. is recognized by the IRS as a 501(c)3 non-profit organization.  
Donations to Friends of Herring Run Parks, Inc. are tax deductible as allowed by law



**2022-02-24 SB 492 (Support).pdf**

Uploaded by: Brian Frosh

Position: FAV

**BRIAN E. FROSH**  
*Attorney General*



**ELIZABETH F. HARRIS**  
*Chief Deputy Attorney General*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

443-463-0751

February 24, 2022

To: The Honorable Paul G. Pinsky  
Chair, Education, Health, and Environmental Affairs Committee

From: Hannibal G. Williams II Kemerer  
Chief Counsel, Legislative Affairs, Office of the Attorney General

Re: SB 492– Environment – Discharge Permits – Inspections and Administrative  
Continuations – **Support**

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The Office of Attorney General urges this Committee to favorably report SB 492. If enacted, SB 492 would prevent the Maryland Department of the Environment (“MDE”) from administratively continuing discharge permits (so-called “zombie permits”) for a period longer than 3 years on or after July 1, 2022; and after January 1, 2027, MDE would be precluded from administratively continuing a discharge permit for a period longer than 1 year. The bill requires MDE to conduct monthly inspections 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 standard, effluent limitation, or other applicable requirement of the Department or the U.S. Environmental Protection Agency (“EPA”). The bill further provides for the Department to assess administrative penalties against permit holders found to be in significant noncompliance with applicable state or federal requirements. Penalties range from \$250 - \$2,500 for minor facilities and from \$1,000 to \$10,000 for major facilities.

MDE’s Water Supply Program’s (“WSP”) mission is to ensure safety of the State’s 3,300 public drinking water systems. These systems, in turn, supply drinking water to 5.5 million Marylanders. To assess MDE’s efforts in achieving these critical public health goals, in 2019 the EPA engaged CADMUS, a business management consulting firm, to conduct a workload analysis of the State’s WSP. The 2021 CADMUS report found that understaffing and underfunding of the WSP program called into question the adequacy of inspections of Maryland’s drinking water systems.<sup>1</sup> The report identified a “severe gap” between WSP’s

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<sup>1</sup> See CADMUS Analysis of Maryland’s Drinking Water Program Resources and Needs (May 2021), available online at: [https://www.marylandattorneygeneral.gov/news%20documents/2020\\_MD\\_Workload\\_Analysis.pdf](https://www.marylandattorneygeneral.gov/news%20documents/2020_MD_Workload_Analysis.pdf).

available staffing and funding resources, and those that would be required to run the program. Specifically, it found that MDE “needs approximately. . . 187% more full-time employees (FTEs) than currently staffed, and 93% more funding than currently available to effectively implement the program and ensure safe drinking water for the public.”

The CADMUS report raises multiple concerns, including:

- The national average number of inspections a full-time employee performs in one year is 67. WSP inspectors supposedly conduct 240 inspections every year.
- Only 72% of the State’s public drinking water systems had a certified operator in 2020, down from 84% in 2015. Fully one-quarter of the State’s systems “are operating in violation of state and federal requirements.”
- The State risks losing enforcement responsibility and more than \$21.5 million in federal funding due to its lack of staffing and funding.
- These challenges will be made more acute as 350 new public water systems will be added to the State’s inventory, and the program must manage emerging contaminants including PFAS, Legionella, and harmful algal blooms.
- WSP currently has 27 vacancies out of a staff of 71 full-time positions, including 9 contractual positions. The Hogan Administration abolished approximately 12 FTEs vacated by retirement, left other vacant positions unfilled, and implemented hiring freezes.
- The Program has about \$8.1 million in annual funds, with 88% from federal sources and only 12% from the State’s general fund. The report concludes that in 2021, MDE’s WSP “needs 126 FTEs and approximately \$15.7 million in funding to carry out current program responsibilities, implement drinking water regulations, and uphold public health protection.”

These findings prompted Attorney General Frosh to write Governor Hogan on December 1, 2021,<sup>2</sup> saying at the time, “Marylanders expect the State to ensure our drinking water is safe. The EPA has warned the Administration that years of underfunding and understaffing of the Department of the Environment’s Water Supply Program have compromised its ability to conduct adequate inspections and oversight, threatening the health of millions of Marylanders.” To date, however, the Hogan administration’s response has been inadequate. That is why SB 492 is a necessary strategy to ensure that MDE conducts better oversight of water suppliers and discontinues the use of multi-year zombie permits.

For the foregoing reasons, the Office of the Attorney General urges a favorable report of Senate Bill 492.

cc: Committee Members

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<sup>2</sup> See Brian E. Frosh letter to Lawrence J. Hogan, Jr. (Dec. 1, 2021), available online at: [https://www.marylandattorneygeneral.gov/news%20documents/120121\\_MDE\\_Water\\_Supply\\_Program.pdf](https://www.marylandattorneygeneral.gov/news%20documents/120121_MDE_Water_Supply_Program.pdf).

# **Environmental Enforcement Legislation SB492.docx.p**

Uploaded by: Elizabeth Nicholas

Position: FAV



**FAVORABLE: SB492: Environment – Discharge Permits – Inspections and Administrative Continuations**

Chairman Pinsky and Members of the Committee,

We are writing in strong support of Senate Bill 492 on behalf of Waterkeepers Chesapeake and the undersigned 13 organizations. As we all depend on healthy clean waterways in our state, we are in support of ensuring the safety of Maryland’s waterways for our drinking water, recreational uses, seafood industries, community use and economic vitality. Currently, hundreds of facilities are polluting our local waterways, severely endangering public health through contamination of the drinking water supply that serves 5.5 million Marylanders, causing safety concerns with seafood products, property damage, illness in our communities, and loss of revenue. The Maryland Department of the Environment, the agency in charge of enforcement, is critically understaffed and is failing to identify, inspect, and enforce against pollution violations, consequently allowing them to continue for months or years. By passing this bill and requiring the MDE to react promptly in inspecting facilities with expired permits or in continual violation of their pollution limits, Maryland takes a massive step towards preventing a public health crisis like the tragedy in Flint, Michigan.

This past year has presented us with a number of significant, high-profile pollution incidents. For example, the two largest wastewater treatment plants in Baltimore illegally discharged millions

of gallons of sewage into tributaries of the Chesapeake Bay. These illegal discharges threaten not only the public health of Marylanders but put the health of aquatic life at risk as well. In fact, this past fall, 25,000 gallons of untreated sewage overflowed into the St. George Creek in St. Mary's County, consequently leading to dozens contracting food-borne illnesses from tainted oysters. Following this incident, a spokesman for the MDE acknowledged that the agency failed to act promptly after receiving a report of the overflow. We believe the passage of this bill will not only further our goal of protecting Marylanders from the dangers of unsafe drinking water and food-borne illnesses, but also help protect and maintain an essential part of Maryland's seafood economy.

According to the MDE's annual enforcement and compliance reports, the number of enforcement actions taken by MDE's water administration for the 2021 fiscal year (627) were the lowest in almost two decades, despite the number of violations from these facilities being on the rise. Currently, there is a backlog of more than a hundred expired and administratively continued water pollution control permits. Considering the extent to which the MDE is understaffed, this backlog cannot come as much of a surprise. Just two months ago, Attorney General Frosh released a statement warning Governor Hogan of the dramatic understaffing of the MDE and potential safety risk to Marylander's health as a consequence. The AG cited a report that found a "severe gap" between the available staffing and funding resources for the MDE's Water Supply Program (WSP) and those that would be required to run the program. To illustrate the severity of this gap, the report found that the MDE needs "approximately 187% more full-time employees than currently staffed, and 93% more funding than currently available to effectively implement the program and ensure safe drinking water for the public." The passage of this bill will help provide the MDE with the procedures necessary to assess the current need for additional personnel, and then require the department to fill these positions within three years in order to help clear the backlog and effectively run the program.

This bill will help to avoid costly litigation as inspection and notification allows for a quick response by a facility in violation to get the facility back in compliance. Fines under this bill are already provided in law and are capped at either \$5000 or \$10,000, as opposed to civil

enforcement which could drag out for many months or even years and results in penalties of hundreds of thousands or millions.

Maryland Department of the Environment has insufficient staff to properly oversee water quality and MDE inspectors have more than six times the national average of the number of facilities in their charge and simply cannot keep up. This bill requires MDE to assess the staffing needs and then fill these positions. Tens of thousands of gallons of untreated sewage have previously overflowed and not only threaten public drinking water systems but also the seafood that Marylanders have the privilege of enjoying. This bill will ensure timely notice of violations, opportunities for facilities to correct them, and timely issuance of permit renewals. The requirements of this bill will also help prevent our citizens from contracting food-borne illnesses and help protect and maintain Maryland's seafood economy.

Waterkeepers Chesapeake strongly believes SB 492 helps further the goal of providing all Marylanders with **safe access to drinking water, preventing food-borne illnesses, and ensuring the MDE can fulfill their responsibility to protect the health and welfare of all Marylanders.** From the monthly inspections of facilities in noncompliance, to addressing the severe understaffing of the MDE, Senate Bill 492 will provide the proper procedures to help reach these goals.

Through discussion with MDE, the Farm Bureau, municipal wastewater treatment facilities, and the builders associations, we would also support some small clarifying and technical amendments to clear up any confusion about applicability and also ensure that there are no unintended consequences. We also believe that clarifying a few items will *greatly reduce* the current abnormally large fiscal note for this bill. We believe that the true costs of implementing this bill will total in the \$200,000 - \$300,000, but that these costs will be largely or even fully offset by gained revenue from speedy administrative penalties. Additionally, the fiscal note does not take into account the millions and often billions of dollars of costs associated with water quality violations and the property damage, public health problems, water quality remediation, loss of seafood and recreation and multitude of other impacts.

We thank Chairman Pinsky and the numerous cosponsors of this bill for their leadership in helping to ensure that all Marylanders have access to safe, clean waterways.

For these reasons, we urge a favorable report on SB 492.

Betsy Nicholas  
Executive Director  
Waterkeepers Chesapeake

Robin Clark  
Maryland Staff Attorney  
Chesapeake Bay Foundation

Kristen Harbeson  
Political Director  
Maryland League of Conservation Voters

Emily Ranson  
Maryland State Director  
Clean Water Action

Mark Southerland  
Safe Skies Maryland

Ruth Berlin  
Maryland Pesticide Education Network

Josh Tulkin  
Chapter Director  
Maryland Sierra Club

Nina Beth Cardin  
Maryland Campaign For Environmental  
Human Rights

Richard Deutschmann  
Indivisible Howard County

Nancy Soreng  
President  
League of Women Voters of Maryland

Matt Pluta  
Director of Riverkeeper Programs  
Choptank Riverkeeper, ShoreRivers

Waterkeepers Chesapeake

Alice Volpitta  
Baltimore Harbor Waterkeeper  
Blue Water Baltimore

Gabby Ross  
Assateague Coastkeeper  
Assateague Coastal Trust

Katlyn Schmitt  
Policy Analyst  
Center for Progressive Reform



# **CLA Testimony SB 492.pdf**

Uploaded by: Evan Isaacson

Position: FAV



## Support for Senate Bill 492

Dear Chairman Pinsky and Members of the Committee:

The Chesapeake Legal Alliance strongly supports SB 492 because it will help restore the ability of the Maryland Department of the Environment (MDE) to do the job it is charged with by the General Assembly. The passage of this bill would be particularly appropriate this year as Americans celebrate the 50<sup>th</sup> anniversary of the Clean Water Act. Without an agency capable of carrying out this landmark environmental law we will simply not be able to restore the Chesapeake Bay or achieve many of the other environmental goals you have established over the years through the legislation you work so hard to pass.

Congress passed the Clean Water Act in a stunningly bipartisan fashion, with unanimous approval in the Senate, despite the legislation's sweeping scope and bold ambition. And while the first several decades following the passage of the Clean Water Act saw dramatic improvements in water quality, leading some to call the Act "one of the greatest government achievements of the second half of the 20th century", the impact of the Clean Water Act has been in decline ever since. Why? Simply put, because it is the states – not the federal or local governments or public interest organizations – that were always intended to be primarily in charge of implementing the law. So, as state environmental agencies have been allowed to wither, so too has the potency of the law. And without a viable Clean Water Act, we will not fully restore the Chesapeake Bay or be able to adequately protect public health from the impacts of toxic pollution in our communities or our drinking water.

This is why SB 492 is so critical. Few bills heard by the General Assembly in recent decades have been targeted at addressing the root cause of so many of our environmental problems: a lack of resources for the agency charged with solving these problems. If enacted, SB 492 will accomplish the following:

1. ***Common Sense and Fiscally Prudent Solution.*** The General Assembly has taken bold actions over the years to try to restore the Chesapeake Bay and protect local communities and waterways from the hazardous effects of water pollution. Most notably, Maryland is now home to one of the largest fleets of advanced wastewater treatment plants in the world. Because of this investment, the state has dramatically reduced pollution from its largest discharge permit holders and has a fighting chance to reach the Bay restoration goal by the 2025 deadline. However, these massive contributions by Maryland households can be wasted if some facilities are allowed to vastly exceed their legal limits on pollution or are allowed to continue operating with outdated or ineffective pollution controls.

SB 492 would protect the state's investments in water pollution control – and investments from the many law abiding facilities subject to discharge permits – in several ways. First, the bill creates a culture of compliance through nudges – asking facilities to take control of

developing plans to regain compliance, giving them more time with MDE inspectors to understand the nature of the problem, and small but growing fines to incentivize compliance.

Secondly, it is important to understand that almost all facilities with discharge permits are reliant on the expertise of MDE engineers and staff, especially inspectors, for feedback on how to run their operations cleanly. If problems arise, it is far better to have a quick visit from an MDE engineer early on than to let the problem fester and grow, resulting in a system-wide failure along with massive amounts of needless pollution. At that stage, not only does public health and the environment suffer, but the facility is subject to stiff penalties and even greater costs to fix an otherwise preventable problem that should have been caught and corrected early on. Similarly, allowing a facility to operate years beyond the end of a 5-year permit term makes it that much more likely that outdated, aged, or ineffective water pollution controls are allowed to continue without input from MDE engineers that check to make sure facilities' controls are up to date and operating effectively.

This is how SB 492 delivers an intelligent solution to reducing pollution and the costs of preventing it in the future.

2. ***Promote Compliance Without Costly Civil or Criminal Actions.*** In recent years MDE has touted its focus on achieving compliance without the use of traditional tools such as enforcement actions with deterrent penalties. While CLA firmly believes that you cannot reasonably expect compliance with virtually any law or rule without imposing commensurate consequences, it is important to clarify that SB 492 is not a traditional enforcement bill. SB 492 does not increase maximum civil penalties, nor introduce new prohibitions. Rather, the bill creates a nuanced and thoughtful approach to promoting compliance with the Clean Water Act and state water pollution laws.

If a facility with a water pollution discharge permit is in ***significant*** noncompliance, the bill requires the facility to submit a letter to MDE to explain how it will come back into compliance and MDE would prioritize that facility for inspections. ***Only if*** the facility remains in significant noncompliance after two monthly inspections would exceptionally small penalties then be assessed.

For the vast majority of facilities, which are considered “minor” by MDE, the penalty is only \$250 after a ***third*** straight month of significant noncompliance. If the facility is still not in compliance after a fourth monthly inspection, the penalty only increases to a modest \$500. Finally, for each subsequent month of significant noncompliance the penalty grows to \$2,500, which is still just a fraction of the maximum ***daily*** civil penalty authorized under state or federal law. These penalties are modest in value and only designed to nudge facilities back into compliance by providing them with a reminder of their obligations and imposing a quick and effective disincentive to continuing to violate the law. It will achieve compliance for the vast majority of violators without any need to resort to time-consuming civil or criminal actions or requiring additional resources from MDE, the Attorney General, or the courts.

In essence, the bill will help MDE distinguish between facilities that can quickly and easily regain compliance and those that the agency needs to prioritize for traditional enforcement actions due to a willful refusal to comply. A significant number of facilities in significant noncompliance have been given that designation by MDE because of a failure to report their

monthly discharge reports. In some cases, the facility has simply forgotten to do so and can be quickly reminded to begin submitting timely pollution reports. In other cases, the failure is intentional to cover up pollution problems that must be addressed. Again, the bill gives MDE the ability to distinguish between minor and more severe issues and gives facilities the ability to avoid significant – or any – penalties by fixing their problems quickly and demonstrating the ability and willingness to comply with the law. The public deserves nothing less than to know that violations are being quickly resolved.

3. ***Restore Agency Capacity and Public Trust.*** The General Assembly does its job to pass the laws needed to restore the Bay and water quality throughout Maryland. And the hard working staff at MDE do their jobs the best they can to protect the public from the thousands of toxic, carcinogenic, and radioactive substances the agency is charged with regulating. But the fact is that ***MDE resources have been in decline for more than two decades.***

MDE's general fund budget is roughly flat in absolute terms over the last two decades, meaning its resources have actually decreased by about a third accounting for inflation. Over that same time period, by contrast, the state's total general fund budget has more than doubled. As a consequence, more than one out of every seven previously filled positions at MDE is now gone, despite the significant increase in the state's population, economic activity, and overall workload for agency staff. At the turn of the century, MDE had 62 inspectors in its water division. That number declined slowly and bottomed out at 41 in 2016, and has apparently increased slightly since then but is nowhere near the more than 60 positions MDE had in the 1990s, much less the greater number it would need today.

When the Department of Legislative Services conducted an exhaustive analysis of executive agency staffing adequacy several years ago, it found a ***widespread and alarming deficiency across Maryland government, but held MDE's staff out as one of the single most overworked and understaffed workforces.*** In private conversations and meetings, almost all agency staff, regardless of the particular division or unit, readily admit that they are substantially lacking in personnel and resources; indeed, agency documents used to publicly state as much. But agency leadership now refuse to advocate for their own budget (or, in their words "advocate against the Governor's budget") thus refusing to give their staff the help they need. The agency has gone so far as to delete references to their staffing issues from public documents.

SB 492 will help ***rebuild the agency by mandating performance levels*** for the agency's permitting and compliance functions. Under the bill, a state of significant noncompliance or a long overdue permit renewal will necessitate monthly inspections, while the backlog of permits that are far beyond their 5-year expiration date must be cleared within a defined timeframe. These performance benchmarks will help provide a clear picture of whether or not MDE has the personnel and resources to adequately do its job and, if not, the underperformance against these benchmarks will clearly indicate to policymakers and the public what more is needed in order to ensure the agency is performing at expected levels to comply with the laws you wrote and achieve the purposes behind those laws to protect public health and the environment.

4. *Necessary and Critical for the Safety of Our Communities.* It must be stated that the Maryland Department of the Environment is a bit of a misnomer. When the average person hears the word “environment” they might think of trees, bees, or whales, the charismatic flora and fauna we love and want to protect. However, MDE is, first and foremost, a health agency at the front line of public health protection. If you have a concern about conserving aquatic or terrestrial habitat in Maryland, you need to direct your focus to the Department of Natural Resources. At MDE, the one common feature across each of its divisions and regulatory programs is the regulation of *substances that can and do sicken and kill Marylanders*.

One of the leading causes of death on this planet is particulate air pollution; we all understand that radiation is something to stay far away from; and we’re aware that lead, mercury, and all kinds of chemicals with strange names (“PFAS” is the latest) can be extremely dangerous if they make it into our water at high enough concentrations. These and many other hazards are the job of MDE to regulate for the safety of the public. When regulatory systems stop working, either because of a withering of the agency on a shoestring budget or because a culture of *non*compliance has taken hold, there are dangerous consequences for us all. And these consequences are most often felt by fenceline communities and our most vulnerable individuals.

We simply cannot afford to allow the status quo to continue. The stakes are too high, not only for restoring water quality and the Chesapeake Bay, but for keeping us all safe. SB 492 represents the first steps toward catalyzing a course correction at MDE. With a greater focus on providing MDE the resources it needs and with a thoughtful approach toward promoting a culture of compliance in Maryland, we are confident that SB 492 will put Maryland on a path toward a restored Chesapeake *and* safer and more sustainable communities for all Marylanders.

For these reasons, the Chesapeake Legal Alliance **strongly supports Senate Bill 492** and urges a favorable report. For additional information, you may contact Staff Attorney Evan Isaacson at [evan@chesapeakelegal.org](mailto:evan@chesapeakelegal.org).

# **SB492\_ShoreRivers via M.Pluta\_Fav.pdf**

Uploaded by: Matt Pluta

Position: FAV



**Testimony in SUPPORT of SB492 – Environment - Discharge Permits –  
Inspections and Administrative Continuations**

February 23, 2022

Dear Chairman Pinsky and Members of the Committee,

Thank you for this opportunity to submit testimony in **SUPPORT** of SB492 on behalf of ShoreRivers. ShoreRivers is a river protection group on Maryland's Eastern Shore with over 2,000 members. Our mission is to protect and restore our Eastern Shore waterways through science-based advocacy, restoration, and education.

**This bill includes a number of actions that will bring Maryland Department of the Environment back to the standard of protecting the state's water quality from permit holders who are failing to comply with their permits or operating on an expired permit. Specifically, SB492 will:**

1. **Put a much-needed end to MDE's practice of administratively extending the terms of a discharge permit after it has reached its expiration date.** By allowing a facility to operate on an expired "*zombie permit*" MDE is waiving their responsibility to make sure that every facility discharging pollution to Maryland waterways is doing so in compliance with modern regulatory and technology standards. By administratively continuing an expired permit MDE is also taking away the public's statutory right to review and weigh-in on these permits at least every five years.

The worst of these *zombie permits* is Valley Proteins, a discharger on the Eastern Shore whose permit expired in 2006 but because of MDE's inaction it continues to govern the facility's discharge 15 years later. The discharge limits in this permit reflect those issued in the early 2000s and ignores technological advancements such as the use of Enhance Nutrient Removal (ENR) technology, which is the standard level of treatment for new wastewater operations.

Public input on this permit has been lacking since the early 2000s despite serious concerns from the surrounding community about the water and air pollution from the Valley Proteins facility. Discharges with high levels of nutrients have caused downstream algal blooms, fish kills, and even the death of someone's pet dogs, meanwhile air pollution is impacting the quality of life and presenting health concerns for communities over 5-miles away. MDE has essentially silenced the public on these issues by not granting them a regular opportunity to engage with the permit renewal process.

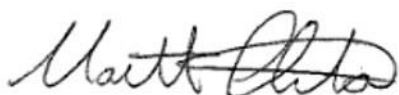
2. **Require monthly inspections for facilities that are operating on a zombie permit, or operating in significant non-compliance (SNC) of their discharge permit.** If MDE chooses to administratively continue an expired permit, then the burden needs to be placed on MDE to ensure that a bad situation isn't getting worse. As is the case with Valley Proteins, MDE administratively continued their permit since 2006 and Valley Proteins has been

in significant noncompliance with that permit for at least the last five years.<sup>1</sup> By executing monthly random inspections, MDE will be able to catch these violations before they become a greater issue for local water quality.

Aside from point source discharges, the Eastern Shore is scattered with groundwater discharge permits that allow the spraying of wastewater as irrigation on farm fields. This permitting program is flawed in many ways but primarily it jeopardizes the work under the Chesapeake Bay TMDL to reduce nutrient pollution because it assumes no pollution reaches waterways. However, MDE compliance and inspection data show that these facilities are commonly in violation of their permits. In the first half of fiscal year 2020, 23 of 41 (56%) inspections of groundwater permits resulted in a finding of “noncompliance” or “corrective action,” whereas only 29% of inspections results in a finding of full compliance. Examination of data from the past four fiscal years reveals similar findings, with only 80 of 317 inspections (25%) om compliance. And on the Eastern Shore the rate of noncompliance was similar, with 58 out of 108 (54%) inspections ending in noncompliance.<sup>2</sup>

This bill is necessary to prevent another environmental disaster like that at Valley Proteins from happening again in Maryland. This bill is necessary for MDE to recognize the resources and level of work needed for it to adequately administer and manage the pollution discharge permitting program. This bill is necessary to ensure proper oversight and protection of our state’s waterways. **For these reasons we ask the committee for a strong and favorable report of SB492.**

Sincerely,



**Matt Pluta**

Choptank Riverkeeper, on behalf of:

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***ShoreRivers***

Isabel Hardesty, Executive Director

Annie Richards, Chester Riverkeeper | Matt Pluta, Choptank Riverkeeper

Elle Bassett, Miles-Wye Riverkeeper | Zack Kelleher, Sassafras Riverkeeper

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<sup>1</sup> <https://echo.epa.gov/detailed-facility-report?fid=110000340685>

<sup>2</sup> <https://www.chesapeakelegal.org/guides-resources/groundwater-permit-and-spray-field-advocacy-opportunities-in-maryland/>





**SB 492\_CBF SUPPORT.pdf**

Uploaded by: Robin Jessica Clark

Position: FAV



# CHESAPEAKE BAY FOUNDATION

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Environmental Protection and Restoration  
Environmental Education

## Senate Bill 492

Environment - Discharge Permits - Inspections and Administrative Continuances

Date: February 24, 2022

Position: Support

To: Education, Health, and Environmental Affairs

From: Robin Clark, Maryland Staff Attorney

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Chesapeake Bay Foundation (CBF) **SUPPORTS** SB 492, which will provide the Department of Environment with additional tools to support and ensure well-functioning wastewater treatment facilities and industrial stormwater sites throughout Maryland, protecting Maryland's residents from harmful pollution discharges into local streams and rivers and the Chesapeake Bay.

### **Water pollution control permits do not serve their purpose if their terms are not followed.**

Water pollution control permits create the terms by which businesses and wastewater treatment plants in Maryland may operate while limiting discharges and pollution overflows into Maryland's waterways.

When a permit's five-year term expires and is not properly renewed, that outdated permit may be allowed to continue in effect through an administrative continuance. A number of administrative continuances now burden our State, meaning that in some cases new technologies and pollution reduction methods are not incorporated into facilities' operating requirements. This legislation seeks to give the Department of Environment the staff needed to address the backlog of these so-called "zombie" permits and eventually reduce the practice of extensions beyond one year.

A notice of significant noncompliance with a permit's terms can indicate a failure of a facility to report its monitoring data, or a violation of one of the permit's limits for a particular pollutant. While a failure to report may not be a clear indication of an issue, without reporting there is no way to know whether the failure to report is masking an issue. In the case of a violation of a pollution limit, the underlying cause of the issue needs to be addressed as soon as possible to bring the facility back into compliance. This legislation requires monthly inspections of significant noncompliance findings by the Department of the Environment or as recorded in the U.S. Environmental Protection Agency's ECHO database.<sup>1</sup> These inspections should encourage more regular reporting and expedite corrective actions.

### **SB 492 takes reasonable steps to increase oversight to confront discharge issues as they arise, and to address the backlog of outdated permits.**

This legislation will require that the Maryland Department of Environment inspects facilities in significant noncompliance with their pollution permits within a month's time. It seeks to encourage those facilities to

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<sup>1</sup> United States Environmental Protection Agency, *Enforcement and Compliance History Online* ([ECHO](#)), last visited February 21, 2022.

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403  
Phone (410) 268-8816 • Fax (410) 280-3513

develop a plan for remediating any issues and employs reasonable fines to motivate compliance. Through prompt attention to issues at a facility, remedies may be accomplished earlier, likely reducing costs, harm, and liability. The legislation also requires the Department to report to the General Assembly on the number of employees needed to help clear the backlog of outdated permits, and to work towards hiring those staff.

**CBF urges the Committee's FAVORABLE report on SB 492.** For more information, please contact Robin Jessica Clark, Maryland Staff Attorney at [rclark@cbf.org](mailto:rclark@cbf.org) and 443.995.8753.

**MBIA Letter SB 492.pdf**

Uploaded by: Lori Graf

Position: FWA

February 23, 2022

The Honorable Paul G. Pinsky  
Senate Education, Health & Environmental Affairs Committee  
Miller Senate Office Building,  
2 West Wing 11 Bladen St.,  
Annapolis, MD, 21401

**RE: SB 492 Environment - Discharge Permits - Inspections and Administrative Continuations**

Dear Chairman Pinsky:

The Maryland Building Industry Association, representing 100,000 employees statewide, appreciates the opportunity to participate in the discussion surrounding **SB 492 Environment - Discharge Permits - Inspections and Administrative Continuations. MBIA Supports with Amendments.**

This bill would limit the period of time for which the Department of the Environment may administratively extend water pollution discharge permits.. Builders and developers have to navigate a difficult and often changing regulatory landscape. This will be made even more difficult if the regulatory entities who's job it is to monitor and enforce compliance with the law no longer have the authority to work with developers and are instead constrained by a series of ever tightening regulations. Penalties for non-compliance are already in place to deter bad actors, and this bill will just make it more expensive to build and develop in the State of Maryland for good actors making a good faith effort to comply with the law.

This bill also lacks the specificity as to which General Permits will be affected. The Department of the Environment lists 6 different general permit categories and it is unclear which of these permits will be affected by the new fines and regulations. MBIA requests that this language be amended for the purposes of providing clarity and guidance to the regulated entities.

For these reasons, MBIA respectfully requests the Committee give this measure a favorable report with the above amendments. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or [lgraf@marylandbuilders.org](mailto:lgraf@marylandbuilders.org).

cc: Members of the Senate Education, Health & Environmental Affairs Committee

# **Opposition of SB 492 - Environment - Discharge Per**

Uploaded by: Colby Ferguson

Position: UNF



# Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

February 24, 2022

To: Senate Education, Health & Environmental Affairs Committee

From: Maryland Farm Bureau, Inc.

Re: **Opposition of SB 492 - Environment - Discharge Permits - Inspections and Administrative Continuations**

On behalf of our member families, I submit this written testimony opposing SB 492. This bill limits the period for which the Department of the Environment may administratively continue certain water pollution discharge permits (zombie permits) to no longer than 3 years starting July 1, 2022, and then no longer than 1 year starting January 1, 2027. It establishes inspection and reporting requirements for the zombie permit holders and establishes administrative penalties for the zombie permit holders determined to be in significant noncompliance of State or federal water quality standards, effluent limitations, or other requirements.

We understand the intent of this bill and are not opposed to stronger enforcement of bad actors. However, the bill uses terms like significant noncompliance. That term is not defined anywhere in statute or regulation. The vast majority of compliance issues CAFO permit holders have been paperwork related. The farm is in full compliance with the on-farm practices, but sometimes there is a form missing or a form was submitted incorrectly. Nothing that is causing pollution issues, but more of a clerical issue. We don't believe these to be "significant noncompliance". Yet, since the bill doesn't define it, we are worried that these paperwork violations will be included. In addition, we believe that the issue trying to be addressed is with Individual permits and not with general permits. A CAFO permit is a general permit.

**MDFB would be willing to remove our opposition if there were language added that would define "significant noncompliance" to not include paperwork violations and to narrow the focus of this bill to individual permit holders and remove general permits.**

**MDFB Policy:** We strongly support responsible and workable actions designed to permit and protect the privilege and rights of farmers, commercial fisherman, and aquaculturalists, to produce without undue or unreasonable restrictions, regulations, or legislation. We support actions to ensure that farmers are protected from liability and nuisance suits when carrying out normal production practices.

**MARYLAND FARM BUREAU RESPECTFULLY OPPOSES SB 492**

A handwritten signature in black ink, appearing to read 'Colby Ferguson'.

Colby Ferguson  
Director of Government Relations

*For more information contact Colby Ferguson at (240) 578-0396*

# **SB0492\_UNF\_NWRA\_Env. - Discharge Permits - Inspect**

Uploaded by: Pam Kasemeyer

Position: UNF



**Maryland-Delaware Solid Waste Association**  
a chapter of the



**National  
Waste & Recycling  
Association<sup>SM</sup>**

Collect. Recycle. Innovate.

TO: The Honorable Paul G. Pinsky, Chair  
Members, Senate Education, Health, and Environmental Affairs Committee

FROM: Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman

DATE: February 24, 2022

RE: **OPPOSE** – Senate Bill 492 – *Environment – Discharge Permits – Inspections and Administrative Continuations*

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The Maryland Delaware Solid Waste Association (MDSWA), a chapter of the National Waste and Recycling Association, is a trade association representing the private solid waste industry in the State of Maryland. Its membership includes hauling and collection companies, processing and recycling facilities, transfer stations, and disposal facilities. MDSWA and its members **oppose** Senate Bill 492.

MDSWA appreciates the intent of this legislation, which is to ensure timely permit renewals and enhance oversight and enforcement of permittees who are not in compliance with their discharge permit requirements. However, MDSWA believes its implementation could have significant unintended consequences for permittees that have been in compliance with the law and are seeking a permit renewal. Currently, administrative continuations are only granted when a permittee has submitted a renewal application. The continuation enables the permittee to continue to operate its facility during the permit renewal process. If Senate Bill 492 is passed and the Maryland Department of the Environment (MDE) fails to complete a renewal application within the defined timeframe, a lawfully operating permittee would be required to close or discontinue its operations until a new permit is issued. Permittees should not suffer as a result of MDE's inability to timely process a renewal permit. The time limits on administrative continuances should be deleted from the legislation.

MDSWA is also concerned about the lack of clear definition of what constitutes "significant compliance". While MDE supports strong enforcement of permit requirements, it is critical that factors that determine the level of noncompliance and related enforcement provisions are clearly and specifically defined. If this bill is to advance, the definition of what is considered "significant" must be defined.

**For more information call:**

Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman  
410-244-7000

# **SB0492 - Env. Discharge Permits - Inspections and**

Uploaded by: Tom Ballentine

Position: UNF



February 21, 2022

The Honorable Paul Pinsky, Chair  
Senate Education, Health and Environmental Affairs Committee  
Miller Senate Office Building, 2 West  
Annapolis, MD 21401

**Oppose: SB 492 – Discharge Permits – Inspections and Administrative Continuations**

Dear Chair, Pinsky and Committee Members:

The NAIOP Maryland Chapters representing more than 700 companies involved in all aspects of commercial, industrial and mixed-use real estate. NAIOP is opposed to SB 492 as introduced.

The bill takes steps to make timelier the renewal of water discharge permits administered by MDE. The bill:

- limits MDE's authority to administratively continue water discharge permits when they expire
- requires MDE to reduce the backlog of active permits that have been administratively continued
- increases the frequency of inspections on sites operating under an administratively continued permit,
- and imposes fines for permits in *Significant Noncompliance*.

NAIOP has several concerns:

- Limiting MDE's administrative continuance of a permit threatens the operations of a permitted entity even if the delay in renewal is out of the control of the permittee. The Secretary should be granted discretion.
- While appearing to focus on individual discharge permits the bill also affects activities under the general permit for construction and general permit for industrial discharges. We do not see why.
- The limited time for continuation and the monthly inspection and fines for non-compliance do not align well with the time needed for remediation which may require acquisition of permits and construction of new facilities.
- There is no reason to expect higher rates of non-compliance from a permit that is administratively continued and do not see the need for more frequent inspections.
- While the bill mentions some parameters for Significant Noncompliance it is not defined in the law.

**For these reasons NAIOP cannot support the bill as introduced.**

Sincerely;

A handwritten signature in blue ink, appearing to read "T.M. Ballentine".

Tom Ballentine, Vice President for Policy  
NAIOP Maryland Chapters -*The Association for Commercial Real Estate*

cc: Education, Health and Environmental Affairs Committee Members  
Nick Manis – Manis, Canning Assoc.

**SB 492\_MAA\_LOI.pdf**

Uploaded by: Rachel Clark

Position: INFO

CHAIRMAN:  
Rob Scrivener  
VICE CHAIRMAN  
Brian Russell

**MARYLAND ASPHALT ASSOCIATION**



SECRETARY:  
David Slaughter  
TREASURER:  
Jeff Graf  
PRESIDENT:  
G. Marshall Klinefelter

February 24, 2022

Senator Paul G. Pinsky, Chair  
Education, Health, and Environmental Affairs Committee  
2 West, Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: SB 492 – LETTER OF INFORMATION – Environment – Discharge Permits –  
Inspections and Administrative Continuations**

Dear Chair Pinsky and Members of the Committee:

The Maryland Asphalt Association (MAA) is comprised of 18 producer members representing more than 47 production facilities, 24 contractor members, 24 consulting engineer firms and 41 other associate members. We proactively work with regulatory agencies to represent the interests of the asphalt industry both in the writing and interpretation of state and federal regulations that may affect our members. We also advocate for adequate state and federal funding for Maryland's multimodal transportation system.

Senate Bill 492 limits the period of time for which the Maryland Department of the Environment (MDE) can administratively continue a discharge permit from five years to three years in 2022, and then again from three years to one year in 2027. The bill also requires MDE to inspect the operations of each holder of an administratively continued permit at least once per month and outlines an administrative penalty schedule to be followed should a permit holder be found in significant noncompliance for the same underlying condition after two consecutive months of inspections. Finally, it requires MDE to request half the number of positions to complete these duties by December 31, 2024, with the balance to be requested by December 31, 2025.

Should this Committee desire to act on this bill, MAA requests a clarifying amendment regarding the definition of "administratively continued permit." In the newly created Section 9-328.1(a) of the Environment Article of the Maryland Code, we ask that you make this a two-pronged test that excludes general stormwater discharge permits from these provisions. Thus, the new language would read:

“9-328.1.

(A) IN THIS SECTION, “ADMINISTRATIVELY CONTINUED PERMIT” MEANS A DISCHARGE PERMIT THAT:

(1) HAS BEEN ADMINISTRATIVELY CONTINUED UNDER DEPARTMENT REGULATIONS IN ACCORDANCE WITH 40 C.F.R. § 122.6(D); **AND**

**(2) IS NOT A GENERAL STORMWATER DISCHARGE PERMIT.”**

MAA believes that this clarifying amendment would ensure that the focus of MDE’s enforcement efforts stays on those industries most responsible for the pollution that this bill is seeking to address.

We appreciate you taking the time to address this important issue and we respectfully present the above information and proposed amendment to Senate Bill 492 for your consideration.

Thank you,

A handwritten signature in cursive script that reads "Marshall Klinefelter".

Marshall Klinefelter  
President  
Maryland Asphalt Association

**SB 492\_MTBMA\_LOI.pdf**

Uploaded by: Rachel Clark

Position: INFO



February 24, 2022

Senator Paul G. Pinsky, Chair  
Education, Health, and Environmental Affairs Committee  
2 West, Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: SB 492 – LETTER OF INFORMATION – Environment – Discharge Permits –  
Inspections and Administrative Continuations**

Dear Chair Pinsky and Members of the Committee:

The Maryland Transportation Builders and Materials Association (“MTBMA”) has been and continues to serve as the voice for Maryland’s construction transportation industry since 1932. Our association is comprised of 200 members. MTBMA encourages, develops, and protects the prestige of the transportation construction and materials industry in Maryland by establishing and maintaining respected relationships with federal, state, and local public officials. We proactively work with regulatory agencies and governing bodies to represent the interests of the transportation industry and advocate for adequate state and federal funding for Maryland’s multimodal transportation system.

Senate Bill 492 limits the period of time for which the Maryland Department of the Environment (MDE) can administratively continue a discharge permit from five years to three years in 2022, and then again from three years to one year in 2027. The bill also requires MDE to inspect the operations of each holder of an administratively continued permit at least once per month and outlines an administrative penalty schedule to be followed should a permit holder be found in significant noncompliance for the same underlying condition after two consecutive months of inspections. Finally, it requires MDE to request half the number of positions to complete these duties by December 31, 2024, with the balance to be requested by December 31, 2025.

Should this Committee desire to act on this bill, MTBMA requests a clarifying amendment regarding the definition of “administratively continued permit.” In the newly created Section 9-328.1(a) of the Environment Article of the Maryland Code, we ask that you make this a two-pronged test that excludes general stormwater discharge permits from these provisions. Thus, the new language would read:



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(A) IN THIS SECTION, “ADMINISTRATIVELY CONTINUED PERMIT” MEANS A DISCHARGE PERMIT THAT:

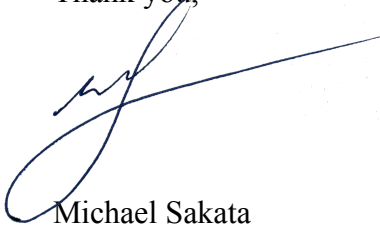
**(1) HAS BEEN ADMINISTRATIVELY CONTINUED UNDER DEPARTMENT REGULATIONS IN ACCORDANCE WITH 40 C.F.R. § 122.6(D); AND**

**(2) IS NOT A GENERAL STORMWATER DISCHARGE PERMIT.”**

MTBMA believes that this clarifying amendment would ensure that the focus of MDE’s enforcement efforts stays on those industries most responsible for the pollution that this bill is seeking to address.

We appreciate you taking the time to address this important issue and we respectfully present the above information and proposed amendment to Senate Bill 492 for your consideration.

Thank you,

A handwritten signature in blue ink, appearing to read 'Michael Sakata', is written over a faint, circular official stamp or watermark.

Michael Sakata  
President and CEO  
Maryland Transportation Builders and Materials Association

**SB 492 LOI.pdf**

Uploaded by: Tyler Abbott

Position: INFO



# Maryland

## Department of the Environment

Larry Hogan, Governor  
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary  
Horacio Tablada, Deputy Secretary

February 24, 2022

The Honorable Paul Pinsky  
Senate Education, Health & Environmental Affairs Committee  
Miller Senate Office Building, Suite 2W  
Annapolis, Maryland 21401

### **Re: Senate Bill 492 – Environment – Discharge Permits – Inspections and Administrative Continuations**

Dear Chair Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed SB 492, *Environment – Discharge Permits – Inspections and Administrative Continuations*, and would like to share some information regarding this legislation. MDE also wanted to note that we are currently working with the sponsors and interested parties to amend the language of the bill to lessen the burden on MDE while providing similar improved outcomes for Marylanders.

SB 492 would limit the period in which discharge permits may be administratively continued, establish new inspection, and administrative penalty provisions for certain facilities operating under a discharge permit, and impose new reporting and personnel requirements for MDE's discharge permitting programs.

Reducing the number of administratively extended water discharge permits is a top priority for the Secretary. Currently, the Water and Science Administration has 196 individual discharge permits that are administratively extended and the Land and Material Administration currently has 16 individual discharge permits that are administratively extended. The Department is committed to reducing the backlog of individual discharge permits to 10% or less within the next 12 months.

As part of this plan, the Department is reviewing each of the administratively extended permits to determine appropriate actions. Additionally, the Department is in the process of reviewing and validating its permit tracking database. In 2021, MDE upgraded to a new system and as a result, we have found duplications. Corrections are expected to be completed within the next 60 days, potentially reducing the number of administratively extended permits. MDE has also worked with several non-governmental organizations to develop a ranking system to prioritize permits.

Thank you for considering the Department's information regarding this legislation. We will continue to monitor SB 492 during the committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or [tyler.abbott@maryland.gov](mailto:tyler.abbott@maryland.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott". The signature is written in a cursive style with a long horizontal line extending to the left.

Tyler Abbott

cc: Lee Currey, Director, Water and Science Administration