



January 27, 2021

The Honorable Kumar P. Barve
Environment and Transportation Committee
House Office Building
Annapolis, Maryland 21401

Re: House Bill 295 – Water Pollution - Stormwater Management Regulations and Watershed Implementation Plans - Review and Update

Dear Chairman Barve and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed House Bill 295, entitled *Water Pollution - Stormwater Management Regulations and Watershed Implementation Plans - Review and Update*, and would like to offer a letter of information about this legislation.

Proposed HB 295 modifies the Environment Article Section 4-203 to require the Department to update regulations for stormwater management by January 1, 2022 and every 5 years thereafter. Contents for the update include:

- Using the most recent precipitation data to revise stormwater water quality and water quantity control standards and update regulations accordingly;
- Coordination with the Commission on Environmental Justice and Sustainable Communities and stakeholders with expertise in stormwater design standards and climate science; and
- Incorporation of the newly adopted regulations into stormwater discharge permits issued under Environment Article Section 9-323 on or after January 1, 2022.
- Requiring an addendum to the Maryland Phase III Chesapeake Bay Watershed Implementation plan and updated 2-year milestones to fully offset additional nutrient and sediment loads as a result of climate change. The bill further states that the addendum must be fully implemented by December 31, 2025.

The Department agrees that stormwater regulations should be updated to reflect the most recent precipitation data, but having this completed by January 1, 2022 is not realistic. The industry standard for precipitation estimates is Atlas 14, which is developed by the National Oceanic and Atmospheric Administration (NOAA). The latest update for Maryland occurred in 2004, so the data is almost 20 years old. Recognizing the need to update this data, the Department is working in coordination with the Maryland Department of Transportation toward a regional Atlas 14 update. This regional update will require pooling funds with North Carolina, Virginia and Delaware. If funding is secured by May of 2021, then NOAA could complete the technical analysis in 2 - 3 years, which means 2023 or 2024. Following completion of the revised Atlas 14 data, the Department would then begin to incorporate the new precipitation estimate into the State's stormwater

management program. Including time for consultation with the key stakeholders listed in the bill and promulgation, and assuming funding is available for Atlas 14 updates, state regulatory updates to include updated precipitation would likely not occur until 2024 at the earliest.

In addition to using recent precipitation data to update regulations, the proposed Bill discusses concerns regarding climate change and its impacts on Chesapeake Bay resiliency. In particular, the proposed Bill references the Chesapeake Bay total maximum daily load (TMDL) Phase III Watershed Implementation Plan, and the need to address jurisdiction-specific nutrient and sediment pollution loadings due to 2025 climate change predictions. MDE has committed to EPA to develop a Phase III WIP addendum and updated 2-year milestones and to fully implement the additional reductions by 2025.

Changes to Maryland's stormwater management program may have far-reaching fiscal impacts to numerous stakeholders including municipal, county, and state stormwater management administrators and private entities including landowners, developers, designers, and engineers.

In summary, stormwater regulations, criteria, and engineering standards cannot be updated until the science becomes available. Currently the Department is working with regional state partners to secure this funding.

Thank you for your consideration. We will continue to monitor House Bill 295 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me by e-mail at tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", written over a horizontal line.

Tyler Abbott