

SENATE BILL 978

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By: **Senator Lam**

Introduced and read first time: January 28, 2025

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Environmental Permits – Requirements for Public Participation and Impact**
3 **and Burden Analyses**
4 **(Cumulative Harms to Environmental Restoration for Improving Shared**
5 **Health – CHERISH Our Communities Act)**

6 FOR the purpose of applying certain public participation requirements to permits for
7 certain projects that have been identified in a certain manner as having an increased
8 potential for adverse community environmental and public health impacts; requiring
9 a person applying for certain permits for certain projects with an increased potential
10 to cause adverse community environmental and public health impacts to include in
11 the permit application a certain environmental impact analysis and, if the project is
12 located within a certain radius from the boundary of a certain census tract, an
13 existing burden report prepared in a certain manner; requiring the Department of
14 the Environment to make a certain determination, after review of certain
15 information, as to whether a certain project may cause or contribute to an increased
16 potential of certain adverse impacts; requiring the Department to deny a permit
17 under certain circumstances, subject to a certain exception; requiring the
18 Department to make certain enforcement information available in a certain manner;
19 requiring that a certain percentage of revenue from certain enforcement actions be
20 distributed to a special fund for certain purposes; requiring the Secretary of the
21 Environment to prepare a certain recommendation in connection with certain issues
22 considered by the Public Service Commission; and generally relating to
23 environmental permits.

24 BY repealing and reenacting, with amendments,
25 Article – Environment
26 Section 1–601(a), 1–601.1, 1–602(a), and 2–405(a)
27 Annotated Code of Maryland
28 (2013 Replacement Volume and 2024 Supplement)

29 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Environment

Section 1–703 through 1–705

Annotated Code of Maryland

(2013 Replacement Volume and 2024 Supplement)

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

Article – Environment

1–601.

(a) Permits issued by the Department under the following sections shall be issued
in accordance with this subtitle:

(1) Air quality control permits to construct subject to § 2–404 of this article;

(2) Permits to install, materially alter, or materially extend landfill
systems, incinerators for public use, or rubble landfills subject to § 9–209 of this article;

(3) Permits to discharge pollutants to waters of the State issued [pursuant
to] **IN ACCORDANCE WITH** § 9–323 of this article;

(4) Permits to install, materially alter, or materially extend a structure
used for storage or distribution of any type of sewage sludge issued, renewed, or amended
[pursuant to] **IN ACCORDANCE WITH** § 9–234.1 or § 9–238 of this article;

(5) Permits to own, operate, establish, or maintain a controlled hazardous
substance facility issued [pursuant to] **IN ACCORDANCE WITH** § 7–232 of this article;

(6) Permits to own, operate, or maintain a hazardous material facility
issued [pursuant to] **IN ACCORDANCE WITH** § 7–103 of this article;

(7) Permits to own, operate, establish, or maintain a low-level nuclear
waste facility issued [pursuant to] **IN ACCORDANCE WITH** § 7–233 of this article; [and]

(8) Potable reuse permits issued in accordance with § 9–303.2 of this
article; **AND**

**(9) PERMITS FOR PROJECTS IDENTIFIED UNDER § 1–703 OF THIS
TITLE AS HAVING AN INCREASED POTENTIAL FOR ADVERSE COMMUNITY
ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS.**

1–601.1.

(a) A person applying for a permit listed under § 1–601(a) of this subtitle shall include in the permit application the EJ Score from the Maryland EJ tool for the census tract where the applicant is seeking a permit, unless the permit requires the applicant to use a tool developed by the U.S. Environmental Protection Agency.

(b) **IN ADDITION TO THE REQUIREMENT UNDER SUBSECTION (A) OF THIS SECTION, A PERSON APPLYING FOR A NEW, RENEWAL, OR EXPANSION PERMIT FOR A PROJECT IDENTIFIED UNDER § 1–703 OF THIS TITLE AS HAVING AN INCREASED POTENTIAL FOR ADVERSE COMMUNITY ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS SHALL INCLUDE IN THE PERMIT APPLICATION AN ENVIRONMENTAL IMPACT ANALYSIS THAT INCLUDES:**

(1) A DESCRIPTION OF THE PROPOSED PERMIT AND THE ENVIRONMENTAL CONDITIONS OF THE SITE;

(2) THE ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS OF THE PROPOSED PERMIT, DETAILING BOTH SHORT- AND LONG- TERM EFFECTS;

(3) ANY ALTERNATIVES TO THE PROPOSED PERMIT;

(4) ANY IRREVERSIBLE OR IRRETRIEVABLE COMMITMENT OF RESOURCES INVOLVED IN THE PROPOSED PERMIT;

(5) MITIGATION MEASURES PROPOSED TO MINIMIZE IDENTIFIED ENVIRONMENTAL IMPACTS; AND

(6) IF APPLICABLE, A PROPOSED EXISTING BURDEN REPORT REQUIRED UNDER § 1–704 OF THIS TITLE.

(c) On receiving an application for a permit listed under § 1–601(a) of this subtitle, the Department shall, in accordance with regulations adopted under this section, review the EJ Score for the census tract where the applicant is seeking a permit using the Maryland EJ tool to verify the applicant’s information.

[(c)] (D) The Department shall adopt regulations to implement this section.

1–602.

(a) Wherever this subtitle requires the Department to publish notice:

(1) Notice shall be published at least once a week for 2 consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the proposed facility is located;

(2) The notice shall include:

(i) The EJ Score for the census tract where the applicant is seeking a permit, provided by the applicant under § 1–601.1 of this subtitle;

(ii) The address of the Department website for accessing the EJ Score review conducted under § 1–601.1 of this subtitle; [and]

(iii) A description of the environmental justice indicators contributing to the EJ Score of the census tract where the applicant is seeking a permit;
AND

(IV) IF THE PERMIT IS FOR A PROJECT IDENTIFIED UNDER § 1–703 OF THIS TITLE AS HAVING AN INCREASED POTENTIAL FOR ADVERSE COMMUNITY ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS, THE ENVIRONMENTAL IMPACT ANALYSIS REQUIRED UNDER § 1–601.1(B) OF THIS SUBTITLE, INCLUDING, IF APPLICABLE, THE PROPOSED EXISTING BURDEN REPORT REQUIRED UNDER § 1–704 OF THIS TITLE;

(3) The Department may require notice of an informational meeting or a public hearing by mail to each person requesting the meeting or hearing or to their authorized representatives;

(4) The Department may provide additional notice by requiring the notice to be posted at the proposed facility or at public facilities in the geographical area of the proposed facility; and

(5) The applicant shall bear all costs incurred by the Department in providing notice.

1–703.

(A) IN THIS SECTION, “COVERED PROJECT” MEANS AN ACTIVITY OR A FACILITY TYPE THAT IS ANY:

(1) AGGREGATE MINING OPERATION, INCLUDING GRAVEL MINING;

(2) ANAEROBIC DIGESTER;

(3) CARBON DIOXIDE PIPELINE;

(4) COAL MINE, ACTIVE OR INACTIVE;

(5) CONCENTRATED ANIMAL FEEDING OPERATION;

(6) CONCRETE BATCHING FACILITY;

1 **(7) ENERGY-GENERATING FACILITY, EXCLUDING SOLAR, WIND, AND**
2 **GEOTHERMAL FACILITIES;**

3 **(8) ENERGY STORAGE SITE, INCLUDING DATA CENTERS AND**
4 **HYDROGEN HUBS;**

5 **(9) FOSSIL FUEL SHIPMENT, HANDLING, OR PROCESSING FACILITY,**
6 **INCLUDING BULK SHIPPING TERMINALS AND ANY COMPONENT OF A FACILITY THAT**
7 **PROCESSES OR STORES, OR BOTH, LIQUIFIED NATURAL GAS;**

8 **(10) INCINERATOR, INCLUDING INCINERATORS FOR MEDICAL WASTE,**
9 **MUNICIPAL SOLID WASTE, ANIMAL WASTE, OR WOODY BIOMASS;**

10 **(11) LANDFILL, INCLUDING LANDFILLS THAT ACCEPT ASH,**
11 **CONSTRUCTION OR DEMOLITION DEBRIS, OR SOLID WASTE;**

12 **(12) MANUFACTURING FACILITY, INCLUDING CHEMICAL**
13 **MANUFACTURING;**

14 **(13) MATERIALS RECOVERY FACILITY;**

15 **(14) MILITARY TESTING AND RESEARCH SITE;**

16 **(15) PELLET FACTORY;**

17 **(16) REFINERY;**

18 **(17) SAWMILL;**

19 **(18) SCRAP METAL YARD;**

20 **(19) SEWAGE TREATMENT PLANT WITH A CAPACITY OF MORE THAN**
21 **50,000,000 GALLONS PER DAY;**

22 **(20) SLUDGE PROCESSING FACILITY;**

23 **(21) SOLID WASTE TRANSFER STATION; OR**

24 **(22) SUPERFUND SITE.**

25 **(B) THE DEPARTMENT SHALL IDENTIFY A COVERED PROJECT AS HAVING**
26 **AN INCREASED POTENTIAL FOR ADVERSE COMMUNITY ENVIRONMENTAL AND**

PUBLIC HEALTH IMPACTS IF THE COVERED PROJECT REQUIRES ANY OF THE
FOLLOWING PERMITS:

(1) AIR QUALITY CONTROL PERMITS TO CONSTRUCT, SUBJECT TO §
2-404 OF THIS ARTICLE;

(2) NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM
PERMITS;

(3) PERMITS TO OWN, OPERATE, OR MAINTAIN A HAZARDOUS
MATERIAL FACILITY ISSUED IN ACCORDANCE WITH § 7-103 OF THIS ARTICLE;

(4) PERMITS TO OWN, OPERATE, OR MAINTAIN A LOW-LEVEL
NUCLEAR WASTE FACILITY ISSUED IN ACCORDANCE WITH § 7-233 OF THIS ARTICLE;

(5) POTABLE REUSE PERMITS ISSUED IN ACCORDANCE WITH §
9-303.2 OF THIS ARTICLE;

(6) REFUSE DISPOSAL PERMITS;

(7) SEWAGE SLUDGE PERMITS;

(8) STATE-ONLY CONDITIONS ASSOCIATED WITH TITLE V (PART 70)
PERMITS TO OPERATE; OR

(9) STATE PERMITS TO OPERATE MINOR AIR POLLUTION SOURCES
THAT HAVE BEEN IDENTIFIED BY THE DEPARTMENT AS NEEDING PERMITS TO
OPERATE.

1-704.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) "AT-RISK CENSUS TRACT" MEANS A CENSUS TRACT FOR WHICH
THE FINAL EJ SCORE FROM THE MARYLAND EJ TOOL IS AT OR ABOVE THE 75TH
PERCENTILE.

(3) "COVERED PROJECT" HAS THE MEANING STATED IN § 1-703(A) OF
THIS SUBTITLE.

(B) (1) AN APPLICATION FOR A PERMIT LISTED UNDER § 1-703(B)(1)
THROUGH (9) OF THIS SUBTITLE FOR A COVERED PROJECT THAT IS LOCATED

1 WITHIN A 1.5-MILE RADIUS FROM THE BOUNDARY OF AN AT-RISK CENSUS TRACT
2 SHALL INCLUDE A PROPOSED EXISTING BURDEN REPORT.

3 (2) THE PROPOSED EXISTING BURDEN REPORT REQUIRED UNDER
4 PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

5 (I) THE EJ SCORE FROM THE MARYLAND EJ TOOL FOR THE
6 CENSUS TRACT WHERE THE APPLICANT IS SEEKING A PERMIT;

7 (II) A COMPREHENSIVE LIST OF EACH EXISTING POLLUTION
8 SOURCE, OR CATEGORY OF SOURCES, THAT IS IMPACTING THE COMMUNITY,
9 INCLUDING A DESCRIPTION OF POTENTIAL ROUTES OF HUMAN EXPOSURE TO
10 POLLUTION FROM EACH SOURCE OR CATEGORY IDENTIFIED;

11 (III) AMBIENT CONCENTRATIONS OF REGULATED AIR
12 POLLUTANTS AND REGULATED OR UNREGULATED HAZARDOUS AIR POLLUTANTS;

13 (IV) TRAFFIC VOLUME;

14 (V) GENERAL NOISE AND ODOR LEVELS;

15 (VI) EXPOSURE OR POTENTIAL EXPOSURE TO LEAD, INCLUDING
16 LEAD-BASED PAINT;

17 (VII) EXPOSURE OR POTENTIAL EXPOSURE TO CONTAMINATED
18 DRINKING WATER SUPPLIES;

19 (VIII) PROXIMITY OF THE COVERED PROJECT TO EXISTING
20 SOURCES OF POLLUTION, INCLUDING:

21 1. SOLID OR HAZARDOUS WASTE SITES;

22 2. INCINERATORS;

23 3. RECYCLING FACILITIES;

24 4. WASTE TRANSFER FACILITIES; AND

25 5. PETROLEUM OR CHEMICAL MANUFACTURING,
26 STORAGE, TREATMENT, OR DISPOSAL FACILITIES;

27 (IX) THE POTENTIAL OR PROJECTED CONTRIBUTION OF THE
28 COVERED PROJECT TO EXISTING POLLUTION BURDENS IN THE COMMUNITY AND,

ACCOUNTING FOR THE EXISTING BURDEN, THE POTENTIAL HEALTH EFFECTS OF ANY CONTRIBUTION;

(X) AN EVALUATION OF EXISTING ENVIRONMENTAL AND PUBLIC HEALTH STRESSORS BORNE BY THE COMMUNITY; AND

(XI) AN EVALUATION OF ANY UNAVOIDABLE ENVIRONMENTAL AND PUBLIC HEALTH STRESSORS POSED BY THE COVERED PROJECT.

(C) (1) BEFORE APPROVING A COVERED PROJECT LOCATED WITHIN A 1.5-MILE RADIUS FROM THE BOUNDARY OF AN AT-RISK CENSUS TRACT, THE DEPARTMENT, OR OTHER PERMITTING AGENCY, SHALL PREPARE, OR CAUSE TO BE PREPARED, A FINAL EXISTING BURDEN REPORT.

(2) AN EXISTING BURDEN REPORT MAY BE FINALIZED ONLY IF:

(I) THE REPORT HAS BEEN REVIEWED FOR ACCURACY AND SUFFICIENCY BY:

1. THE COMMISSION;

2. THE DEPARTMENT;

3. THE MARYLAND DEPARTMENT OF HEALTH;

4. ELECTED OFFICIALS REPRESENTING THE IMPACTED COMMUNITY; AND

5. ANY OTHER ENVIRONMENTAL OR PUBLIC HEALTH OFFICIAL THAT THE PERMITTING AGENCY DEEMS APPROPRIATE;

(II) THERE HAS BEEN AN OPPORTUNITY FOR PUBLIC COMMENT ON THE EXISTING BURDEN REPORT IN ACCORDANCE WITH SUBTITLE 6 OF THIS TITLE; AND

(III) A RECORD OF ALL PUBLIC COMMENT ON THE PROPOSED EXISTING BURDEN REPORT AND PERMIT APPLICATION HAS BEEN INCORPORATED INTO THE FINAL EXISTING BURDEN REPORT.

(3) A FINAL EXISTING BURDEN REPORT MAY BE BASED ALL OR IN PART ON THE PROPOSED EXISTING BURDEN REPORT.

(D) (1) AFTER REVIEW OF THE FINAL EXISTING BURDEN REPORT UNDER SUBSECTION (B) OF THIS SECTION, THE ENVIRONMENTAL IMPACT ANALYSIS UNDER § 1-601.1(B) OF THIS TITLE, AND ANY ACCOMPANYING PUBLIC COMMENTS, THE DEPARTMENT SHALL MAKE AN OFFICIAL DETERMINATION AS TO WHETHER THE REPORTS AND PUBLIC COMMENTS INDICATE THAT THE COVERED PROJECT MAY, DIRECTLY OR INDIRECTLY, CAUSE OR CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE COMMUNITY ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS WITHIN AN AT-RISK CENSUS TRACT.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THE DEPARTMENT SHALL DENY A PERMIT FOR A COVERED PROJECT IF THE DEPARTMENT DETERMINES UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT THE PROJECT WOULD CAUSE OR CONTRIBUTE TO AN INCREASED POTENTIAL FOR ADVERSE COMMUNITY ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS IN AN AT-RISK CENSUS TRACT.

(3) THE DEPARTMENT MAY APPROVE A CONDITIONAL NEW, EXPANSION, OR RENEWAL PERMIT IF THE PERMIT APPLICANT CAN ESTABLISH THAT:

(I) THE PURPOSE OF THE PERMIT WOULD SERVE AN ESSENTIAL ENVIRONMENTAL, HEALTH, OR SAFETY NEED OF THE COMMUNITY; AND

(II) THERE IS NO REASONABLE ALTERNATIVE TO THE PURPOSE OF THE PERMIT.

(4) IF THE DEPARTMENT CONDITIONALLY APPROVES AN APPLICATION FOR A NEW, EXPANSION, OR RENEWAL PERMIT UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

(I) IMPOSE ADDITIONAL PERMIT CONDITIONS TO PROTECT PUBLIC HEALTH; AND

(II) REQUIRE THE APPLICANT TO ENTER INTO A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION.

(E) (1) A HOLDER OF A PERMIT CONDITIONALLY APPROVED UNDER SUBSECTION (D)(4) OF THIS SECTION SHALL ENTER INTO A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT WITH A COMMUNITY-BASED ORGANIZATION OR COLLECTION OF COMMUNITY-BASED ORGANIZATIONS REPRESENTING THE COMMUNITY OR COMMUNITIES AFFECTED BY THE COVERED PROJECT.

1 (2) (I) A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT
2 SHALL:

3 1. ESTABLISH ONGOING PAYMENT OF FEES BY THE
4 PERMIT HOLDER INTO A PROJECT-SPECIFIC CUMULATIVE IMPACTS MITIGATION
5 FUND FOR THE LIFE OF THE PROJECT;

6 2. BE ENFORCEABLE IN A STATE COURT, AND INCLUDE
7 THIS INFORMATION IN THE LANGUAGE OF THE CONTRACT; AND

8 3. BENEFIT ALL RESIDENTS WHO LIVE WITHIN THE
9 AT-RISK CENSUS TRACT AFFECTED BY THE PROJECT.

10 (II) A CUMULATIVE IMPACTS MITIGATION FUND AGREEMENT
11 MAY NOT RESTRICT THE RIGHT OF RESIDENTS OR ORGANIZATIONS TO EXPRESS
12 CONCERNS ABOUT OR OBJECTIONS TO THE PROJECT.

13 1-705.

14 (A) THE DEPARTMENT SHALL MAKE INFORMATION READILY AVAILABLE
15 ONLINE REGARDING ANY ENFORCEMENT ACTION AGAINST A PERMITTED FACILITY
16 LOCATED WITHIN A 1.5-MILE RADIUS OF THE BOUNDARY OF AN AT-RISK CENSUS
17 TRACT, INCLUDING NOTICES OF VIOLATIONS IN ADDITION TO PENDING AND
18 CONCLUDED ENFORCEMENT ACTIONS.

19 (B) AT LEAST 25% OF THE REVENUE FROM ANY ENFORCEMENT ACTION
20 AGAINST A FACILITY LOCATED WITHIN A 1.5-MILE RADIUS OF THE BOUNDARY OF AN
21 AT-RISK CENSUS TRACT SHALL BE DISTRIBUTED TO A SPECIAL FUND TO BE USED TO
22 ASSIST AFFECTED COMMUNITIES.

23 (C) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH
24 REQUIREMENTS FOR THE OPERATION OF THE SPECIAL FUND AND APPROPRIATE
25 DISTRIBUTION OF THE FUNDS TO COMMUNITY ORGANIZATIONS WITHIN AFFECTED
26 COMMUNITIES.

27 2-405.

28 (a) (1) (i) Whenever the Public Service Commission notifies the Secretary
29 of an application for a certificate of public convenience and necessity under § 7-207 of the
30 Public Utilities Article, the Secretary shall prepare a recommendation in connection with
31 the permit or registration required by this subtitle and the issues the Public Service
32 Commission must consider under § 7-207 of the Public Utilities Article relating to climate
33 change.

(ii) The recommendation shall be presented at the hearing required by § 7–207 of the Public Utilities Article.

(2) The recommendation shall identify the requirements of all applicable federal and State environmental laws and standards and shall recommend and evaluate various methods and conditions for compliance.

(3) FOR ANY CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ISSUED IN LIEU OF AN AIR QUALITY PERMIT TO CONSTRUCT THAT IS SUBJECT TO THE REQUIREMENT TO PREPARE AN EXISTING BURDEN REPORT UNDER § 1–704 OF THIS ARTICLE, THE RECOMMENDATION SHALL INCLUDE:

(I) THE FINAL EJ SCORE FROM THE MARYLAND EJ TOOL;

(II) THE FINDINGS OF THE EXISTING BURDEN REPORT; AND

(III) MEASURES TO MEET THE REQUIREMENTS OF § 1–704(E) OF THIS ARTICLE.

~~[(3)]~~ (4) If a person files an application for an operating permit under this subtitle simultaneously with an application for a certificate, the Department shall consolidate its procedures for the issuance of the operating permit with the Public Service Commission's proceedings for issuance of the certificate and shall issue the operating permit simultaneously with the certificate unless consolidation would be inconsistent with the procedures set forth in the federal Clean Air Act.

~~[(4)]~~ (5) The Department shall incorporate into the initial operating permit the conditions of the certificate which relate to air quality control.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.