



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

February 21, 2020

The Honorable Kumar P. Barve, Chair
Environment and Transportation Committee
Room 251, House Office Building
Annapolis, Maryland 21401

Re: House Bill 689 – Maryland Environmental Policy Act – Consistency with National Environmental Policy Act

Dear Chairman Barve and Members of the Committee:

The Maryland Department of the Environment (MDE) has reviewed House Bill 689, entitled Maryland Environmental Policy Act – Consistency with National Environmental Policy Act and would like to offer information regarding the impact of this proposed legislation.

House Bill 689 would require MDE to review and prepare documents in accordance with National Environmental Policy Act (NEPA). The proposed legislation would have significant operational impacts at MDE, specifically in our Wetlands and Waterways Program (WWP). To be able to meet the requirements established in NEPA, WWP would need a substantive increase staff and resources. NEPA applies a multi-stage process of environmental assessment that would require more discussion of alternatives in the form of an Environmental Assessment (EA) and Environmental Impact Statement (EIS). The process would require more baseline information related to the affected environment and additional information would be required from applicants. The NEPA process is significantly beyond the regulatory actions that WWP currently takes and existing program resources would have to substantially expand to meet the additional workload.

The Wetlands and Waterway Program's primary responsibility is to issue, in accordance with State and federal laws, authorizations/permits/certifications for projects completed in waters of the State. The authorizations are considered "State Actions" and would be subject to NEPA rules. Each of these State Actions would need to be analyzed to determine if there is no significant impact, or if the project would need a full EIS. On average, the Department processes 2,200 applications a year of the aforementioned authorizations. There may be a way to reduce the need for the in-depth analysis if MDE were to create categorical exclusions. It is unclear if this would be allowable in a State-level NEPA. Additionally, some NEPA processes may interfere with State law and cause significant delays in projects.

Thank you for your consideration. We will continue to monitor House Bill 689 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tyler Abbott".

Tyler Abbott

cc: The Honorable Samuel L. Rosenberg