

Maryland Department of the Environment
Fiscal Year 2020 Operating Budget Presentation
Response to the Department of Legislative Services

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

Issues

Clean Water Commerce Act Efficiency Unclear

The Department of Legislative Services (DLS) recommends that MDE comment on the dollars per pound of nitrogen reduced for the two proposals in the first solicitation round, whether the selected project or projects truly represent cost-effective load reductions, and whether the Clean Water Commerce Act Program is meeting the overall objectives set out in statute.

Department Response: The Maryland Clean Water Commerce Act of 2017 (CWCA) authorizes MDE to use the Bay Restoration Fund to purchase nitrogen, phosphorus, and sediment reductions if they are determined to be cost effective. In April 2018, MDE adopted regulations, as required by the Act, to implement the program. Shortly after the adoption of the regulations solicitation for proposals was forwarded to all known potential sellers. Proposals/applications were due at MDE on August 3, 2018. Technical and legal review is nearing completion, to be followed by a request for BPW approval.

In fiscal 2019, MDE received two proposals of which both are in the urban stormwater sector. One project is a stream restoration project and the second is to improve monitoring of stormwater ponds. The cost effectiveness of the proposed stream restoration project was comparable to the cost per linear foot of stream restoration projects that were previously funded through State and federal grants.

MDE believes that this pilot to procure of nutrient credits, instead of specific projects, will ultimately provide cost-effective performance-based environmental results while also fostering public-private partnerships. Credits from urban stormwater projects are a prime example where purchasing pollution reduction instead of a project places the long term viability of the project, and the associated risk of maintaining pollution reductions, within the private sector and the payment for specific environmental results within the public sector.

Maryland Scrap Tire Annual Reports Submitted Late

DLS recommends that MDE comment on why the Maryland Scrap Tire Annual Report is not consistently submitted by the November 1 deadline and on the status of the report that was due November 1, 2018. In addition, DLS recommends that budget bill language be added to restrict \$200,000 in general funds pending submission of the report by November 1, 2019.

Department Response: The annual report is currently undergoing review and will be submitted within the next week. The department apologizes for the delay.

MDE's Enforcement Activity Is Down but Perhaps Next Generation Compliance Can Help
DLS recommends that MDE comment on its enforcement philosophy and discuss what it is doing in terms of next generation compliance.

Department Response: MDE is actively engaged in Next Gen Compliance discussions with EPA and other States through efforts coordinated by the Environmental Council of States (ECOS). Through the Next Gen model, MDE will review policies and procedures, with a goal of improved compliance and environmental outcomes. The Program promotes pollutant detection technology so that regulated entities, MDE, and the public can more easily see pollutant discharges and timely environmental conditions. However, some of the advanced technology is expensive. MDE is also shifting toward electronic reporting to help make environmental reporting more accurate, complete, and efficient. The first step towards this is building a web based system for reporting CSO's and SSO's. MDE is also expanding transparency by making information more accessible to the public. For instance, MDE is examining which issues are frequently the subject of PIA requests, and is working toward adding information to our website in an easily searchable manner. The Compliance Program is also attempting to develop and use innovative enforcement approaches (e.g., data analytics and targeting) to achieve more widespread compliance. Two examples of this innovative approach is a partnership with Johns Hopkins University on a project to test approaches to improve compliance among third-party lead paint inspectors, and a project with EPA and the University of Chicago testing the effect of automated notification of effluent violations on compliance rates.

Recommended Actions

1. Add the following language: It is the intent of the General Assembly that regular positions be budgeted instead of contractual full-time equivalents for the ongoing work of the College of Southern Maryland's Maryland Center for Environmental, Health, and Safety Training employees.

Department Response: The department accepts this recommended action and will continue working with the Department of Budget and Management regarding staffing requirements.

2. Add the following language to the general fund appropriation: , provided that \$200,000 of this appropriation made for the purpose of general administrative expenses may not be expended pending the submission of the Maryland Scrap Tire Annual Report. The report shall be submitted by November 1, 2019, and the budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of the report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted.

Department Response: The department accepts this recommended action.