

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 940

(Senator Henson)

Education, Energy, and the Environment

Environment and Transportation

Environment - Water Quality Testing - Secondary Maximum Contaminant
Levels Action Plan

This bill requires the Maryland Department of the Environment (MDE) to develop an action plan for the enforcement of standards for secondary maximum contaminant levels (SMCLs) to address water discoloring, taste, and odor at community water systems and nontransient, noncommunity water systems, as specified. MDE must consult with specified stakeholders and, by December 1, 2026, report its findings and recommendations to the General Assembly. **The bill takes effect July 1, 2026, and terminates July 31, 2027.**

Fiscal Summary

State Effect: MDE can develop the action plan, consult with stakeholders, and report its findings and recommendations to the General Assembly using existing budgeted resources. The bill is not otherwise anticipated to materially affect State finances or operations, as discussed in the Additional Comments.

Local Effect: The bill is not anticipated to materially affect local government finances or operations, as discussed in the Additional Comments.

Small Business Effect: Minimal, as discussed in the Additional Comments.

Analysis

Bill Summary: The action plan must include (1) a listing of the presence and concentrations of secondary contaminants in community water systems and nontransient, noncommunity water systems; (2) a draft approach for the enforcement of standards for SMCLs; (3) a summary of the regulatory enforcement actions for SMCLs in place in

specified states; (4) a decision-matrix including the feasibility, benefits, and challenges of enforcing SMCLs in nontransient, noncommunity water systems; (5) an evaluation of potential costs to be borne by affected water systems in order to comply with SMCL enforcement; and (6) a projected time frame for implementing the enforcement of SMCLs in community water systems and nontransient, noncommunity water systems.

MDE must consult with stakeholders, including (1) owners and operators of and residents serviced by community water systems and nontransient, noncommunity water systems; (2) community and nonprofit organizations that represent affected residents; (3) the Maryland Rural Water Association; and (4) any other person MDE determines relevant.

Current Law:

Federal Safe Drinking Water Act and State Implementation

MDE is responsible for the primary enforcement (primacy) of the federal Safe Drinking Water Act (SDWA) in Maryland. This means MDE is charged with ensuring that water quality and quantity at all public water systems meet the needs of the public and comply with federal and State regulations. According to MDE's [Safe Drinking Water Act Annual Compliance Report for Calendar Year 2024](#) to the U.S. Environmental Protection Agency (EPA), routine compliance activities include regular on-site inspections of water systems to identify any sanitary defects, technical assistance, and a permitting process that helps ensure that systems obtain the best possible source of water. These standards generally do not apply to private drinking water wells. Rather, private well owners are responsible for the safety of their own wells after initial construction and certification is completed.

Specific requirements for public water systems are included under COMAR 26.04.01. Among other things, before constructing a new public water system, or increasing the capacity or significantly modifying an existing public water system, a construction permit must be obtained from the approving authority. There are also several treatment requirements and maximum contaminant level (MCL) standards. For example, with respect to inorganic chemicals:

- all suppliers of water to community water systems must comply with the MCL for fluoride;
- all suppliers of water to community water systems and nontransient, noncommunity water systems must comply with the MCLs for arsenic, asbestos, barium, cadmium, chromium, mercury, selenium, antimony, beryllium, cyanide, and thallium; and
- all suppliers of water to community water systems, nontransient noncommunity water systems, and transient noncommunity water systems must comply with the MCLs for nitrate, nitrite, and total nitrate plus nitrite.

Public water systems are systems that provide water for human consumption to the public through pipes or other constructed conveyances and have at least 15 service connections or regularly serve at least 25 individuals daily at least 60 days out of the year. Maryland regulates 3,218 public water systems (460 community water systems, 541 nontransient, noncommunity water systems, and 2,217 transient community water systems).

Routine Monitoring and Sampling

Public water systems are required to sample and monitor for a variety of contaminants on a routine basis depending on the population served, source type, and historical monitoring data of the water system. Generally, the larger the population served by a water system, the more frequent the monitoring and reporting requirements. Violations can occur (1) when contaminants are found at levels exceeding the federally established MCL; (2) for failure to monitor and/or report as required; (3) for failure to use required treatment techniques; or (4) for failure to notify the public under certain circumstances.

Secondary Maximum Contaminant Levels

In addition to the MCLs established by EPA and enforced by the State, EPA has also established secondary drinking water standards (SMCLs) that set nonmandatory water quality standards for 15 contaminants that are not considered to present a risk to human health. These SMCLs, which are aesthetic, nonhealth-based guidelines for contaminants that cause water discoloring, taste, and odor issues, are not enforced by EPA; rather, EPA leaves it up to individual states to decide whether to adopt them as enforceable standards. While COMAR 26.04.01 establishes the State's primary drinking water regulations (as discussed above), the State currently relies on the federal SMCLs as nonenforceable guidelines rather than State mandates.

Additional Comments: This analysis does not reflect any costs or operational impacts – for the State, local governments, or small businesses – related to the implementation of the action plan or the enforcement of SMCLs in the State. Any such costs would be speculative, as they will depend on the content of the action plan, which cannot be predicted in advance, and the extent to which the action plan is ultimately implemented. The bill only requires the development – not the implementation – of the action plan. Any costs related to the implementation of the action plan will be accounted for in the analysis of future legislation and/or regulations.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1196 (Delegate J. Long, *et al.*) - Environment and Transportation.

Information Source(s): Maryland Department of the Environment; Maryland Department of Health; Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); Baltimore City Community College; University System of Maryland; Morgan State University; Maryland Association of County Health Officers; Maryland Environmental Service; Baltimore City; Prince George's County; City of Annapolis; U.S. Environmental Protection Agency; Department of Legislative Services

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