



Pollution police off the beat

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Op-ed: Is Larry Hogan's administration letting Maryland polluters slide?

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One way to tell if authorities are serious about a particular law is to see if they enforce it. If you speed and are caught by a police officer or a camera, you can expect a ticket. If you don't file your taxes, the comptroller of Maryland or the **IRS** will catch up with you and assess penalties. But what happens when polluters break state and federal environmental laws designed to protect our air, water and health?

Maryland Department of the Environment (MDE) data show that during Gov. Larry Hogan's first full year in office, the number of cases regulators referred to the attorney general for enforcement dropped by a startling 18 percent. This decrease exacerbated a slide begun in the final years of the O'Malley administration. Altogether, MDE referrals dropped an unacceptable 35 percent over the past three years. Air pollution case referrals decreased by more than 50 percent, **lead poisoning** prevention referrals declined by 46 percent, and clean water referrals dropped by 27 percent.

On the too-rare occasion when enforcement actions are taken, MDE settles cases by assessing penalties that are disproportionately small in relationship to the severity of the violation. Environmental Protection Agency audits of MDE's performance have twice criticized its failure to recover the money polluters saved by ignoring the law.

These troubling developments have happened even though we continue to face unhealthy levels of smog in the Baltimore and Washington, D.C., metropolitan areas, dead zones in the Chesapeake Bay and lead poisoning of children in vulnerable communities in Baltimore, Western Maryland and the Eastern Shore.

State officials may attribute this tepid performance to resource shortfalls. After 15 years of cuts, MDE's budget is wholly inadequate, a concern recently expressed in a legislative report adopted alongside the fiscal 2017 budget. But even in conditions of unwarranted austerity, the last thing the MDE secretary should agree to cut is enforcement, which is critical to maintaining the progress we have made in cleaning up the environment and dealing with emerging problems like climate change.

Critics of vigorous health and safety enforcement often say that friendly counseling for regulated industries is far more important than traditional, deterrence-based sanctions, and MDE officials appear to have embraced this mantra. Over the past six fiscal years, the ratio of violations resolved by "compliance assistance" rather than enforcement has doubled over the prior six-year period.

Of course, compliance assistance has a role to play, especially with respect to minor, first-time or paperwork violations by small businesses. Yet a program that neglects to enforce violations of the law with meaningful penalties has two important drawbacks. First, counseling does not work with regulated entities that are determined to save money by flouting the law. Second, an over-emphasis on counseling tilts the playing field in favor of

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businesses that break the law, giving them a competitive advantage over law-abiding companies that invest in pollution controls.

A broad coalition of environmental organizations, including Blue Water Baltimore and other riverkeepers across the state, the Center for Progressive Reform, the Chesapeake Bay Foundation, the Chesapeake Legal Alliance, the Environmental Action Center, the Environmental Integrity Project, Food and Water Watch, and the Maryland League of Conservation Voters [just sent a letter](#) to MDE Secretary Ben Grumbles and Attorney General Brian Frosh. They point out that, despite the [General Assembly's](#) bipartisan decision to double the maximum administrative penalties for water pollution violations in 2014, the amounts MDE has collected for illegal discharges actually decreased in the past year.

The letter urges state officials to reverse these troubling trends. Polluters should be compelled to surrender the money they saved by ignoring the law. Penalties should be significant enough to motivate violators and others in the same industry to think twice about harming our environment and public health.

Maryland is blessed with great natural beauty and a population that repeatedly expresses its concerns about the welfare of others. Our most intractable environmental problems — smog in the city, algal blooms in the bay and children poisoned by lead — are fixable, but only if environmental officials pursue violators in the same way that the police pursue citizens for breaking any other law. It's past time to put the pollution cops back on the beat to ensure that everyone is held equally accountable to the rule of law, including those that protect vulnerable citizens' health and our fragile natural resources.

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