



HB0245 – MDE – Fees, Funding, Penalties & Regulations Favorable with Amendments

To Chair Korman and members of the Committee,

Thank you for the opportunity to submit comments on behalf of Waterkeepers Chesapeake **in favor of HB0245, with amendments**. Our state is defined by the Chesapeake’s waterways, which contribute to our economy, and are a centerpiece of our culture and traditions in Maryland. Waterkeepers Chesapeake, and the clean water advocates across the State signed below, work to protect and restore the unique tributaries of the Bay, and hold polluters accountable when damages occur.

HB0245 will allow Maryland's Department of the Environment (MDE) to assign more appropriate fees when processing permits for on-site wastewater systems, better assess lead contamination risks in housing units, process first time applications for the Voluntary Cleanup Program, manage oil transfer licenses, and more. These alterations in fees will provide MDE more resources to more effectively complete their work, and add the necessary staff to achieve proper oversight of industries and activities that can have adverse effects on the environment and our waterways. **Importantly, the bill – along with the planned action to increase fees set in regulation for later this year, as announced in the JCR response— will help shift the cost of protecting the public from pollution to those who create the pollution and reduce the fiscal and economic burden on the public; this is a concept already enshrined in Maryland statute and the Department’s own regulations, but that remains mostly unimplemented.** The Department itself recently noted in response to a JCR request that the declining revenues it has been facing “are based on the Department’s history of not reviewing fees regularly; not adjusting fees on par with inflation; and providing services typically funded by fees, without imposing fees.”

While we support this bill, we also feel that it does not go far enough. In addition to the important fee increases proposed in this bill, the bill should also reflect the need to right-size revenues from fines. In its JCR response, the Department noted that “bolstering enforcement” would be a key aspect of the strategy to enhance special fund revenues: “To reverse trends that resulted in minimal enforcement actions and collection of penalties, the Department will begin assessing maximum penalties to the extent of the law for entities that purposely violate environmental laws.” A logical first step, while we await an increase in enforcement actions, is to increase this “maximum penalty.”

Thus, the maximum fine for administrative enforcement of a water pollution control violation should also be increased to account for inflation and to adequately assess a penalty that removes the economic benefit to pollute. As illustrated in the recent JCR response and a review of past annual enforcement reports from the Department, in many years a majority of the Maryland Clean Water Fund consists of penalty revenues, the vast majority of which are from administrative enforcement actions. Thus, it stands to reason that a major driver of special fund revenues would come from significantly increasing the cap on administrative fines. This would come with the crucial co-benefit of greater deterrence, resulting in much higher rates of compliance with our environmental and public health laws.

We are very thankful for the new administration's demonstrated commitment to providing additional resources for the Department. MDE has been at historically low staff levels, and with staff carrying workloads more than 5 times those of equivalent staff in other states, their ability to do their jobs effectively has suffered. Overworked and underpaid staff have left the agency resulting in even more of a gap in staffing due to many unfilled vacancies. This historic investment will help to rebuild this agency and allow them to, once again, fulfill their purpose of protecting Maryland communities from pollution. **As environmental advocates we want to ensure that this year's legislative actions to increase department resources match this historic reinvestment in MDE, and effectively result in the greatest possible benefit for Maryland communities and waterways.**

Suggested amendment language:
9-342(b)

(2) The penalty imposed on a person under this subsection shall be:
(i) Up to \$10,000 for each violation, but not exceeding **\$200,000** total

The Chesapeake Bay Program's recently published Comprehensive Evaluation of System Response report — [CESR](#)— is a seminal document that addresses our shortcomings in achieving goals outlined in the Chesapeake Bay Agreement. The CESR report calls for a dramatic increase in targeted restoration and large-scale behavior change to address pollution loads to our waterways. To achieve this, it has never been more necessary for our State's departments to have full access to the resources and capital necessary to properly enforce our environmental regulations and mitigate appropriately when pollution occurs. For these reasons stated above, we urge the Committee to adopt a **FAVORABLE with amendments** report on **HB0245**.

Sincerely,

Waterkeepers Chesapeake and clean water organizations signed below:

ShoreRivers
Blue Water Baltimore
Assateague Coastal Trust
Potomac Riverkeeper Network
Arundel Rivers Federation
Maryland Pesticide Education Network