

Chesapeake Bay
Fiscal 2021
Budget Overview
Response to the Department of Legislative Services

Issues

1. Overall Chesapeake Bay Restoration Funding: The Department of Legislative Services (DLS) recommends the addition of committee narrative to request that the Administration continue to publish the overall Chesapeake Bay restoration data in the Governor’s Budget Books and provide the electronic data separately. For administrative purposes, this recommendation will appear in the DNR operating budget analysis. In addition, DLS recommends that budget bill language be added to DNR’s budget to request that the Administration provide the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund annual report at the time of the fiscal 2022 budget submission.

Response: The Administration will continue to provide the requested data, including the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund Annual Report, with the Governor’s fiscal 2022 Allowance.

2. Historical and Projected Chesapeake Bay Restoration Spending Report: DLS recommends that the Administration comment on when its evaluation of funding levels, distribution, and effectiveness of resources will be completed and what will be included in the evaluation, the role of the Bay Restoration Fund in future nutrient and sediment reductions, the possibility of targeting funding in the agricultural sector to high nitrogen loss properties, and the supply and demand for the Maryland Agricultural Water Quality Cost Share Program between now and calendar 2025. DLS also recommends that language be included requesting a similar report from the agencies for the fiscal 2022 budget submission on updated historical spending and projected Chesapeake Bay restoration spending and associated impacts and the overall framework to meet the calendar 2025 requirement of having all BMPs in place to meet water quality standards for restoring the Chesapeake Bay. The report should include information on the Phase III WIP and how the loads associated with the Conowingo Dam infill, growth of people and animals, and climate change will be addressed.

Response: The Administration will provide the requested report. Due to the August 2019 timing for completing the Phase III Watershed Implementation Plan (WIP), there was not sufficient time to fully integrate the Phase III WIP pollution reduction strategies and associated costs within the 2019 “Spending Report”; information will be incorporated in the 2020 report. The Administration will incorporate details on the load reductions associated with the Conowingo Dam infill as information becomes available. The additional reductions required as a result of climate change are to be included in the 2022-23 milestones which are anticipated to be finalized by the Administration in January 2022.

3. Maryland’s Phase III WIP Evaluated: DLS recommends that the Administration comment on how it plans to address EPA’s evaluation of its Phase III WIP in its 2020 to 2021 milestone commitments due on March 1, 2020.

Response: EPA transmitted their evaluation of the Maryland Phase III WIP on December 19, 2019 and the Administration is working to factor recommendations into the 2020-21 2-year milestones that are due to EPA in March 2020. EPA’s main recommendation was to provide more detail on implementation strategies in the agricultural and stormwater sectors. The Administration has communicated to EPA that more detailed steps to implement the Phase III WIP are provided in the milestones. One example of how

Maryland is approaching this is through the next round of MS4 permits. While the Phase III WIP outlined a broad strategy to issue the next MS4 permits, the milestones provide more detailed steps such as finalizing an updated accounting and crediting document. Another milestone will be completing the jurisdictions' financial as well as physical capacity to accomplish their restoration work so that MDE is positioned to issue the permit in the summer of 2020. MDA is also providing more detail in the milestones regarding implementation levels for key practices and addressing the need for on-the-ground technical assistance. The Administration will meet with EPA prior to finalizing the 2020-21 milestones.

4. PMT Implementation Not Delayed but Capacity Concerns Remain: DLS recommends that the Administration comment on the funding plans for addressing the manure infrastructure capacity shortfall.

Response: Through the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund, Governor Hogan has provided for additional funding and positions to support agricultural conservation practices to help Maryland farmers meet Phase III WIP goals including:

- A record-high appropriation of \$21.4 million for agricultural conservation practices and technical assistance, including \$1 million more for manure transportation to help Maryland farmers implement the Phosphorus Management Tool program;
- \$1.6 million and 53 new full-time positions to accelerate implementation of agricultural Best Management Practices that reduce nutrient flows to the Chesapeake Bay.

In addition, MDA has announced a new set of initiatives. The plan includes:

- Partnering with Integrators to more accurately track the supply and demand for manure and connect farmers who need to move manure with farmers looking to apply manure.
- Working with the Maryland Environmental Services to identify facilities that can be used as temporary storage areas for manure until it is ready to be moved to a farm or alternative use facility.
- Potential Partnership with the Maryland and Delaware Railroad Company to haul manure out of Maryland to farmers and growers who have expressed interest in using manure as fertilizer.
- Field Science Study to ensure that we are working with the best available science. MDA is working with the University of Maryland on a five-year study on the field science of PMT.
- Continuing to Identify New Alternative Uses for litter through MDA's Animal Waste Technology Grant program and industry partnerships.
- Finding New Ways to Reduce Phosphorus Levels including a research project with University of Maryland Center for Environmental Science analyzing the use of aragonite on fields.
- Outreach to Farmers encouraging the use of manure as a fertilizer, and publicizing the new and improved Manure Transport Program

5. Conowingo Dam Relicensing Agreement Reached: DLS recommends that the Administration comment on its funding plans for the Conowingo Dam WIP and the funding anticipated from the agreement with Exelon.

Response: The Conowingo WIP, due to be finalized in June 2020, will identify geographic areas for targeting effective pollution reduction practices, establishing a timeline for achieving the reductions and conducting watershed-wide outreach. At the same time a Conowingo WIP financing strategy is being developed by the Chesapeake Bay Trust, the University of Maryland Center for Global Sustainability and

Virginia Tech which is due to be completed in March 2021. At this time, the sources and amounts of funding as well as financing strategies for achieving the load reductions required under the Conowingo WIP have not been resolved.

The settlement agreement with Exelon totals \$200 million dollars over the 50 year licensing term, consisting of a combination of cash payments from Exelon to the State and investments to be made by Exelon in upgrades and operational changes at the dam. This settlement agreement, however, is not final until approved by Federal Energy Regulatory Commission (FERC) and incorporated into the federal license. The closing date for public comment to FERC on the Settlement Agreement was January 17, 2020. Responses to comments are due by January 31, 2020. Once the settlement agreement is final MDE will engage in a public process to receive input on where to direct any funds not already allocated in the agreement for specific projects. Pollution reductions realized through the restoration efforts in the Settlement Agreement are expected to be counted toward the required Conowingo pollution reductions.

Recommended Actions:

1. Add budget bill language on historical and projected Chesapeake Bay restoration funding, including \$1,000,000 in restricted funding pending submission of the report by December 1, 2020.

Response: The Administration will continue to provide the annual report on Chesapeake Bay restoration funding. Additional information will be shared with the committees as it becomes available, as some milestones and decisions may not be determined until 2023 and beyond. The Administration respectfully disagrees with the \$1,000,000 funding restriction pending submission of the report.