

Maryland Department of the Environment

**Fiscal Year 2019 Capital Budget
Response to the Department of Legislative Services**

This response addresses the Legislative Analyst's recommended actions and the items noted for discussion. The department accepts all of the recommended actions and is prepared to discuss the items as requested.

Issues

1. Regulations and Administration Bills Reduce Septic System Upgrades: DLS recommends that MDE comment on the plan for meeting Chesapeake Bay restoration nutrient reduction goals for the septic sector, given the adoption of the regulations removing the universal requirement that BAT systems be installed outside the Critical Area and the proposed reduction of BRF – Septic Account revenue via SB314 and HB 361.

Department Response: The State continues to recognize the importance of functioning and upgraded septic systems near the tidal waters of the Bay, identified as the critical area. Septic systems in the critical area, when compared to systems outside of the critical area, have the highest nitrogen loading to the Bay and provide more nitrogen reduction per dollar spent. Also, and of particular concern to the State, is that failing systems in the critical area have the highest potential to release bacteria that can contaminate and then close shellfish harvesting areas. Upgrading and maintaining septic systems in the critical area is both financially responsible and provides multiple environmental benefits. However, the cost of septic system upgrades, defined herein as the dollar spent per pound of nitrogen reduction achieved, steadily increases when moving further outside of the critical area and becomes one of the more expensive practices for reducing nitrogen loads to the Bay.

The proposed change to the Bay Restoration Fund (BRF) septic account funding formula via the Governor's Septic Stewardship Act of 2018 (SB314 and HB361) is an effort to incrementally fund more cost effective nutrient reduction practices in areas located near existing septic systems. By the Department's estimate, spending additional funds on agricultural cover crops would result in an additional 100,000 lbs of nitrogen reduction each year. A one year change to the BRF - Septic funding formula would offset the loading from the 2016 regulatory reform, which removed the universal requirement that BAT systems be installed outside the Critical Area, and still provide approximately 50,000 lbs in additional nitrogen reduction with funds paid for by the septic sector.

2. BRF Uses Continue to Expand: DLS recommends that MDE comment on the future year allocation plans for the BRF, whether it will continue to be an effective source of funding even though spread across so many diverse uses, and whether it is still considered to be sufficiently focused on Chesapeake Bay restoration in order to meet the needs of the overall Chesapeake Bay restoration funding plan.

Department Response: The BRF Wastewater Program has been and will remain a significant, effective tool for Maryland to meet its Chesapeake Bay TMDL's nitrogen reduction goals. MDE is committed to allocating these funds to all eligible projects in priority order, which is determined in part by the cost-effectiveness of nitrogen removal. The original use of the fund for Enhanced Nutrient Removal (ENR) upgrades of wastewater treatment plants will cost-effectively reduce nitrogen loading to the Bay and its

tributaries by an additional 7.5 million pounds per year. While exact figures for nutrient reduction from sewer overflow abatement, sewer rehabilitation, and conveyance system upgrades are not possible to calculate, these projects are believed to improve local water quality in the Bay's tributaries. There is growing interest in the Program to fund sewer extensions to connect homes on septic systems to Biological Nutrient Removal/ENR facilities, which will further add measurable cost-effective reductions. Funds have not yet been utilized for stormwater or nutrient purchase; however, the Department is supportive of these uses.

Pre-Authorizations and De-Authorizations

1. DLS recommends approval of the de-authorization of \$350,000 of GO bond authorization for the Water Supply Financial Assistance Program - Charles County BNR Water Supply System project from fiscal 2011.

Department Response: The department accepts this recommendation.

PAYGO Recommended Actions

1. Concur with Governor's allowance of \$110,400,000 in special funds and \$33,000,000 in federal funds for the Water Quality Revolving Loan Fund.

Department Response: The department accepts this recommended action.

2. Recommended Action: Concur with Governor's allowance of \$500,000 in general funds for the Hazardous Substance Clean-Up Program.

Department Response: The department accepts this recommended action.

3. Recommended Action: Concur with Governor's allowance of \$16,880,000 in special funds and \$10,300,000 in federal funds for the Drinking Water Revolving Loan Fund.

Department Response: The department accepts this recommended action.

4. Recommended Action: Concur with Governor's allowance of \$70,000,000 for the Bay Restoration Fund – Wastewater Projects.

Department Response: The department accepts this recommended action.

5. Recommended Action: Concur with Governor's allowance of \$15,000,000 for the Bay Restoration Fund – Septic Systems.

Department Response: The department accepts this recommended action.

6. Recommended Action: Concur with Governor's allowance of \$8,000,000 for the Energy-Water Infrastructure Program.

Department Response: The department accepts this recommended action.

GO Bond Recommended Actions

1. Recommended Action: Approve the Drinking Water Revolving Loan Fund authorization of \$5,650,000 in general obligation bonds to finance drinking water projects.

Department Response: The department accepts this recommended action.

2. Recommended Action: Approve the Water Quality Revolving Loan Fund authorization of \$13,200,000 in general obligation bonds to finance water quality improvements. This funding represents the 20% match to federal fiscal 2018 and 2019 funding.

Department Response: The department accepts this recommended action.

3. Recommended Action: Approve the Mining Remediation Program authorization of \$500,000 in general obligation bonds to design, construct, and equip active and passive measures to remediate damage to water quality related to abandoned mining operations.

Department Response: The department accepts this recommended action.

4. Recommended Action: Approve the Water Supply Financial Assistance Program authorization of \$3,303,000 in general obligation bonds for assistance to State and local government entities to acquire, design, construct, rehabilitate, equip, and improve water supply facilities.

Department Response: The department accepts this recommended action.

5. Recommended Action: Approve the de-authorization of \$350,000 in general obligation bond authorization for the Water Supply Financial Assistance Program - Charles County Water Supply System project from fiscal 2011.

Department Response: The department accepts this recommended action.