Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 976 (Delegates Owings and Guns)
Environmental Matters

Air Quality - Emission Trading

This bill requires the Maryland Department of the Environment (MDE) to establish a market-based emission trading system to facilitate the trading of "emission reduction credits" for volatile organic compound (VOC) and nitrogen oxide (NOx) emissions. MDE must establish and maintain an emissions trading clearinghouse to keep track of all emission reduction credit transactions and to provide current information to owners and the public regarding the status of credits by means including the Internet.

Emission credits may be generated by a shutdown, over control, or other modification of a facility or its operations that reduces emissions of VOCs and NOx beyond any reduction directly attributable to a requirement of federal law or regulation, or the State Implementation Plan (SIP). Credits may also be generated by a program administered by an owner of a facility that reduces emissions of VOCs and NOx from mobile, off-road, or area sources beyond any reduction directly attributable to a requirement of federal law or regulation, or the SIP. MDE may impose an administrative fee on an ERC transaction only to cover the direct cost to the department of processing the transaction. MDE is required to adopt final regulations to implement the provisions of the bill by November 1, 1998. The regulations must take effect no later than December 1, 1998.

This bill takes effect July 1, 1998.

Fiscal Summary

State Effect: Potential indeterminate increase in State expenditures depending on the volume of emission trading transactions that would need to be processed.

Local Effect: None.

Small Business Effect: Potential meaningful.

Fiscal Analysis

Background: Sections 182 and 184 of the federal Clean Air Act (CAA) provides that in order to qualify for emission reduction credits, new major facilities and existing businesses that propose to expand are required to offset their emissions of VOCs and NOx on a greater than one-for-one basis. Emission credits (surplus emission reductions),which may be used to meet the offset requirements, are generated by existing businesses by: (1) controlling their emissions to a level greater than that required by State or federal laws and rules; or (2) shutting down. As credits are generated and certified, they may be made available to new and expanding businesses to meet offset requirements.

State Effect: The bill requires MDE to promulgate regulations that establish a market-based emissions trading program so that emission credits can be easily traded or sold between new and existing businesses. The bill authorizes MDE to charge an administrative fee only to cover the actual direct costs of processing emissions reduction credit trading transactions. Therefore, MDE would not realize any increase in revenue as a result of any administrative fee.

MDE advises that general fund expenditures could increase by an estimated $40,900 in fiscal 1999, which accounts for a 90-day start-up delay. This estimate reflects the cost of one Public Health Engineer to administer the emission trading program. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. Future year expenditures would reflect: (1) a full salary with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The Department of Legislative services advises that there is no basis upon which to base an estimate of the number of emissions reduction credit trading transactions that could result from any program that is established. DLS believes that until the volume of transactions is known, any initial transactions could be handled with MDE's existing staff resources. If existing resources prove inadequate, then depending upon the volume of transactions that would need to processed, the processing may be able to be done in a more cost effective manner by a part-time, contractual employee or outside consultant than by a permanent full-time employee.

Small Business Effect: Since the 1970's the U.S. Environmental Protection Agency (EPA) has permitted and encouraged economic incentives such as the use of emissions trading programs to meet environmental standards. In 1995 the EPA proposed a model open market trading rule, and states were permitted to adopt trading rules which differed from the proposed rule. As a result, a new market is emerging in the economy for emissions reductions credit (ECR) trading, primarily involving the trade of ECRs for volatile organic compounds (VOC) and oxides of nitrogen (NOx). Because this is a new market, there are currently only a few firms serving as brokers for transactions. At least one firm has been involved in assisting some states to develop trading programs, including registries of ECRs and ECR transactions.

Two of the main reasons cited for the use of open market trading of ECRs by firms are: (1) firms that can reduce emissions below existing standards are rewarded because through selling the credits they receive revenues to use for other production needs or expansion; and (2) firms purchasing credits are provided a temporary mechanism to meet environmental standards. The ability to purchase credits provides additional flexibility to firms to meet environmental standards during periods of peak production, or during any expansion or start-up periods. These are production periods in which a firm may not otherwise be able to meet the environmental standards and could incur penalties and fines.

The creation and maintenance of a public central registry of ECR transactions, which includes price information, by MDE would facilitate the dissemination of information available to buyers and sellers of ECRs in the emerging market. In addition, the establishment of a trading program in the State and the review and certification of ECRs by MDE, at the request of either party to a transaction, would encourage transactions and reduce the uncertainty regarding the value of any ECRs for regulatory purposes. As a result, both buyers and sellers may have lower transaction costs than would otherwise occur, increasing the net funds available to both parties after the transaction.

The impact upon small businesses would depend upon several factors, including the price for ECRs set by the market. The ability to purchase ECRs could help new start-up small businesses or permit current small businesses to expand if the firm can afford the market price of ECRs. Also, small businesses could potentially benefit from the selling of ECR credits, or entry into the market as brokers for ECR transactions.

Information Source(s): Maryland Department of the Environment; Department of Legislative Services

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