

## **2022 Maryland Statutes**

### **Environment**

#### **Title 1 - Definitions; General Provisions; Enforcement**

##### **Subtitle 1 - Definitions**

##### **Section 1-101 - Definitions**

**Universal Citation:** [MD. Environment Code § 1-101 \(2022\)](#)

- (a) In this article the following words have the meanings indicated.
- (b) “Contested case hearing” means an adjudicatory hearing in accordance with the contested case procedures of Subtitle 2 of the Maryland Administrative Procedure Act.
- (c) “County” means a county of this State and, unless expressly provided otherwise, Baltimore City.
- (d) “Department” means the Department of the Environment.
- (e) “Health officer” means the Baltimore City Commissioner of Health or the health officer of a county.
- (f) “Includes” or “including” means includes or including by way of illustration and not by way of limitation.
- (g) “Informational meeting” means a meeting, open to the public, at which the applicant or the Department presents information concerning a permit application. An informational meeting is not a contested case hearing nor an agency hearing under § 10-202(d) of the State Government Article.
- (h) “Person” means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.
- (i) “Physician” means an individual who is authorized under the Maryland Medical Practice Act to practice medicine in this State.
- (j) “Public hearing” means a meeting, open to the public, at which the Department receives oral and written comments concerning a tentative determination. A public hearing is not a contested case hearing nor an agency hearing under § 10-202(d) of the State Government Article.
- (k) “Secretary” means the Secretary of the Environment.
- (l) “State” means:
  - (1) A state, possession, or territory of the United States;
  - (2) The District of Columbia; or
  - (3) The Commonwealth of Puerto Rico.
- (m) “Substantively” means in a manner substantially affecting the rights, duties, or obligations of a member of the public.

## **2022 Maryland Statutes**

### **Environment**

#### **Title 1 - Definitions; General Provisions; Enforcement**

#### **Subtitle 4 - Organization and General Authority of Department**

#### **Section 1-404 - Secretary's Duties, Powers, and Functions; Units to Report to Secretary; Interference With Secretary's or His Agent's Right to Entry; Penalty**

**Universal Citation:** [MD. Environment Code § 1-404 \(2022\)](#)

(a) The Secretary is responsible for the budget of the office of the Secretary and for the budget of each unit in the Department.

(b) (1) The Secretary may adopt rules and regulations to carry out the provisions of law that are within the jurisdiction of the Secretary.

(2) The Secretary shall review and may revise the rules and regulations of:

(i) Each unit in the Department that is authorized by law to adopt rules and regulations; and

(ii) The Department.

(c) The Secretary may create an advisory board for the Department. The Secretary shall determine the size of the advisory board. The members shall be representative of the different professional areas or fields of endeavor with which the Department is concerned.

(d) The Secretary may create any advisory council that the Secretary considers necessary and assign appropriate functions to it.

(e) (1) The Secretary is responsible for the coordination and direction of all planning that the office of the Secretary initiates.

(2) The Secretary shall keep fully apprised of plans, proposals, and projects of each unit in the Department and, except as expressly provided otherwise, may approve, disapprove, or modify any of them.

(f) Each unit in the Department shall report to the Secretary as provided in the rules, regulations, or written directives that the Secretary adopts.

(g) Except as expressly provided otherwise, the Secretary may transfer, by rule, regulation, or written directive, any function, staff, or funds from any unit in the Department to the office of the Secretary or another unit in the Department. Any staff transferred to the office of the Secretary shall be provided space, equipment, and services by the unit from which it was transferred, unless the Secretary orders removal to another location for the proper and efficient functioning of that office.

(h) The Secretary may apply for, receive, and spend grants-in-aid by the federal government or any of its agencies or any other federal funds made available to the Department for use in carrying out the powers and duties of the Secretary or the Department.

(i) Except as otherwise provided by law, the Secretary shall pay all money collected by the Department under this article into the General Fund of this State.

(j) (1) The Secretary or a designee of the Secretary may subpoena any person or evidence, administer oaths, and take depositions and other testimony.

(2) If a person fails to comply with a lawful order or subpoena issued under this subsection, on petition of the Secretary or designee, a court of competent jurisdiction may compel obedience to the order or subpoena or compel testimony or the production of evidence.

(3) A witness who is subpoenaed at the request of the Secretary or designee is entitled to receive the same fees and mileage provided for by law in civil cases. However, a witness who is subpoenaed at the request of any other party is not entitled to fees or mileage, unless the Secretary or designee certifies that the testimony was material to the matter investigated. The fee and mileage paid under this subsection shall be audited and paid by this State in the same way other expenses are audited and paid and shall be charged to the general appropriation for the Department.

(k) (1) The Secretary or any agent or employee of the Secretary may enter, at any reasonable hour, a place of business or public premises if the entry is necessary to carry out a duty under this article.

(2) A person may not deny or interfere with an entry under this subsection.

(3) A person who violates any provision of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

(l) The Secretary shall carry out and enforce the provisions of this article, the rules and regulations of the Department, and any other provisions of law that relate to the Secretary or the Department.

(a) (1) The Council consists of not more than 15 members appointed by the Secretary.

(2) Of the Council members:

(i) 1 shall be appointed from a list of 3 qualified individuals who are professional engineers licensed in this State, submitted to the Secretary by the Baltimore section of the American Society of Mechanical Engineers;

(ii) 1 shall be appointed from a list of 3 qualified individuals submitted to the Secretary by the Maryland section of the American Institute of Chemical Engineers;

(iii) 2 shall be individuals who are employed in a manufacturing or public utility business in this State, each appointed from a separate list of 3 qualified individuals submitted to the Secretary by the Maryland Chamber of Commerce;

(iv) 1 shall be a physician;

(v) 1 shall be a member of the Regional Planning Council who is recommended to the Secretary by the Regional Planning Council;

(vi) 1 shall be appointed from a list of 3 qualified individuals submitted to the Secretary by the Maryland Association of Counties;

(vii) 4 shall be appointed, 1 from each list, from lists of 3 qualified individuals submitted to the Secretary by:

1. The Chairman of the Board of Directors of the Council of Governments of Metropolitan Washington;
2. The President of the Johns Hopkins University;
3. The President of the Maryland State–D.C. AFL–CIO; and
4. The Chancellor of the University System of Maryland;

(viii) 2 shall be public members who represent the community at large; and

(ix) 1 shall be a member of the Children’s Environmental Health and Protection Advisory Council who has expertise in pediatric environmental health.

(3) In making appointments to the Council, the Secretary shall:

(i) Consider giving appropriate representation to the various geographical areas of this State; and

(ii) Appoint at least 1 member who is engaged actively in farming and knowledgeable in farm and rural pollutant problems.

(b) (1) The term of a member is 5 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Council on July 1, 1986.

(3) The member who represents the Regional Planning Council serves only so long as the member remains on the Regional Planning Council.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

## **2022 Maryland Statutes**

### **Environment**

#### **Title 2 - Ambient Air Quality Control**

##### **Subtitle 1 - Definitions; General Provisions**

###### **Section 2-101 - Definitions**

**Universal Citation:** [MD. Environment Code § 2-101 \(2022\)](#)

(a) In this title the following words have the meanings indicated.

(b) “Air pollution” means the presence in the outdoor atmosphere of any substance that is present in such quantities and is of such duration that it:

(1) May be predicted with reasonable certainty to be injurious to property or to human, plant, or animal life; or

(2) Unreasonably interferes with the proper enjoyment of the property of others because of the emission of odors, solids, vapors, liquids, or gases.

(c) "Council" means the Air Quality Control Advisory Council.

(d) "Emergency" means:

(1) A condition of such public gravity and urgency that it requires immediate response; or

(2) A condition that is predicted to a reasonable degree of certainty to require immediate action to carry out the provisions of this title.

(e) (1) "Emission standard" means a requirement that limits the quantity, quality, rate, or concentration of emissions from a source.

(2) "Emission standard" includes any requirement that relates to the operation or maintenance of a source to assure continuous emission reduction.

(f) "Person" includes any public or municipal corporation and any agency, bureau, department, or instrumentality of federal, State, or local government.

(g) "Political subdivision" means a county or municipal corporation of this State.

(h) "Regulated emissions" means the actual rate of emissions, in tons per year, of any registered pollutant emitted by a source, to be calculated using criteria consistent with 40 C.F.R. Part 70 (Operating Permit Program).

(i) "Source" means any person or property that contributes to air pollution.

## **2022 Maryland Statutes**

### **Environment**

#### **Title 2 - Ambient Air Quality Control**

##### **Subtitle 1 - Definitions; General Provisions**

###### **Section 2-102 - Legislative Policy**

**Universal Citation:** [MD. Environment Code § 2-102 \(2022\)](#)

It is the policy of this State to maintain the degree of purity of the air necessary to protect the health, the general welfare, and property of the people of this State.

## **2022 Maryland Statutes**

### **Environment**

#### **Title 2 - Ambient Air Quality Control**

##### **Subtitle 1 - Definitions; General Provisions**

###### **Section 2-103 - Powers and Duties of Department**

**Universal Citation:** [MD. Environment Code § 2-103 \(2022\)](#)

(a) In addition to the powers set forth elsewhere in this title, the Department may obtain any federal or other funds that are available to this State for purposes that are within the scope of this title.

(b) In addition to the duties set forth elsewhere in this title, the Department:

- (1) Has jurisdiction over emissions into the air and ambient air quality in this State;
- (2) Is responsible for monitoring ambient air quality in this State; and
- (3) Shall coordinate all State agency programs on ambient air quality control.

(c) The Department may contract for or otherwise arrange for the use of the facilities and services of appropriate agencies of political subdivisions in carrying out the Department's monitoring duties under this title.

## **2022 Maryland Statutes**

### **Environment**

#### **Title 2 - Ambient Air Quality Control**

##### **Subtitle 3 - Rulemaking**

##### **Section 2-301 - Air Quality Rules and Regulations -- Adoption**

**Universal Citation:** [MD. Environment Code § 2-301 \(2022\)](#)

(a) The Department:

(1) May adopt rules and regulations for the control of air pollution in this State, including testing, monitoring, record keeping, and reporting requirements; and

(2) Shall adopt rules and regulations that establish standards and procedures to be followed whenever pollution of the air reaches an emergency condition.

(b) In adopting any rule or regulation under this title, the Department shall consider, among other things:

(1) The residential, commercial, or industrial nature of the area affected;

(2) Zoning;

(3) The nature and source of various kinds of air pollution;

(4) The problems of any commercial or industrial establishment that may be affected by the rule or regulation; and

(5) The environmental conditions, population density, and topography of any area that may be affected by the rule or regulation.

(c) Any rule or regulation adopted under this title that relates to grain drying operations shall be adopted with the advice and consent of the State Department of Agriculture.

## **2022 Maryland Statutes**

### **Environment**

#### **Title 2 - Ambient Air Quality Control**

### **Subtitle 3 - Rulemaking**

#### **Section 2-302 - Air Quality Rules and Regulations -- Air Quality Control Areas**

**Universal Citation:** [MD. Environment Code § 2-302 \(2022\)](#)

(a) The Department shall determine and may alter air quality control areas into which this State is divided.

(b) The Department shall adopt rules and regulations that set emission standards and ambient air quality standards for each of the air quality control areas in this State.

(c) (1) Unless a political subdivision requests a more restrictive standard under § 2-104 of this title, the Department shall set ambient air quality standards for pollutants that are identical to the standards for pollutants for which national primary or secondary ambient air quality standards have been set by the federal government.

(2) To protect the public health, the general welfare, and property of the people of this State, the Department may set State ambient air quality standards for substances for which national ambient air quality standards have not been set by the federal government.

(3) If the Secretary finds that transportation through the air is a significant factor in the buildup of a pollutant in a substance other than air and that monitoring the substance facilitates control of the pollutant, a State ambient air quality standard may establish a maximum concentration of the pollutant in that substance.

(d) (1) Except as provided in paragraph (2) of this subsection, if national ambient air quality standards are attained in an air quality control area, the Department shall set emission standards for that area based on the goal of achieving emission levels that are not more restrictive than necessary to attain and maintain the ambient air quality standards in that area.

(2) The limitations of paragraph (1) of this subsection do not apply to the extent that:

(i) A political subdivision requests a more restrictive standard under § 2-104 of this title; or

(ii) New source performance standards, national prevention of significant deterioration requirements, national emission standards for hazardous pollutants, or any other requirements of the federal Clean Air Act apply.

(3) For those emissions for which no national ambient air quality standards have been set, the Secretary may set emission standards and requirements for various classes of sources.

### **2022 Maryland Statutes**

#### **Environment**

#### **Title 2 - Ambient Air Quality Control**

#### **Subtitle 3 - Rulemaking**

#### **Section 2-303 - Air Quality Rules and Regulations -- Procedures for Adoption**

**Universal Citation:** [MD. Environment Code § 2-303 \(2022\)](#)

(a) The Department may not adopt any rule or regulation under this title unless the requirements of this section and the Administrative Procedure Act are met.

(b) Before adopting any rule or regulation under this title, the Department shall announce and hold a public hearing on the subject.

(c) (1) Until October 1, 2014, at least 30 days before the public hearing, the Department shall publish notice of the hearing in a newspaper of general circulation in the area concerned.

(2) The notice required under paragraph (1) of this subsection shall state:

(i) The date, time, and place of the hearing;

(ii) The purpose of the hearing;

(iii) That, beginning on October 1, 2014, all future notices required under this title will be posted on the Department's Web site; and

(iv) A phone number or electronic mail address at the Department that a person can contact to arrange for the receipt of future public notices required under this title by first-class mail or electronic mail.

(3) Beginning on October 1, 2014, at least 30 days before the public hearing, the Department shall publish notice of the hearing in a newspaper of general circulation in the area concerned or on the Department's Web site.

(4) The notice required under paragraph (3) of this subsection shall state:

(i) The date, time, and place of the hearing; and

(ii) The purpose of the hearing.

(d) Beginning on October 1, 2014, the Department shall publish annually a notice in a newspaper of general circulation to inform the public of:

(1) The types of public notices required under this title that are available on the Department's Web site; and

(2) A phone number or electronic mail address at the Department that a person can contact to arrange for the receipt of future public notices required under this title by first-class mail or electronic mail.

(e) After the public hearing, the Department may adopt the rule or regulation with or without modification.