Implementation of the Smart Growth Areas Act, Fiscal Year 2019

Maryland Smart Growth Subcabinet

FY19 Implementation of the Smart Growth Areas Act

The Smart Growth Subcabinet

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The Maryland Smart Growth Subcabinet's FY19 report on the Implementation of the Smart Growth Areas Act is submitted in accordance with the Annotated Code of Maryland, State Government Article § 9-1406(i). This FY19 report summarizes growth-related program commitments for the following state agencies to fulfill the requirements of the Smart Growth Areas Act.

- Maryland Department of Commerce (Commerce)
- Maryland Department of General Services (General Services)
- Maryland Department of Housing and Community Development (Housing)
- Maryland Department of the Environment (Environment)
- Maryland Department of Transportation (Transportation)

The law defines certain capital projects and funding activities within these state agencies as "growth-related."[1] There is no statutory requirement that funding for the Public School Construction Program (PSCP) or the Maryland Historical Trust (MHT), a unit of the Maryland Department of Planning (Planning) be used within Priority Funding Areas (PFAs). The PSCP follows COMAR guidelines for PFA spending.[2] MHT voluntarily seeks to fund projects in PFAs when possible. Expenditures are included separately for informational purposes only.

Introduction

The State of Maryland, through the governor's Smart Growth Subcabinet (the subcabinet), is committed to making more efficient and effective investments of taxpayer dollars for infrastructure while preserving the state's rural landscape. Subcabinet coordination has reduced development pressures on critical farmland and natural areas, and increased the availability of funding to spend on roads, schools and infrastructure to sustain Maryland towns, cities and rural areas.

In FY19, the statutory framework set out by the Maryland General Assembly in the Smart Growth Areas Act was met by the subcabinet agencies whose programs are subject to PFA restrictions. The Smart Growth Areas Act allows agencies to seek exceptions to the law for individual projects through one of two avenues - the Board of Public Works (BPW)[3] or the Smart Growth Coordinating Committee[4] (SGCC). The subcabinet is required to report annually on those exemptions.[5]

Six new projects were granted exceptions by the subcabinet in FY19 in accordance with the procedures prescribed in the Smart Growth Areas Act (see Appendix A, page 15). There were no exceptions sought by agencies from BPW (see Appendix B, page 20). Appendix C notes that no programs and policies were reviewed or revised to ensure compliance with the state's policy. Projects funded under Chapter 759, § 2 of the Acts of 1997 can be found in Appendix D (page 22).

1 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-01.
2 Code of Maryland Regulations, 23.03.02.03(c).
3 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-05.
4 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-06. The law calls for a process to be "established jointly by the applicable state agency and the Department of Planning." Id. (See also Planning Publication No. 2010-009, "Priority Funding Area Exception and Extraordinary Circumstances Process" for more information).
5 Maryland Annotated Code, State Government Article, § 9-1406(h)(1).

Priority Funding Areas

The 1997 Priority Funding Areas Act (the Smart Growth Act) law established PFAs to provide geographic focus for state investment in growth, and to strategically direct the use of limited state funding for roads, water and sewer plants, economic development, and other growth-related needs. PFAs are existing communities and places where local governments want state funding for future growth. The criteria for PFAs are defined in the Annotated Code of Maryland, State Finance and Procurement Article, §§ 5-7B-02 and 5-7B-03. PFAs were established to meet three goals:

1. To preserve existing communities;
2. To make the most efficient and effective use of taxpayer dollars for infrastructure by targeting state resources to build on past investments; and
3. To reduce development pressure on critical farmland and natural resource areas by encouraging projects in already developed areas.

The PFAs and Schools regulation was approved in 2011 as an amendment to COMAR 23.03.02, Regulations for the Administration of the Public School Construction Program. Local Educational Agencies (LEAs) seeking state funding to construct new schools and replacement schools that increase capacity outside of a PFA must undergo a PFA review. A waiver option is available to LEAs as part of this review process. The 2011 regulations are restricted to school construction projects seeking school site, planning, and funding approvals in the Capital Improvement Program (CIP) for FY13 and beyond.

FY19 Expenditures

FY19 growth-related spending on PFA restricted projects and programs totaled $2,062,839,861, as reported to Planning by Housing, General Services, Commerce, Environment, and Transportation.

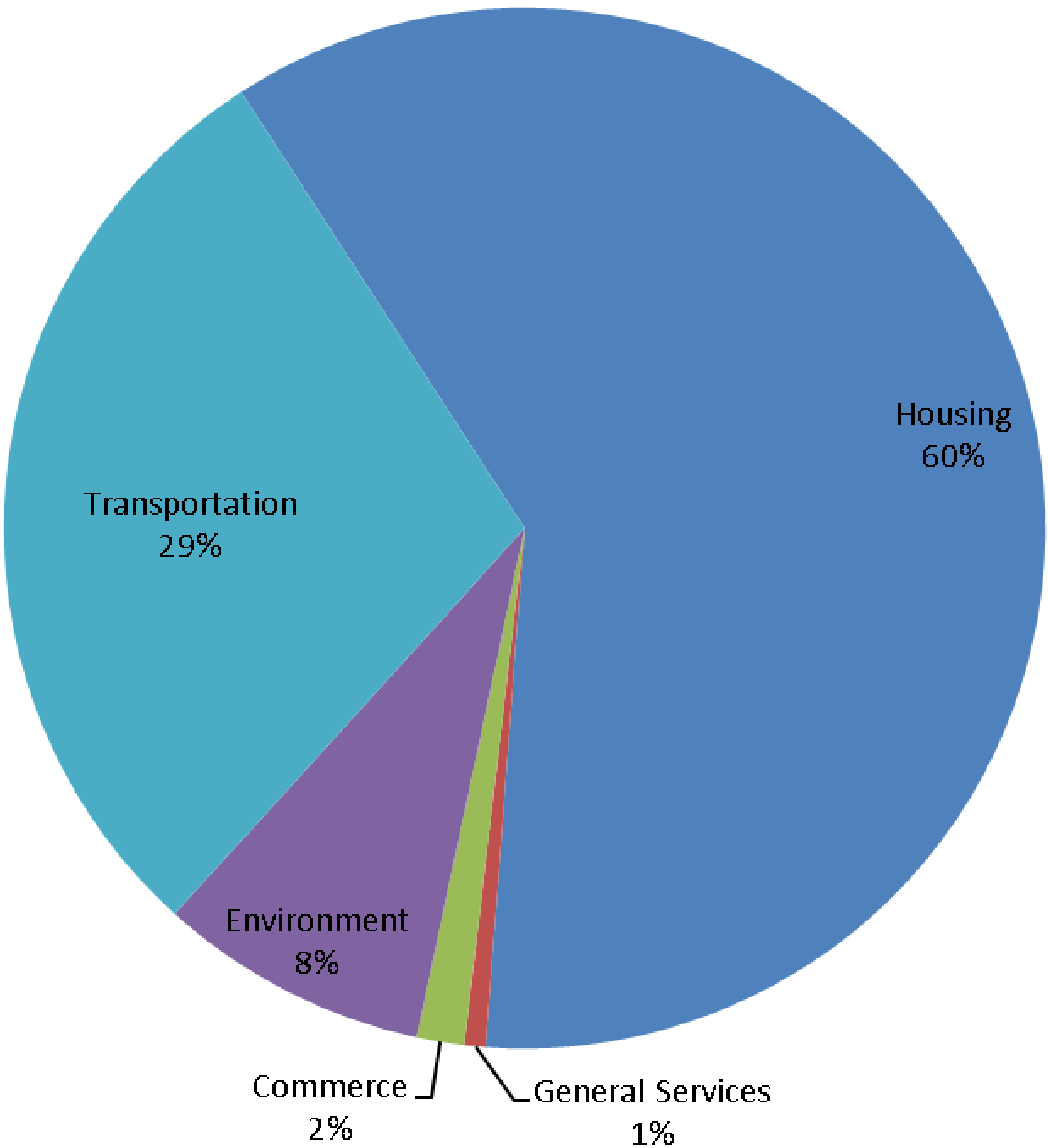
Of that amount, $1,695,435,573, (82%), of growth-related spending was devoted to projects and programs within PFAs; $38,639,429, (2%), was devoted to projects outside PFAs; and $328,764,859 (16%), was devoted to Transportation, Environment, and Housing projects that were not place-specific.

It should be noted that $36.6 million (95%) of the $38.6 million spent outside PFAs was associated with state transportation projects that were exempt, or grandfathered, from the PFA requirements or met the criteria for granting exceptions to the law, as reported by Transportation. The remaining $2 million (5%) spent outside PFAs was devoted to one Environment project that received an exception to the PFA requirement because the public water transmission main project was needed to address public health and safety concerns.

Fiscal Year 2019 Expenditures by Agency for Growth-Related Programs

Program	Total Funding	PFA Funding	Funding Outside PFA	Not Place Specific Funding
Housing	$1,245,193,789	$1,231,907,530	$0	$13,286,259
General Services	$13,515,287	$13,515,287	$0	$0
Commerce	$30,426,691	$30,426,691	$0	$0
Environment	$173,152,094	$110,521,065	$2,011,429	$60,619,600
Transportation	$600,552,000	$309,065,000	$36,628,000	$254,859,000
Total	$2,062,839,861	$1,695,435,573	$38,639,429	$328,764,859
		82%	2%	16%

Agency Percentage of Total Funding



The Department of Housing and Community Development

Housing programs defined as growth-related and thus limited to PFAs are:

- The construction or purchase of newly-constructed single-family homes by the Community Development Administration's (CDA) Maryland Mortgage Program (MMP), which provides low-interest mortgages to qualified first time homebuyers;
- The acquisition or construction of newly-constructed multifamily rental housing (NMRH) by CDA; and
- State-funded neighborhood revitalization projects, which include funding from Community Legacy (CL), Community Investment Tax Credit (CITC), Neighborhood Business Works (NBW) and Strategic Demolition and Smart Growth Impact Fund (SGIF).

Housing had one NMRH project (Broadway Homes) for scattered site housing and four CITC projects in FY19 that were not place-specific because (1) they may provide services within PFAs, but the services may not be associated with a fixed address; or (2) the location of the service may be located outside of the PFA, but the intended service is to people within the PFA.

It should also be noted that, although it is not required by the Smart Growth Areas Act, Housing also requires that Community Development Block Grants be limited to PFAs. The program is not covered by the act because it consists solely of federal funds and the law covers only state-funded projects.

Maryland Department of Housing and Community Development
FY19 Expenditures by Growth-Related Program

Program	Total Projects	Total Funding	PFA Projects	PFA Funding	Outside PFA Projects	Outside PFA Funding	Not Place Specific Projects	Not Place Specific Funding
MMP	81	$23,254,961	81	$23,254,961	0	$0	0	$0
NMRH	35	$1,175,522,856	34	$1,162,556,597	0	$0	1	$12,966,259
CL	79	$8,000,000	79	$8,000,000	0	$0	0	$0
CITC	73	$2,040,000	69	$1,720,000	0	$0	4	$320,000
MCAP	2	$0	2	$0	0	$0	0	$0
NBW	40	$5,808,572	40	$5,808,572	0	$0	0	$0
SGIF	24	$30,567,400	24	$30,567,400	0	$0	0	$0
TOTALS	**334**	**$ 1,245,193,789**	**329**	**$ 1,231,907,530**	**0**	**$ 0**	**5**	**$ 13,286,259**

The Department of General Services

While it has no capital budget, General Services is responsible for acquiring, leasing, and maintaining most of the state's facilities. Thus, it is responsible for ensuring that the state's growth-related funding is limited to PFAs for state leases of property and land acquisition. However, the law explicitly exempts projects for "maintenance, repair, additions, or renovations to existing facilities, acquisition of land for telecommunications towers, parks, conservation and open space, and acquisition of agricultural, conservation, and historic easements."[6]

General Services sends every lease and project to Planning's State Clearinghouse for Intergovernmental Assistance to ensure compliance with the Smart Growth Areas Act.

Maryland Department of General Services
FY19 Expenditures by Growth-Related Program

Program	Total Projects	Total Funding	Projects Inside PFA	Funding Inside PFA	Projects Outside PFA	Funding Outside PFA
Leases of Property	47	$13,515,287	47	$13,515,287	0	$0
Land Acquisition	0	$0	0	$0	0	$0
Total	**47**	**$ 13,515,287**	**47**	**$ 13,515,287**	**0**	**$ 0**

6 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-01(c)(2)(i).

The Department of Commerce

Commerce programs – defined by the Smart Growth Areas Act as growth-related, have been renamed and consolidated. Programs subject to the law's restrictions include:

- The Maryland Small Business Development Financing Authority (MSBDFA), which provides financing for small businesses that do not qualify for financing from private lending institutions or owned by socially and economically disadvantaged persons;
- The Maryland Economic Development Assistance Authority and Fund (MEDAAF), which provides loans and grants to businesses and local jurisdictions;
- The Economic Development Opportunities Fund (Sunny Day Fund or SDF), which promotes Maryland's participation in extraordinary economic development opportunities that provide significant returns to the state through creating and retaining employment as well as the creation of significant capital investments in PFAs; and
- The Maryland Economic Adjustment Fund (MEAF), which assists businesses with modernization of manufacturing operations, the development of commercial applications for technology, and exploring and entering new markets.

Maryland Department of Commerce
FY19 Expenditures by Growth Related Program

Program	Total Projects	Total Funding	Projects Inside PFA	Funding Inside PFA	Projects Outside PFA	Funding Outside PFA
MSBDFA	31	$10,194,024	31	$10,194,024	0	$0
MEDAAF	18	$10,232,667	18	$10,232,667	0	$0
SDF	2	$10,000,000	2	$10,000,000	0	$0
MEAF	0	$0	0	$0	0	$0
Total	**51**	**$ 30,426,691**	**51**	**$ 30,426,691**	**0**	**$ 0**

The Maryland Department of the Environment

The following Environment programs are subject to PFA restrictions:

- The Maryland Water Quality Revolving Loan Fund (MWQRLF), which provides financial assistance to public entities and local governments for wastewater treatment plant upgrades, and other water quality and public health improvement projects, and to public or private entities for nonpoint source pollution prevention projects;
- The Water Supply Financial Assistance Program (WSFAP), which provides financial assistance to local government entities for the acquisition, construction, rehabilitation, and improvement of publicly owned water supply facilities;
- The Supplemental Assistance Program (SAP), which provides grants to local governments for planning, design, and construction of needed wastewater facilities; and
- The Maryland Drinking Water Revolving Loan Fund (MDWRLF), which provides financial assistance to publicly and privately owned community water systems and nonprofit, non-community water system for projects that address public health, public safety, environmental, or regulatory issues.

A PFA exception is required if any part of the project or area served by the project is outside the PFA. There was one project funded outside of the PFA in FY19, but received an exception based on the public health and safety criteria of the law for drinking water system improvements located outside of the PFA. The $2 million in expenditures outside of the PFA accounted for 1% of total funding. The one MWQRLF project that is not place specific for $60.6 million is for municipal separate storm sewer system water quality restoration improvements in Montgomery County.

Maryland Department of the Environment
FY19 Expenditures by Growth Related Program

Program	Total Projects	Total Funding	PFA Projects	PFA Funding	Outside PFA Projects	Outside PFA Funding	Not Place Specific Projects	Not Place Specific Funding
MWQRLF	15	$162,187,111	14	$101,567,511	0	$ 0	1	$60,619,600
DWSFAP	5	$875,735	5	$875,735	0	$ 0	0	$0
SAP	3	$1,792,700	3	$1,792,700	0	$ 0	0	$0
MDWRLF	7	$8,296,548	6	$6,285,119	1	$ 2,011,429	0	$0
TOTALS	**30**	**$173,152,094**	**28**	**$110,521,065**	**1**	**$2,011,429**	**1**	**$60,619,600**

The Maryland Department of Transportation

For Transportation, growth-related projects include all major capital projects defined as “any new, expanded, or significantly improved facility or service that involves planning, environmental studies, design, right-of-way, construction, or purchase of essential equipment related to the facility or service.”[7] Transportation lists such projects in its Consolidated Transportation Program (CTP) as Major Projects and details the PFA status of each project as part of the annual report. The modal administrations of Transportation for which major capital projects are subject to PFA restrictions include:

- The State Highway Administration (Highways)
- The Maryland Transit Administration (Transit)
- The Maryland Aviation Administration (Aviation)
- The Maryland Port Administration (Port Administration)
- The Motor Vehicle Administration (Motor Vehicles)
- The Secretary’s Office
- Payments to Washington Metro Area Transit Authority (WMATA)

Transportation projects that are excluded from the Smart Growth Areas Act include those pertaining to existing Maryland Transportation Authority (MDTA) facilities, studies currently in the project planning phase (pre-decisional), minor Capital Projects, and projects that preserve or rehabilitate existing facilities or services without increasing capacity.[8] It should also be noted that 33 of Transportation’s major capital projects are not location-specific, meaning that they involve system-wide improvements, such as local transit assistance programs and transit vehicle acquisition by Transit, information technology improvements by Motor Vehicles, the dredged material management program by the Port Administration, the regional aviation assistance program by Aviation, and the capital improvement program of WMATA. There is also a Highways project, a new flyover ramp from US 301 to MD 5, that the PFA status has not yet been determined. Of the 133 major capital projects in Transportation’s capital program for FY19, 13 are outside the PFA. Of these, six received final review before the Smart Growth Areas Act was enacted and are exempted (grandfathered). These include a Port Administration project for dredge disposal at Hart Miller Island,and five Highways projects for upgrades/widening in the MD 5, MD 404 (two sections), and US 113 corridors as well as for construction of a new interchange at MD 5 and MD 373 in Prince George’s County.

Of the remaining projects outside of the PFA, seven have been granted exceptions in compliance with statute. This category includes MD 200 (InterCounty Connector), a Port Administration project to construct the Pearce Creek Waterline, two projects along the Howard County portion of the MD 32 corridor, the MD 97 (Georgia Avenue) widening project in Brookeville, a slope failure project along MD 24, and a bridge replacement on MD 331 over the Choptank River that was evaluated and shown to add no significant highway capacity.

7 Maryland Annotated Code, Transportation Article, § 2-103.1(a)(4).

8 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-01(c)(1)(i).

FY19 Maryland Department of Transportation
Major Transportation Projects

Program	Total Projects	Total Funding	Projects Inside PFA	Funding InsidePFA[8]	Projects Outside PFA	Funding Outside PFA	Not Place Specific Projects	Not Place Specific Funding
Highways	58	$155,817,000	46	$122,691,000	11	$33,126,000	1	$0
Transit	37	$185,644,000	16	$122,077,000	0	$0	21	$63,567,000
Aviation	18	$27,441,000	17	$25,057,000	0	$0	1	$2,384,000
Port Admin	11	$63,853,000	7	$39,240,000	2	$3,502,000	2	$21,111,000
Motor Vehicles	2	$11,875,000	0	$0	0	$0	2	$11,875,000
Secretary's Office	1	$0	1	$0	0	$0	0	$0
WMATA	6	$155,922,000	0	$0	0	$0	6	$155,922,000
Total[9]	**133**		**87**		**13**		**33**	**$254,859,000**

9 Note that beginning in FY15, MDOT was able to improve the accuracy of the spending report to more accurately portray year end invoicing for state-specific funding. As a result, figures for FY15, FY16, FY17, FY18, and FY19 may not be directly comparable with prior reporting periods in which federal and local funding sources were less clearly broken out.

Maryland Historical Trust Programs

While they are not required to do so by the Smart Growth Areas Act, MHT, currently gives more weight during its review and analysis process to certain programs within PFAs to further the goals of smart growth.

MHT gives preference to commercial applicants for the Historic Revitalization Tax Credit (HRTC), formerly known as the Heritage Structure Rehabilitation Tax Credit or the Sustainable Communities Tax Credit, whose projects are located within PFAs. The program provides Maryland income tax credits equal to 20% of the qualified capital costs expended in the rehabilitation of a "certified heritage structure." Projects involving "certified historic structures" that are high-performance commercial buildings, or have been approved to receive Low Income Housing Tax Credits may be eligible to receive a 25% credit. Projects in a Qualified Opportunity Zone may earn an additional 5% credit (Level 1) or 7.5% credit (Level 2).

Maryland Historical Trust
FY19 Expenditures

Program[10]	Total Projects	Total Funding	Projects Inside PFA	Funding Inside PFA	Projects Outside PFA	Funding Outside PFA
HRTC Residential	206	$2,246,790	199	$2,118,992	7	$127,798
HRTC Commercial	5	$9,082,101	5	$9,082,101	0	$0
HRTC Small Commercial	13	$455,703	13	$455,703	0	$0
Total	**224**	**$11,784,594**	**217**	**$11,656,796**	**7**	**$127,798**

10 Commercial, small commercial, and residential HRTC figures represent Part 2 approvals for FY19.

The Public School Construction Program

While Maryland public schools are not required by statute to be located within PFAs, the Public School Construction Program (PSCP) follows COMAR guidelines for PFA spending. It is informative to identify the level of secondary school construction funding occurring inside and outside of PFAs to further the goals of smart growth.

Originally established in 1971 as an independent agency, PSCP is staff to the Interagency Commission on School Construction (IAC). State school funding supports building replacements, renovations, additions, new construction, systemic renovations, and other improvements. While the cost to acquire land, and to design and equip public schools is a local responsibility, state and local governments share public school construction costs.

The IAC considers several factors when evaluating proposed Capital Improvement Projects, including how the projects align with the local board of education priorities, state construction procedures and procurement practices, as well as state and local planning and growth policies. School site approval is a prerequisite for planning approval and is valid for five years. Planning approval is required prior to funding approval for most major projects.

Information on expenditures for public school construction for major construction projects for FY19 and FY20 is shown on the chart below. Generally, the amount of major construction expenditures inside PFAs is far greater than outside. For FY20 , 91% of the total funds for major construction projects were spent within PFAs. The number of requests for projects in and out of PFAs varies from year to year, and funding allocations on most major projects are carried out over several years.

Public School Construction Program FY19 and FY20 Expenditures by Project Type

Total Major Construction Funding	Project Types	Funding Inside PFA	Funding Outside PFA
FY19			
$329,211,905	New	$59,492,000	$0
	Replacement	$132,458,396	$24,139,792
	Renovation/Replacement Projects that do not add capacity	$16,988,000	$13,484,000
	Renovations/Additions/ Replacement Projects that increase capacity	$82,649,717	$0
Total for FY19		**$291,588,113**	**$37,623,792**
FY20			
$295,811,295	New	$63,427,000	$0
	Replacement	$145,522,000	$14,255,000
	Renovation/Replacement Projects that do not add capacity	$22,193,295	$1,282,000
	Renovations/Additions/ Replacement Projects that increase capacity	$40,913,000	$8,219,000
Total for FY20		**$272,055,295**	**$23,756,000**

The figures represent the FY19 and FY20 allocation for major construction projects. PSCP figures listed above do not reflect total FY20 spending for systemic projects ($87,678,600).

Appendix A

Exceptions to the PFA Law Approved by the Smart Growth Coordinating Committee

The Smart Growth Areas Act allows for growth-related projects located outside the PFAs to receive state funding if: it is required to protect public health or safety; involves federal funds and compliance with [the Smart Growth Areas Act] would conflict or be inconsistent with federal law; or it is a growth-related project related to a commercial or industrial activity, which, due to its operational or physical characteristics, shall be located away from other development.[11] The Smart Growth Coordinating Committee (Coordinating Committee), the staff-level working group of the Smart Growth Subcabinet, is tasked with approving exceptions based on these criteria.

In FY19, the Coordinating Committee approved six PFA exceptions. PFA exception approval alone, however, does not ensure that projects will be funded. Specific details regarding the PFA exception approvals are as follows:

February 2019 – Five Residences in St. Clements Shores Community (St. Mary's County)

Environment requested a PFA exception to extend sewer service to five residences in the St. Clements Shores Community in St. Mary's County to address public health issues in the area. St. Mary's County Health Department determined the following five properties in the St. Clements Shores Community have failing septic systems: 1) 39994 Ben Morgan Road; 2) 21634 Rosebank Road; 3) 21629 Rosalie Way; 4) 22050 Serenity Place Lane; and 5) 39733 Red Oak Lane. The PFA exception is limited to serving the five existing dwellings.

Agency Submitting Request	Environment
Grounds for Exception	Public health or safety
Funding	Bay Restoration Fund, up to $20,000 per existing home; maximum of $100,000 or actual prorated sewer collection system cost, whichever is lower.

11 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-06(a)(3).

March 2019 – Town of Lonaconing Water Treatment Plant & Distribution System Improvements (Allegany County)

Environment requested a PFA exception to allow state funding for a series of improvements to the Town of Lonaconing's water treatment plants and distribution system at the Lonaconing and Midland-Gilmore reservoirs in conjunction with decommissioning the Charlestown Water Treatment Plant and Dam. The reservoirs and water treatment plants are located outside of PFA. This project includes:

- Rehabilitation of the Koontz Water Treatment Plant, construction of a building addition, and installation of an additional 100 gallon per minute filter unit in the new building addition.
- Rehabilitation of the Midland-Gilmore Water Treatment Plant so the town will continue to produce high quality potable water for the service area.
- Repairs to the existing dam/reservoir at the Midland-Gilmore Plant to improve the safety and structure of the dam. These deficiencies were noted in MDE's Dam Safety Inspection Report dated Jan. 24, 2019.
- Decommissioning of the existing Charlestown Reservoir (known as the Lonaconing Reservoir), and mothballing the Charlestown Water Treatment Plant since the expansion at the Koontz and Midland-Gilmore water treatment plants will be able to produce the quantity of potable water needed for the water service area.

Environment's Dam Safety Inspection Report, dated Jan. 24, 2019, documented concerns about the existing conditions of the Lonaconing Reservoir, as well as other needs to address public health and safety concerns. The PFA exception was granted with the condition that water service not be expanded beyond the existing served community.

Agency Submitting Request	Environment
Grounds for Exception	Public health or safety
Funding	Water Supply Assistance Grant and Drinking Water Revolving Loan Fund for a total of $4,534,500.

March 2019 – Abandonment of McKeil Point Bermed Infiltration Pond #1 and Connection to the Madison-Woolford Sewer System for 12 Residences (Dorchester County)

Environment requested a PFA exception to abandon the McKeil Point Bermed Infiltration Pond (BIP) #1, and extend sewer service connecting the existing 12 residences to the Madison-Woolford Sewer System.

The McKeil Point BIP #1 currently provides wastewater treatment for 12 residences. There are also two unimproved lots in the vicinity of this BIP. There is no freeboard remaining in this BIP and the berm has already been breached in two locations. Wastewater is trickling along small erosion channels to small pooled areas at the base of the berm. The Dorchester County Health Department documented the public health and safety hazard of the McKeil Point BIP and determined this an emergency that should be addressed as soon as possible. In addition to addressing the public health emergency, it is estimated that this project will have water quality benefits by removing about 251 pounds of nitrogen per year. The proposed project consists of:

- Abandoning the McKeil Point BIP #1
- Abandoning the 12 existing septic tanks serving the 12 residences
- Providing grinder pump stations for the 12 residences
- Constructing a force main to convey the sewage from the residences to an existing force main and then to the existing Deep Point Pumping Station
- Ultimately conveying the sewage to the Cambridge Wastewater Treatment Plant

The PFA exception was granted with the condition that the sewer extension project is limited to serving the 12 existing dwellings and no extension of sewer service is allowed for the unbuilt lots or other existing developed lots without a PFA exception.

Agency Submitting Request	Environment
Grounds for Exception	Public health or safety
Funding	Bay Restoration Fund – Septic Connections Program, Up to $20,000 per existing home; with a maximum of $240,000 or actual prorated sewer collection system cost, whichever is lower; and the Water Quality State Revolving Loan for a total of $837,000.

March 2019 – Woodridge Manor Area (Harford County)

Environment requested a PFA exception to extend sewer service to the Woodridge Manor Area, located just south of Bel Air and adjacent to the existing PFA. The Harford County Health Department found the area to have high groundwater levels, poorly draining soils, and small lot sizes, which preclude installing new onsite septic disposal systems.

Harford County is proposing to construct a gravity and a low-pressure sewer line to serve the Woodridge Manor Area subdivision. Of 80 lots in the subdivision, two are vacant and one additional lot is to be consolidated with the adjacent lot with an existing residence. The PFA exception was granted with the condition that the sewer extension project is limited to serving the 77 existing dwellings in the Woodridge Manor subdivision.

Agency Submitting Request	Environment
Grounds for Exception	Public health or safety
Funding	Bay Restoration Fund – Septic Connections Program, Up to $20,000 per existing home; with a maximum of $1.54 million or actual prorated sewer collection system cost, whichever is lower; and the Water Quality State Revolving Loan for a total of $ 3,635,300.

April 2019 – Southerland Subdivision (Charles County)

Environment requested a PFA exception to connect 26 existing homes and nine vacant lots in Charles County's Southerland subdivision to the public sewer system, specifically located on Frances Street, Jay Street, and Bland Street, which currently have failing on-site sewage disposal systems. These homes would connect to the Mattawoman Wastewater Treatment Plant, which uses Enhanced Nutrient Removal (ENR) processes.

The Charles County Health Department verified the 26 homes have failing septic systems, and that the septic failure rate in the Southerland Subdivision is 60%. The Southerland Subdivision was predominantly developed in the 1960s, prior to today's on-site sewage disposal system standards. The PFA exception was granted with the condition that state funding not be used to connect sewer service to the vacant lots.

Agency Submitting Request	Environment
Grounds for Exception	Public health or safety
Funding	Bay Restoration Fund – Septic Connections Program, Up to $20,000 per existing home; with a maximum of $520,000 or actual prorated sewer collection system cost, whichever is lower; and the Water Quality State Revolving Loan for a total of $ 939,114.

June 2019 – Milesview Village Condominiums (Talbot County)

Environment requested a PFA exception to connect an eight-unit residential condominium in Talbot County. The Milesview Condominium (26256 Miles View Rd, Easton) was constructed in 1954, and is located north of St. Michaels Road and east of the Newcomb Rural Village. The project would connect the condominium to the St. Michaels Wastewater Treatment Plant, which uses ENR processes.

The Talbot County Health Department confirmed the existing septic system is in a state of hydraulic failure as evidenced by sewage being discharged to the surface of the ground, and due to the volume of wastewater flow, the history of septic failures and the lack of suitable soils, there is no viable on-site sewage disposal system alternative that can safely and adequately accommodate the wastewater flows generated on the property. The PFA exception is limited to the eight-unit residential condominium.

Agency Submitting Request	Environment
Grounds for Exception	Public health or safety
Funding	Bay Restoration Fund – Septic Connections Program, Up to $20,000 per existing home; with a maximum of $160,000 or actual prorated sewer collection system cost, whichever is lower.

Appendix B

Exceptions to the PFA Law Approved by the Board of Public Works in FY19

The Board of Public Works may grant an exception if it determines that "extraordinary circumstances" exist including "the failure to fund the project in question creates an extreme inequity, hardship, or disadvantage that clearly outweigh the benefits from locating a project in a priority funding area" or it is a transportation project that either maintains the existing system, serves to connect two PFAs, has as its sole purpose of providing control of access on existing highway or "due to its operational or physical characteristics, must be located away from other development."[12]

In FY19, the Board of Public Works did not approve any exceptions to the Smart Growth Areas Act.

12 Maryland Annotated Code, State Finance and Procurement Article, § 5-7B-05(a)(3)(iv).

Appendix C

Listing of Programs and Policies Reviewed and Changed To Ensure Compliance with the State's Smart Growth Policy in FY19

The Smart Growth Subcabinet, through its Smart Growth Coordinating Committee, meets monthly to discuss opportunities for state agencies to collaborate and improve the effectiveness of Maryland's smart growth policy.[13] In FY19, no specific programs or policies were identified that required review or change to ensure compliance with the state's policy.

13 Maryland Annotated Code, State Government Article, § 9-1406.

Appendix D

List of Projects or Programs Approved and Funded Under Chapter 759, § 2 of the Acts of 1997 in FY19[14]

Chapter 759, § 2 of the Acts of 1997 stipulates that the PFA law shall not apply to any project or program for which:

(a) Approval has been granted or a commitment made before Oct. 1, 1998;

(b) A valid permit has been issued;

(c) A commitment for a grant, loan, loan guarantee, or insurance for a capital project has been granted;

(d) Final review under the National Environmental Policy Act or the Maryland Environmental Policy Act is completed by Oct. 1, 1998;

(e) Final review through the State Clearinghouse for Intergovernmental Assistance is completed by Jan. 1, 1999; or

(f) An appropriation has been included by Oct. 1, 1998 in the development and evaluation portion of the Consolidated Transportation Program.

In FY19, Transportation reported that six projects had received final review before the Smart Growth Areas Act was enacted and are thus exempted (grandfathered). Projects include a Port Administration project for dredge disposal at Hart Miller Island and five Highway projects for upgrades/widening along the MD 5, MD 404 (two sections), and US 113 corridors and for construction of one new interchange at MD 5 and
MD 373. Other than Transportation's projects, no other projects or programs were approved and funded under Chapter 759, § 2 of the Acts of 1997.

14 Maryland Annotated Code, State Government Article, § 9-1406(i)(5).

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