

STATE OF MARYLAND

MARYLAND DEPARTMENT OF THE ENVIRONMENT

Shari T. Wilson, Secretary

BILL NO: SB 420

COMMITTEE: Education, Health, and Environmental Affairs

POSITION: Oppose

TITLE: Environment – Stormwater Management – New Development and Redevelopment Projects

BILL ANALYSIS: This Bill proposes to make specified stormwater management regulations adopted by the Maryland Department of the Environment (MDE) applicable to all new development and redevelopment projects that do not have final approval for an erosion and sediment control and stormwater management plans by a certain date; and making the Act an emergency measure.

POSITION AND RATIONALE: MDE opposes Senate Bill 420. The Bill proposes to modify a recently adopted stormwater management regulation (COMAR 26.17.02) by MDE applicable to all new and redevelopment projects that do not have final approval for erosion and sediment control and stormwater management from May 4, 2010 to May 4, 2020. MDE provided the May 4, 2010 date as part of request from AELR committee review and approval to clarify the grandfathering element of the proposed regulation changes required in accordance with general assembly passage of “Stormwater Management Act of 2007.” These regulation changes were adopted on May 4, 2009. To assist both the localities and development/engineering community MDE has is developing additional guidance regarding the grandfathering policy. This additional guidance allows for the necessary flexibility by the localities and the development/engineering community to address and ensure proper transition of construction projects that are currently in the review and approval process using their existing tools available as part of the locally approved and adopted ordinances for stormwater management.

Changing the implementation date of the stormwater management regulations will affect Maryland’s effort to ensure environmental site design (ESD) to the maximum extent practicable (MEP) is met for new and redevelopment projects as well as delay the Chesapeake Bay clean up effort and the State’s ability to meet a future Chesapeake Bay Total Maximum Daily Load (TMDL)

and appropriate two year milestones. The Bay watershed's population is over 16.5 million and growing by more than 170,000 residents annually. The rapid rate of population growth and related residential and commercial development means that this is the only pollution sector in the Bay watershed that is still growing.

To combat the increase in pollution from development in the Bay watershed, Bay Program partners are focusing restoration efforts on reducing nutrient and sediment runoff from new development. The U.S. Environmental Protection Agency announced recently that that EPA is initiating new federal rulemaking on stormwater and concentrated animal feeding operations to reduce water pollution in the Chesapeake Bay watershed. EPA will initiate national rulemaking to control pollution from newly developed and redeveloped sites, while considering options for going beyond national requirements in the Chesapeake Bay watershed. EPA will consider more stringent elements such as more extensively redefining municipal separate storm sewer system (MS4), establishing more stringent stormwater retention requirements for newly developed and redeveloped sites, and applying these requirements to smaller sites.

Delaying the implementation of Maryland new stormwater regulations will make it more difficult for the state to meet its commitments for sediment and nutrient reductions to the Bay, and could ultimately lead to increased federal oversight, as described in a recent memorandum from EPA. Delaying the implementation of these regulations will also increase the costs of watershed restoration and retrofitting efforts for local jurisdictions, who are required to meet TMDL reductions as a condition of their MS4 permits. For these reasons, the Department opposes Senate Bill 420.

FOR MORE INFORMATION,
CONTACT LISA NISSLEY
410-260-6301 ANNAPOLIS
410-537-3812 BALTIMORE