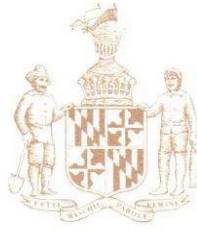


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Water Quality Certification Improvement Act  
HB 1128  
February 28, 2020

House Bill 1128 codifies the process for applying for water quality certifications submitted to the Maryland Department of the Environment pursuant to the federal Clean Water Act. Under the bill, applicants would need to show the activities and the infrastructure involved in the project. Applications are required to indicate the amount of pollution that would result and identify the waters of the state that would be impacted.

The federal Clean Water Act (CWA) was passed in 1972 to govern water pollution. Its objective is to protect the waters of the United States. The Act prominently identifies state governments as active participants in protecting clean water and provides assistance to the states towards this objective. The Act is one of the earliest and most influential modern environmental victories. It can be credited with important environmental victories such as the cleaning up of the Cuyahoga River and the fines imposed on BP following the 2010 oil spill.

The courts have overwhelmingly affirmed the broad authority granted to states and tribes to review projects which may negatively impact local waterways. However, the state's abilities to make 401 WQC determinations has been severely limited by the EPA through a Proposed Rule in August 2019 which came as a response to a presidential Executive Order. The Proposed Rule received close to 125,000 comments from the public, including a very strong oppositional letter from Secretary Ben Grumbles of the Maryland Department of the Environment.

Section 401 Water Quality Certifications are the only mechanism for states to weigh in on these federally licensed projects. House Bill 1128 would create a stronger process for MDE by codifying the information that needs to be submitted as part of the water quality certification. This bill will also ensure that MDE and the WQC applicants are considering the anticipated effects that increased rainfall, sea level rise, and storm surges will have on water quality in addition to the anticipated project pollution discharges. The bill would require public notice for draft individual Water Quality Certifications, improved public notice for 401 Water Quality Certification requests, and establish public comment for projects that require an individual Water Quality Certification. I urge a favorable report for HB 1128.