



Maryland Department of the Environment

Review of SB706/HB1210 of 2014

June 26, 2014

Presented by Jeff Fretwell

**Smart Growth & Regulatory Reform
Coordinator**





SB706/HB1210 – First Reader

- Amended Environment Article §1-604
- Added new section to Environment Article, §1–901 through 1–903, under the subtitle “Cumulative Impact Assessments”





SB706/HB1210 – First Reader (cont'd)

Environment Article §1-604

(a) (1) After the Department receives the permit application, the Department shall prepare a tentative determination, which shall include the following information:

(i) A proposal to issue or to not issue a permit;

(ii) Any proposed permit limitations and conditions;

(iii) A brief explanation of the Department's tentative determination; **[and]**

(IV) A BRIEF SUMMARY OF THE RESULTS OF THE CUMULATIVE IMPACT ASSESSMENT REQUIRED UNDER § 1-902 OF THIS TITLE; AND

[(iv)] (V) Any proposed schedule of compliance.





SB706/HB1210 – First Reader (cont'd)

Environment Article §1–901 through 1–903, “Cumulative Impact Assessments”

§1–901

- ***Defines “pollution” for the new section.***

(1) “AIR POLLUTION” AS DEFINED IN § 2–101 OF THIS ARTICLE; AND

(2) “POLLUTION” AS DEFINED IN § 5–101 OF THIS ARTICLE.

§1–902

- ***Lists the MDE permits that must undergo a Cumulative Impact Assessment (CIA).***

(1) AIR QUALITY CONTROL PERMITS TO CONSTRUCT;

(2) PERMITS TO INSTALL, MATERIALLY ALTER, OR MATERIALLY EXTEND LANDFILL SYSTEMS, INCINERATORS FOR PUBLIC USE, OR RUBBLE LANDFILLS;

(3) PERMITS TO DISCHARGE POLLUTANTS TO WATERS OF THE STATE;

(4) PERMITS TO INSTALL, MATERIALLY ALTER, OR MATERIALLY EXTEND A STRUCTURE USED FOR STORAGE OR DISTRIBUTION OF ANY TYPE OF SEWAGE SLUDGE;

(5) PERMITS TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A CONTROLLED HAZARDOUS SUBSTANCE FACILITY;

(6) PERMITS TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A HAZARDOUS MATERIAL FACILITY;
AND

(7) PERMITS TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A LOW-LEVEL NUCLEAR WASTE FACILITY.





SB706/HB1210 – First Reader (cont'd)

§1-902 (cont'd)

- ***Establishes what is included in the CIA.***

(B) (1) BEFORE PREPARING A TENTATIVE DETERMINATION ON AN APPLICATION FOR A PERMIT LISTED UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT SHALL CONDUCT A CUMULATIVE IMPACT ASSESSMENT.

(2) THE CUMULATIVE IMPACT ASSESSMENT SHALL ADDRESS THE LIKELY IMPACT ON THE ENVIRONMENT AND ON HUMAN POPULATIONS THAT WILL RESULT FROM THE INCREMENTAL IMPACT OF THE ACTIVITY AUTHORIZED UNDER THE PERMIT WHEN ADDED TO THE IMPACT OF OTHER PAST, PRESENT, AND REASONABLY FORESEEABLE FUTURE SOURCES OF POLLUTION.

- ***Lists MDE's options for what to do with the CIA.***

(C) ON THE BASIS OF A CIA THE DEPARTMENT MAY:

(1) MAKE A DETERMINATION TO ISSUE OR TO NOT ISSUE A PERMIT; OR

(2) PROPOSE ANY PERMIT LIMITATIONS OR CONDITIONS THE DEPARTMENT DETERMINES NECESSARY TO MITIGATE ADVERSE IMPACTS ON THE ENVIRONMENT AND HUMAN POPULATIONS.

- ***Requires MDE to include the CIA summary in any tentative or final permit determinations.***





SB706/HB1210 – First Reader (cont'd)

§1–903

- ***Requires MDE to adopt regulations to implement the law.***

Uncodified Section 2

- ***Specifies the law applies only prospectively and may not be applied or interpreted to have any effect on any permit application submitted to MDE before the effective date of the Act.***





SB706 - “Health Impact Analysis” Amendments

§1-604

- ***Added a requirement that the tentative determination include the results of the health impact analysis.***

§1-902

- ***Expanded what was included in the CIA to include:***
 - A health impact analysis.
 - Consideration of the health and environmental impacts of pollutants that would be added to the environment & that are already present in the environment.
 - Consideration of the land use and zoning plans in the vicinity of the activity.
- ***Added the details of the required health impact analysis to be conducted by MDE.***
 - Obtain relevant data relating to the health of citizens in the vicinity of the activity from DHMH.
 - Identify factors that currently affect the health of citizens in the vicinity of the activity, in cooperation with DHMH, including:
 - environmental stressors
 - non-environmental stressors
 - vulnerable populations
 - current health status
 - health disparities
 - Identify health factors in the future that will affect the citizens in the vicinity of the activity.
 - Assess the risk that the activity poses on the health of citizens in the vicinity of the activity.



SB706 – Third Reader

- Passed the Senate
- Still amended Environment Article 16 Section 1-604
- Still added new section to Environment Article, Sections 1–901 through 1–903 under the subtitle “Cumulative Impact Assessments”



SB706 – Third Reader – Major Changes

§1–902

• ***Altered the MDE permits that must undergo a CIA.***

- (I) AIR QUALITY CONTROL PERMITS TO CONSTRUCT FOR A NEW SOURCE OR A MAJOR MODIFICATION TO AN EXISTING SOURCE THAT IS SUBJECT TO 40 C.F.R. § 52.21 30 OR COMAR 26.11.17;
- (II) AIR QUALITY PERMITS TO CONSTRUCT SUBJECT TO MINOR NEW SOURCE REVIEW;
- (III) PERMITS TO INSTALL, MATERIALLY ALTER, OR MATERIALLY EXTEND LANDFILL SYSTEMS, INCINERATORS FOR PUBLIC USE, RUBBLE LANDFILLS, SOLID WASTE TRANSFER STATIONS, OR SOLID WASTE PROCESSING FACILITIES;
- (IV) PERMITS TO DISCHARGE POLLUTANTS TO WATERS OF THE STATE ISSUED FOR NEW INDUSTRIAL FACILITIES;
- (V) 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~~];
- (VI) PERMITS TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A NEW CONTROLLED HAZARDOUS SUBSTANCE FACILITY;
- (VII) PERMITS TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A NEW HAZARDOUS MATERIAL; AND
- (VIII) PERMITS TO OWN, ESTABLISH, OPERATE, OR MAINTAIN A NEW LOW-LEVEL NUCLEAR WASTE FACILITY ISSUED;





SB706 – Third Reader – Major Changes (cont'd)

§1–902 (cont'd)

- ***Limited the geography for the requirement to conduct a CIA.***

(2) WHEN THE PROPOSED FACILITY OR ACTIVITY AUTHORIZED UNDER THE PERMIT WOULD BE LOCATED IN AN UNINCORPORATED COMMUNITY IN PRINCE GEORGE'S COUNTY THAT:

(I) IS BORDERED TO THE NORTH BY A U.S. HIGHWAY AND TO THE SOUTH BY A STATE HIGHWAY;

(II) IS WITHIN 2 MILES OF A PARKWAY MAINTAINED BY THE NATIONAL PARK SERVICE;

(III) IS WITHIN 1 MILE OF A METRO STATION;

(IV) IS WITHIN 1.5 MILES OF THE DISTRICT OF COLUMBIA;

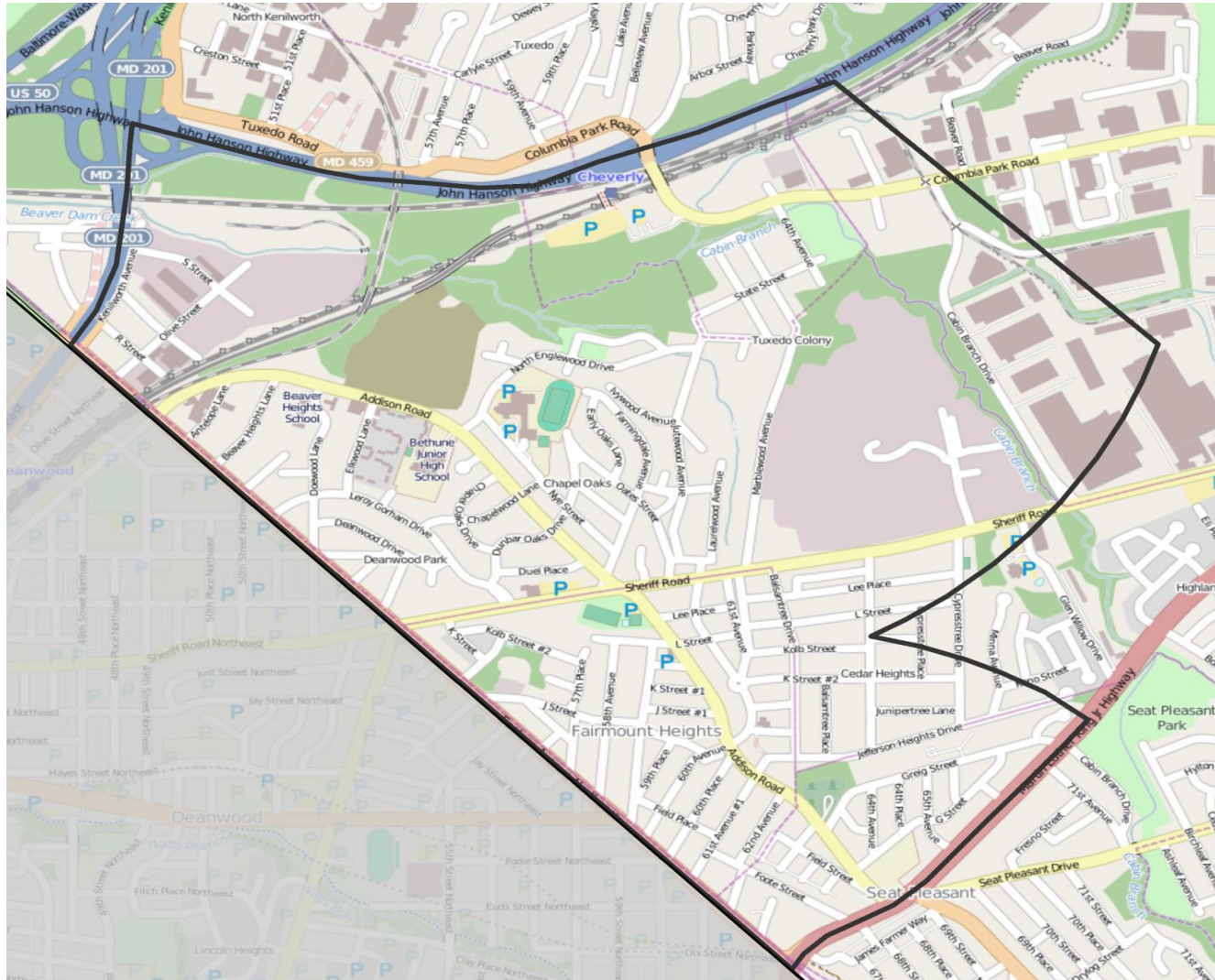
(V) HAS EXPERIENCED AIR QUALITY ALERT DAYS OF DANGEROUS AIR QUALITY FOR SENSITIVE POPULATIONS; AND

(VI) IS LOCATED NEAR SEVERAL HEAVILY TRAFFICKED STATE AND COUNTY ROADS THAT CARRY BOTH TRUCK AND AUTOMOBILE TRAFFIC.



SB706 – Third Reader – Major Changes (cont'd)

Geographic Area – Prince George’s County - Sheriff Road



Source: Department of Legislative Services



SB706 – Third Reader – Major Changes (cont'd)

§1-902 (continued)

- ***Made the permit applicant responsible for conducting the CIA (rather than MDE).***
- ***MDE then had to review the CIA submitted by the applicant (rather than conduct it).***
- ***Altered what was included in the CIA.***

THE CUMULATIVE IMPACT ASSESSMENT SHALL ADDRESS THE LIKELY IMPACT ON THE ENVIRONMENT AND ON HUMAN POPULATIONS THAT WILL RESULT FROM THE INCREMENTAL IMPACT OF THE PROPOSED FACILITY OR ACTIVITY AUTHORIZED UNDER THE PERMIT WHEN ADDED TO THE IMPACT OF OTHER PAST, PRESENT [~~AND REASONABLY FORESEEABLE FUTURE~~] SOURCES OF POLLUTION

- ***Expanded MDE's options for what to do with the CIA, to include requiring additional assessment by the applicant.***
- ***Added a requirement for MDE to provide a summary of the results of the CIA to the local government planning and zoning authority for review and consideration in any future land use decisions.***

1-903

- ***Changed the requirement that MDE adopt regulations to an option – “shall” to “may”***





Questions?

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