

HB1165/303323/1

BY: Education, Energy, and the Environment Committee

AMENDMENTS TO HOUSE BILL 1165
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “**Watershed**” insert “**, Stream, and Floodplain**”; in line 3, after the second “**and**” insert “**Stream and Floodplain Restoration**”; in line 22, after “monitoring” insert “; requiring a project applicant seeking authorization for a certain project to provide certain notice and hold certain public meetings except under certain circumstances; requiring a project applicant to submit certain documentation to the Department of the Environment; authorizing the Department to authorize certain projects in accordance with certain requirements; requiring the Department to assess certain documentation and actions by a project applicant prior to authorizing certain projects; prohibiting the Department from reducing certain monitoring requirements for certain projects”;

On page 2, in line 2, after “watershed” insert “, stream, and floodplain”; and after line 27, insert:

“BY adding to

Article - Environment

Section 9–1605.2(i)(2)(xv); and 18–101 through 18–103 to be under the new title

“Title 18. Stream and Floodplain Restoration Projects”

Annotated Code of Maryland

(2014 Replacement Volume and 2023 Supplement)”;

and strike in their entirety lines 28 through 33, inclusive.

AMENDMENT NO. 2

On page 39, after line 22, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Environment

TITLE 18. STREAM AND FLOODPLAIN RESTORATION PROJECTS.

18-101.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “LIMIT OF CLEARING” MEANS THE BOUNDARIES WITHIN WHICH PLANNED CUTTING, CLEARING, OR GRUBBING OF VEGETATION ASSOCIATED WITH STREAM RESTORATION WILL OCCUR.

(3) “LIMIT OF DISTURBANCE” MEANS THE BOUNDARY WITHIN WHICH ADDITIONAL CONSTRUCTION, MATERIALS AND EQUIPMENT STORAGE, GRADING, LANDSCAPING, AND RELATED ACTIVITIES MAY OCCUR.

(B) AN APPLICANT SEEKING AN AUTHORIZATION FOR A STREAM AND FLOODPLAIN RESTORATION PROJECT IN THE STATE SHALL BE SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

(C) (1) A PROJECT APPLICANT SHALL PROVIDE PUBLIC NOTICE AT 30% DESIGN COMPLETION, INCLUDING:

(I) MAILING WRITTEN NOTICE TO ANY RESIDENCE OR BUSINESS WITHIN A RADIUS OF 200 FEET OF THE PROPOSED PROJECT AREA’S BOUNDARY; AND

(II) POSTING NOTICE AT POINTS OF PUBLIC ACCESS TO THE PROJECT.

(2) THE PUBLIC NOTICE REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE:

(I) INFORMATION ON THE PROJECT APPLICANT APPLYING FOR PROJECT AUTHORIZATION, INCLUDING CONTACT INFORMATION FOR THE APPLICANT;

(II) THE PURPOSE OF THE PROJECT; AND

(III) IF APPLICABLE, INFORMATION ABOUT THE PUBLIC MEETING UNDER SUBSECTION (D) OF THIS SECTION.

(D) (1) THE PROVISIONS OF THIS SUBSECTION DO NOT APPLY IF:

(I) THE PROJECT APPLICANT IS AN INDIVIDUAL;

(II) THE PROPOSED PROJECT IS SITED ON THE INDIVIDUAL'S PROPERTY; AND

(III) NO RESIDENCE, OTHER THAN THE INDIVIDUAL'S RESIDENCE, OR BUSINESS IS LOCATED WITHIN A RADIUS OF 200 FEET FROM THE PROJECT BOUNDARY.

(2) A PROJECT APPLICANT SHALL:

(I) HOLD AN IN-PERSON PUBLIC MEETING THAT INCLUDES AN OPTION FOR VIRTUAL ATTENDANCE;

(II) TAKE MEETING MINUTES AND RECORD THE MEETING;

(III) PRESENT:

1. THE PROJECT DESIGN REPORT AND PLANS;

2. A FOREST STAND DELINEATION;

3. THE DEPARTMENT'S STREAM RESTORATION AUTHORIZATION CHECKLIST; AND

4. A SEPARATE SHEET WITH THE DESIGN DRAWINGS CLEARLY IDENTIFYING:

A. THE LIMIT OF CLEARING, IF ANY;

B. THE LIMIT OF DISTURBANCE; AND

C. TO THE EXTENT PRACTICABLE, NOTATION WHERE ADDITIONAL TREES ARE PLANNED TO BE REMOVED; AND

(IV) POST THE DOCUMENTS AND MEETING MINUTES ON THE PROJECT APPLICANT'S WEBSITE.

(3) A PROJECT APPLICANT SHALL HOLD THE PUBLIC MEETING REQUIRED UNDER THIS SUBSECTION WHEN THE PROJECT DESIGN IS 60% COMPLETE.

(E) A PROJECT APPLICANT SHALL SUBMIT TO THE DEPARTMENT ALL RELEVANT DOCUMENTS AS PART OF THE APPLICATION AND REVIEW PROCESS, INCLUDING:

(1) THE PROJECT DESIGN REPORT AND DRAWINGS, INCLUDING A SHEET CLEARLY IDENTIFYING:

(i) THE LIMIT OF CLEARING, IF ANY; AND

(ii) THE LIMIT OF DISTURBANCE;

(2) THE FOREST STAND DELINEATION;

(3) RESPONSES TO THE DEPARTMENT'S STREAM RESTORATION AUTHORIZATION CHECKLIST;

(4) THE MEETING MINUTES AND, IF FEASIBLE, THE RECORDING FROM THE PUBLIC MEETING CONDUCTED IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION; AND

(5) ANY OTHER DOCUMENTS OR INFORMATION REQUESTED BY THE DEPARTMENT.

(F) (1) THE PROVISIONS OF THIS SUBSECTION DO NOT APPLY IF:

(I) THE PROJECT APPLICANT IS AN INDIVIDUAL;

(II) THE PROPOSED PROJECT IS SITED ON THE INDIVIDUAL'S
PROPERTY; AND

(III) NO RESIDENCE, OTHER THAN THE INDIVIDUAL'S
RESIDENCE, OR BUSINESS IS LOCATED WITHIN A RADIUS OF 200 FEET FROM THE
PROJECT BOUNDARY.

(2) WITHIN 24 HOURS AFTER SUBMITTING AN APPLICATION TO
THE DEPARTMENT, A PROJECT APPLICANT SHALL POST ON ITS WEBSITE:

(I) NOTICE THAT IT HAS SUBMITTED AN APPLICATION;

(II) THE DATE OF SUBMISSION OF THE APPLICATION; AND

(III) A COPY OF THE APPLICATION.

18-102.

(A) THE DEPARTMENT MAY AUTHORIZE A STREAM AND FLOODPLAIN
RESTORATION PROJECT IN ACCORDANCE WITH THIS SECTION.

(B) PRIOR TO THE AUTHORIZATION OF ANY STREAM AND FLOODPLAIN
RESTORATION PROJECT IN THE STATE, THE DEPARTMENT SHALL:

(1) ASSESS DOCUMENTATION SUBMITTED BY THE PROJECT
APPLICANT FOR DEGRADATION CRITERIA RELATED TO:

(I) AN EXISTING BIOLOGICAL FUNCTION-BASED PARAMETER; AND

(II) A PHYSICAL PARAMETER, INCLUDING AN EXISTING GEOMORPHOLOGIC OR HYDRAULIC FUNCTION-BASED PARAMETER;

(2) ASSESS WHETHER THE PROJECT APPLICANT INCORPORATED THE FOLLOWING COBENEFITS, AS APPROPRIATE, INTO THE APPLICATION:

(I) THE CREATION OR RESTORATION OF WILDLIFE HABITAT, RIPARIAN BUFFERS, AND WETLAND RESTORATION;

(II) THE RESTORATION OF AQUATIC RESOURCES, SUCH AS FRESHWATER MUSSELS, FISH PASSAGE, OR OYSTER REEFS;

(III) CARBON SEQUESTRATION;

(IV) CLIMATE CHANGE MITIGATION, ADAPTATION, OR RESILIENCE;

(V) IMPROVING AND PROTECTING PUBLIC HEALTH; AND

(VI) RECREATIONAL OPPORTUNITIES AND PUBLIC ACCESS TO WATERWAYS AND NATURAL HABITATS;

(3) ASSESS DOCUMENTATION OF COMMUNITY NOTIFICATIONS CONDUCTED BY THE PROJECT APPLICANT PRIOR TO THE SUBMISSION OF THE APPLICATION;

(4) ASSESS WHETHER THE APPLICANT INCORPORATED, TO THE EXTENT PRACTICABLE, RECOGNIZED BEST MANAGEMENT PRACTICES TO:

(I) MAXIMIZE ECOLOGICAL UPLIFT;

(II) MINIMIZE:

1. IMPACTS TO WILDLIFE HABITATS;

2. TREE LOSS AND REMOVAL;

3. EARTH DISTURBANCE; AND

4. DISTURBANCE TO NATIVE VEGETATION;

(III) AVOID IMPACTS TO:

1. LARGE NONINVASIVE NATIVE PLANT COMMUNITIES; AND

2. SPECIMEN TREES;

(IV) USE EXISTING AREAS SUITABLE FOR MATERIAL STAGING AREAS TO AVOID FOREST REMOVAL;

(V) LIMIT CONSTRUCTION ACCESS ROAD WIDTHS;

(VI) LIMIT THE IMPACTS OF INGRESS AND EGRESS POINTS TO MINIMIZE FOREST IMPACTS; AND

(VII) WHERE APPROPRIATE, PRIORITIZE THE REMOVAL OF
NONNATIVE AND INVASIVE:

1. TREES; AND

2. VEGETATION; AND

(5) ESTABLISH A PLAN TO PROVIDE FOR AT LEAST 5 YEARS OF
MONITORING IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

(C) THE DEPARTMENT'S ASSESSMENT REVIEW REQUIRED UNDER
SUBSECTION (B)(3) OF THIS SECTION SHALL INCLUDE:

(1) WHETHER THE PROJECT APPLICANT PROVIDED NOTICE AS
REQUIRED IN § 18-101 OF THIS TITLE;

(2) WHETHER THE PROJECT APPLICANT CONDUCTED A PUBLIC
MEETING AS REQUIRED IN § 18-101(D) OF THIS TITLE;

(3) WHETHER THE PROJECT APPLICANT PLACED APPROPRIATE
PROJECT SIGNAGE;

(4) WHETHER THE PROJECT APPLICANT CONSIDERED THE
PROJECT'S COMPATIBILITY WITH LOCAL LAND USE, ESPECIALLY IN URBAN,
SUBURBAN, AND OTHER HIGH-VISIBILITY AREAS;

(5) WHETHER AND HOW THE PROJECT APPLICANT CONSIDERED AND RESPONDED TO RELEVANT PUBLIC INPUT, INCLUDING ANY RESULTING MODIFICATIONS TO THE PROJECT; AND

(6) HOW THE PROJECT APPLICANT CONSIDERED PUBLIC INPUT IN THE FINAL APPLICATION DESIGN.

(D) (1) ON COMPLETION OF A STREAM AND FLOODPLAIN RESTORATION PROJECT, THE DEPARTMENT SHALL PROVIDE FOR AT LEAST 5 YEARS OF MONITORING PER THE DESIGN AND PERMIT ASSOCIATED WITH THE DESIGN FOR EACH AUTHORIZED PROJECT.

(2) THE MONITORING REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE AN ASSESSMENT OF STREAM STABILITY, STREAM AND FLOODPLAIN FUNCTION, AND VEGETATION VIABILITY WITHIN THE AFFECTED PROJECT AREA.

18-103.

ON OR BEFORE DECEMBER 1, 2024, AND EACH DECEMBER 1 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE SENATE COMMITTEE ON EDUCATION, ENERGY, AND THE ENVIRONMENT AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON ANY CHANGES MADE TO THE STREAM RESTORATION AUTHORIZATION CHECKLIST SINCE DECEMBER 1, 2023.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2025.”;

in line 23, strike “2.” and substitute “4.”; and in the same line, after “That” insert “, except as provided in Section 3 of this Act.”.