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ATTORNEYS AT LAW

# HOW NEW EMISSIONS AND CLIMATE CHANGE REGULATIONS WILL AFFECT THE WAY YOU DO BUSINESS

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# AGENDA

- **GREENHOUSE GAS REDUCTION TARGETS**
- **NEW BUILDING CODES**
- **ENERGY PERFORMANCE STANDARDS**
- **FUTURE PROVISIONS**
- **QUESTIONS**

# EVOLVING STANDARDS

## REDUCTIONS COMPARED TO 2006 BASELINE

### 2009 GGRA

25% REDUCTION  
BY 2020

### 2016 AMEND.

25% REDUCTION  
BY 2020 AND  
**40% BY 2030**  
GOAL  
OF **80-95%**  
BY 2050

### 2020 MCCC

25% REDUCTION BY  
2020 AND  
**50% BY 2030** AND  
**NET 100% BY 2045**

### 2022 CSNA

**60% BY 2031** AND  
NET 100% BY 2045

# CLIMATE SOLUTIONS NOW ACT

## 60% REDUCTION BY 2031

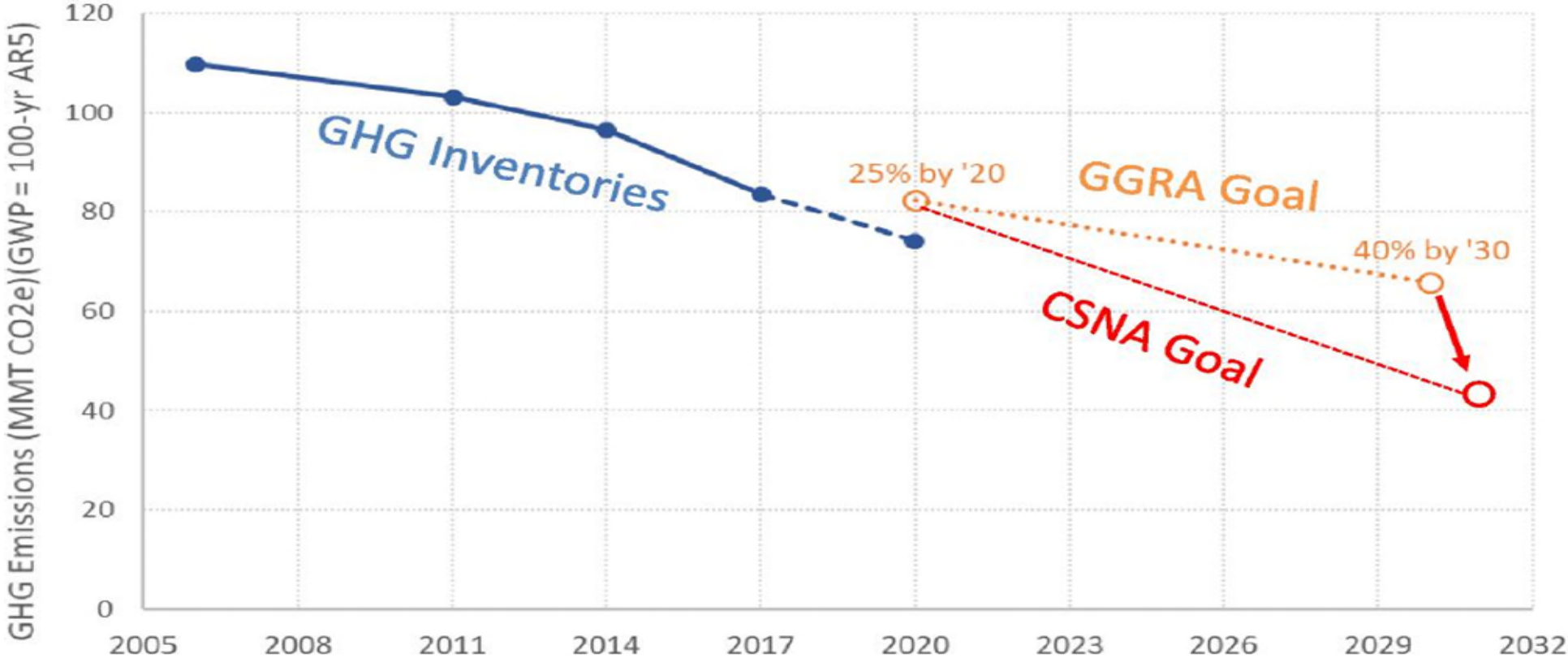
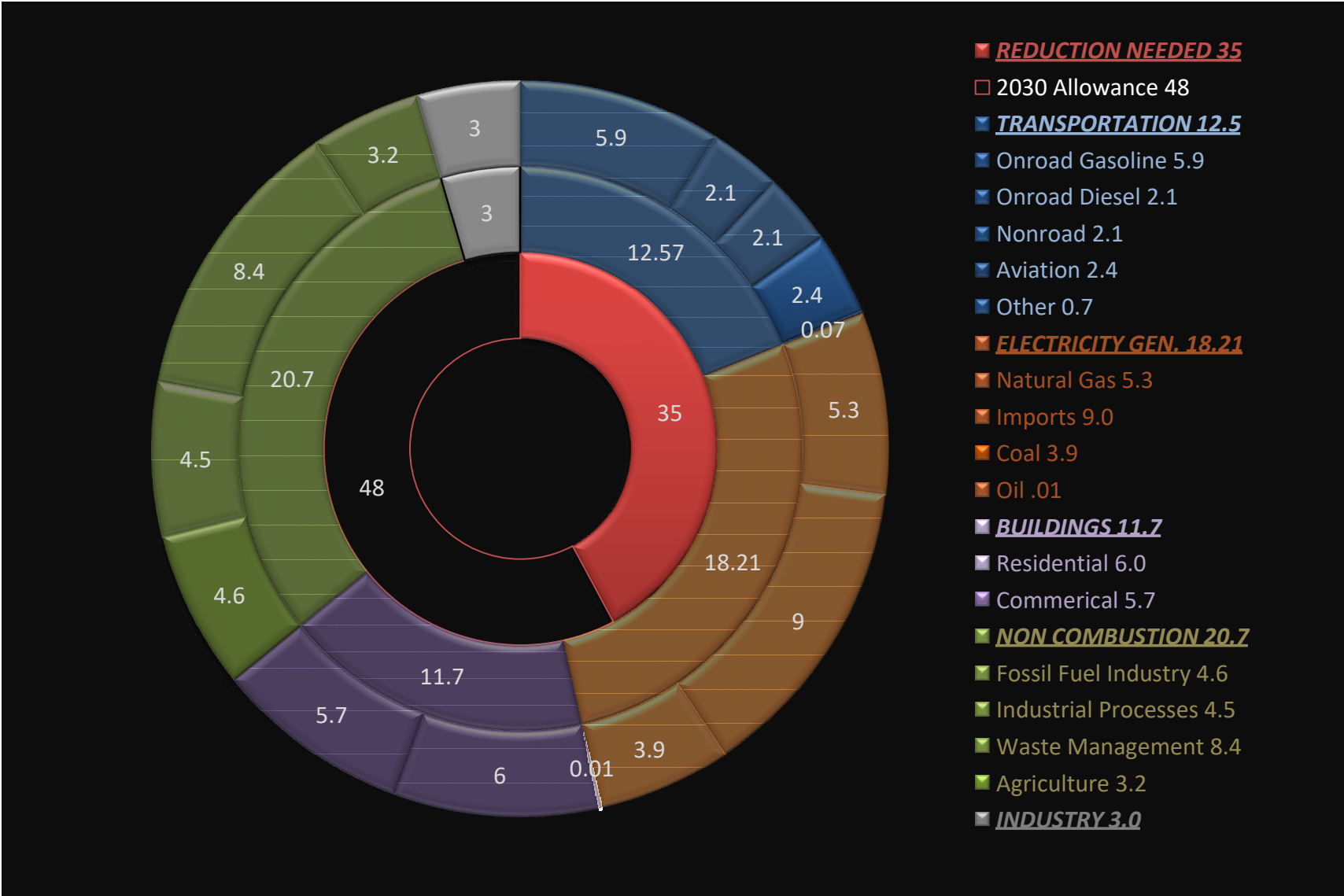


Image courtesy of Matt Stewart at MDE

# 2020 INVENTORY AND REDUCTIONS NEEDED BY 2030 (APPROXIMATE MILLION METRIC TONS)



# CLIMATE SOLUTIONS NOW ACT OF 2022

## ELECTRIFY EVERYTHING

The bill sets out an overall plan that can be summarized simply:

- Substitute electricity for fossil fuel consumption.
- Replace fossil fuel electric generation with “clean” energy (solar, wind, nuclear, hydro).
- Meet a very difficult transition milestone in eight years (by 2031).
- Eliminate (or offset) *all* fossil fuel use and, instead, generate all energy by renewable electricity within 33 years (by 2045).



# NEW BUILDING CODES PART I

## MANDATORY ADOPTION OF INTERNATIONAL CODE



- The Department must adopt the International Building Code – including the International Energy Conservation Code – as the “*Maryland Building Performance Standards.*”
- The new Code must be adopted by January 1, 2023.
- Any new updates of the International Building Code must be adopted in Maryland within 18 months unless:
  - The Department decides to adopt changes to “enhance energy conservation and efficiency” or
  - The Department allows an “innovative” method that provides an equivalent performance.
- The Department may adopt energy conservation requirements that are *more* stringent than the International Energy Conservation Code but not less stringent.

# NEW BUILDING CODES PART II

## BUILDING CODE ADMINISTRATION REPORT



- The Building Code Administration must develop recommendations for “*an all-electric building code*” for the state during 2023 (interim by January, final by December).
- The recommendations may include “appropriate exemptions” for
  - “particular industries, including life sciences”
  - “local conditions” and
  - “sectors vital to national security as identified by the US Department of Homeland Security.”
- The recommendations are for the “fastest and most cost-efficient methods for decarbonizing buildings”
- Must include a report to the Public Service Commission on the projected electric loading impacts; and consider the use of renewable, low-carbon biofuels.

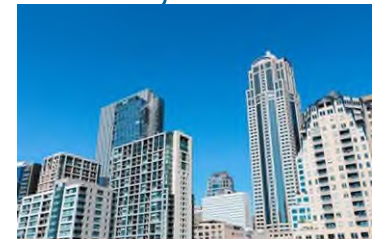


# CAN THE GRID HANDLE THE LOAD?



## PSC PLANNING STUDY

- Maryland has always been a “summer peak” state. Greatest electricity demand was during summer months. Moving from heating oil, natural gas and propane to electric will make Maryland a “winter peak” state.
- Eliminating fossil fuels will increase the load as energy is transferred by electric lines instead of pipelines and delivery trucks.
- Highest demand for winter peaks is during cold winter nights when solar production is low.
- Results of the study are due back to the General Assembly by September 30, 2023.



# ENERGY PERFORMANCE STANDARDS

## COVERED BUILDINGS

- New standards will be applicable only to “covered buildings” which means:
  - Is a commercial or multi-family building or owned by the state; and
  - Has a gross floor area (excluding parking garage) of 35,000 sq. ft. or more.
- Excluded from the definition are:
  - Historic properties
  - Schools
  - Manufacturing buildings
  - Agricultural buildings
- The new standards will apply to both new *and existing* buildings.



# DIRECT GREENHOUSE GAS EMISSIONS

## ONLY EMISSIONS FROM THE BUILDING ARE COVERED



- The standards will regulate “Direct Greenhouse Gas Emissions”:
  - Regulations will require reporting starting in 2025,
  - Reductions starting on January 1, 2030, and
  - Net zero emissions starting on January 1, 2040 (unless the Assembly sunsets the requirement)
- The standards only apply to “greenhouse gas emissions produced on-site”.
- Emissions from natural gas, propane and oil burning on site are covered by the standard.
- Emissions from fossil fuel burned by utilities at off-site power plants are not covered.
- Emissions from a Tenant Food Service Facility engaged in commercial cooking and water heating is not counted.

# DEVELOPMENT OF STANDARDS – PART I

## REGULATIONS FROM MDE BY JUNE 1, 2023

- The regulations will establish “energy use intensity targets by building type.”
- Special provisions “as necessary” will account for:
  - Building age
  - Regional differences
  - “Unique needs of particular building types” including
    - Health care facilities
    - Laboratories
    - Assisted living and nursing facilities
    - Military buildings
    - Critical infrastructure
    - Buildings used in life sciences



# DEVELOPMENT OF STANDARDS – PART II

## REGULATIONS FROM MDE BY JUNE 1, 2023

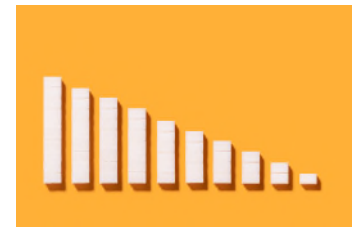
- Special provisions “as necessary” will also account for:
- The use of direct energy systems
- Landlords who:
  - are not responsible for the equipment of tenants,
  - do not have control over the tenant’s energy systems or
  - the commercial tenant is responsible for all maintenance and repairs.
- The department is required to “provide maximum flexibility” for owners to comply with the new standards.
- The bill sets up a task force to consider financial incentives.



# COMPLIANCE WITH EPS

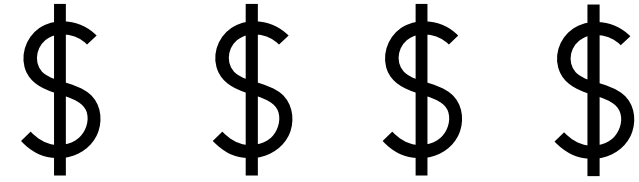
## BUILDINGS MUST EXCEED THE STANDARDS OR PAY A FEE

- Starting in 2025, each covered building owner must report Direct Greenhouse Gas Emissions.
- It is possible that the utilities and other fuel suppliers will provide the information to the owner for reporting to the state.
- Starting on January 1, 2030, the covered buildings' net Direct Greenhouse Gas Emissions must be 20% less than the 2025 levels for an average building of similar construction.
- Starting on January 1, 2040, the covered buildings must achieve net-zero Direct Greenhouse Gas emissions.
- Failure to meet the requirements results in a compliance fee.
- The Net-Zero 2040 requirement is subject to a sunset provision.



# COMPLIANCE FEE

## BASED ON “SOCIAL COST OF CARBON”

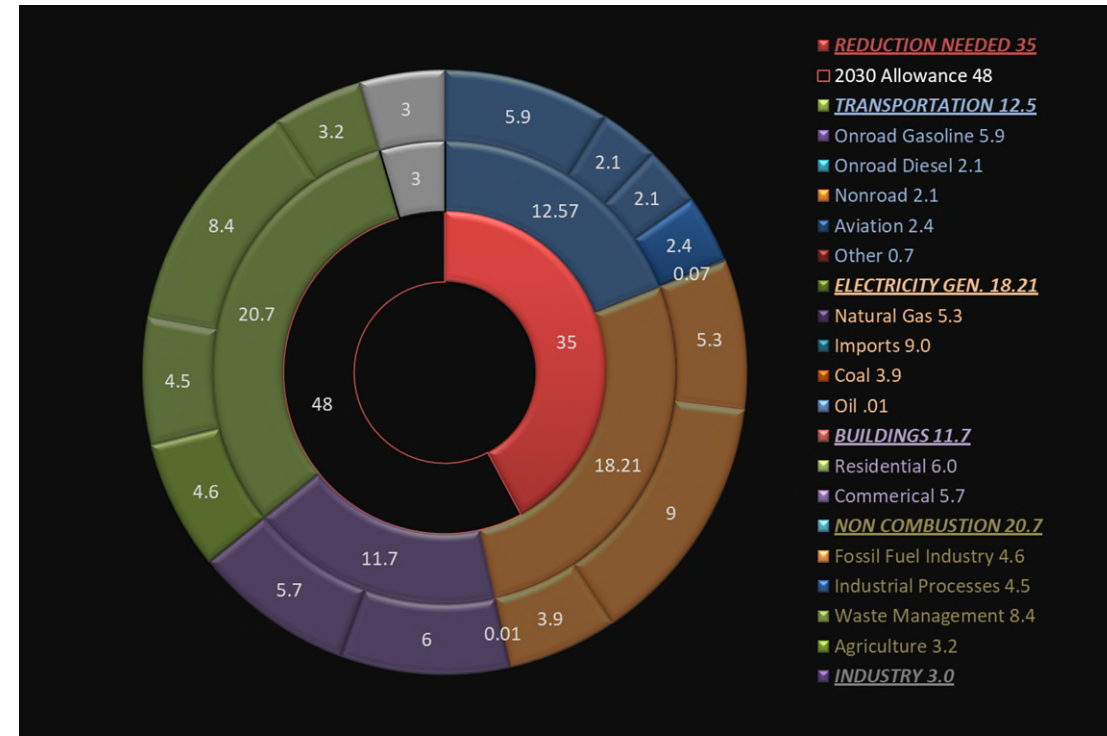


- The Department will establish an “alternative compliance fee” based on the extent that the emissions exceed the requirement.
- The fee cannot be less than the “social cost of carbon” established by the U.S. EPA.
- The social cost of carbon is a hypothetical rate representing the assumed harm to society from each ton of carbon dioxide equivalents released into the atmosphere.
- The calculated cost has varied based upon the politics of the administration in power and the status of scientific research. Suggestions have varied from \$1 (Trump Admin. to \$245 United Nations IPCC).
- The current EPA number is \$51 per ton. It will likely be raised to around \$120 a ton.
- One million BTUs of natural gas produces about 120 pounds of CO<sub>2</sub>.

# WAIT THERE IS MORE!

## THE ENERGY PERFORMANCE STANDARDS WILL NOT GET US TO THE 2030 GOAL.

A 20% reduction for covered buildings (with some exceptions) will not achieve a 60% reduction in greenhouse gases by 2030.



60% reduction by 2030  
Net Zero by 2045



# POSSIBLE FUTURE PROVISIONS



- Electric car charging:
  - Transportation produces a bigger share of greenhouse gas than buildings.
  - Currently, less than 1% of Maryland vehicles are all electric or plug-in hybrids (48,391 out of 5,228,965).
  - To achieve the required greenhouse gas reductions, the number of electric vehicles will need to increase by orders of magnitude.
  - Federal financial incentives are concentrated on charging stations along major transportation routes, but most charging will be at home or work.
  - New building codes are likely to require accommodations for home charging.
- Significant increases in renewable energy will be required and, to avoid stress on the electric grid, a significant portion of the new generation will need to be near the point of consumption.
  - New building codes are likely to require provisions for the installation of solar panels.

# GASOLINE CONSUMPTION IN MARYLAND

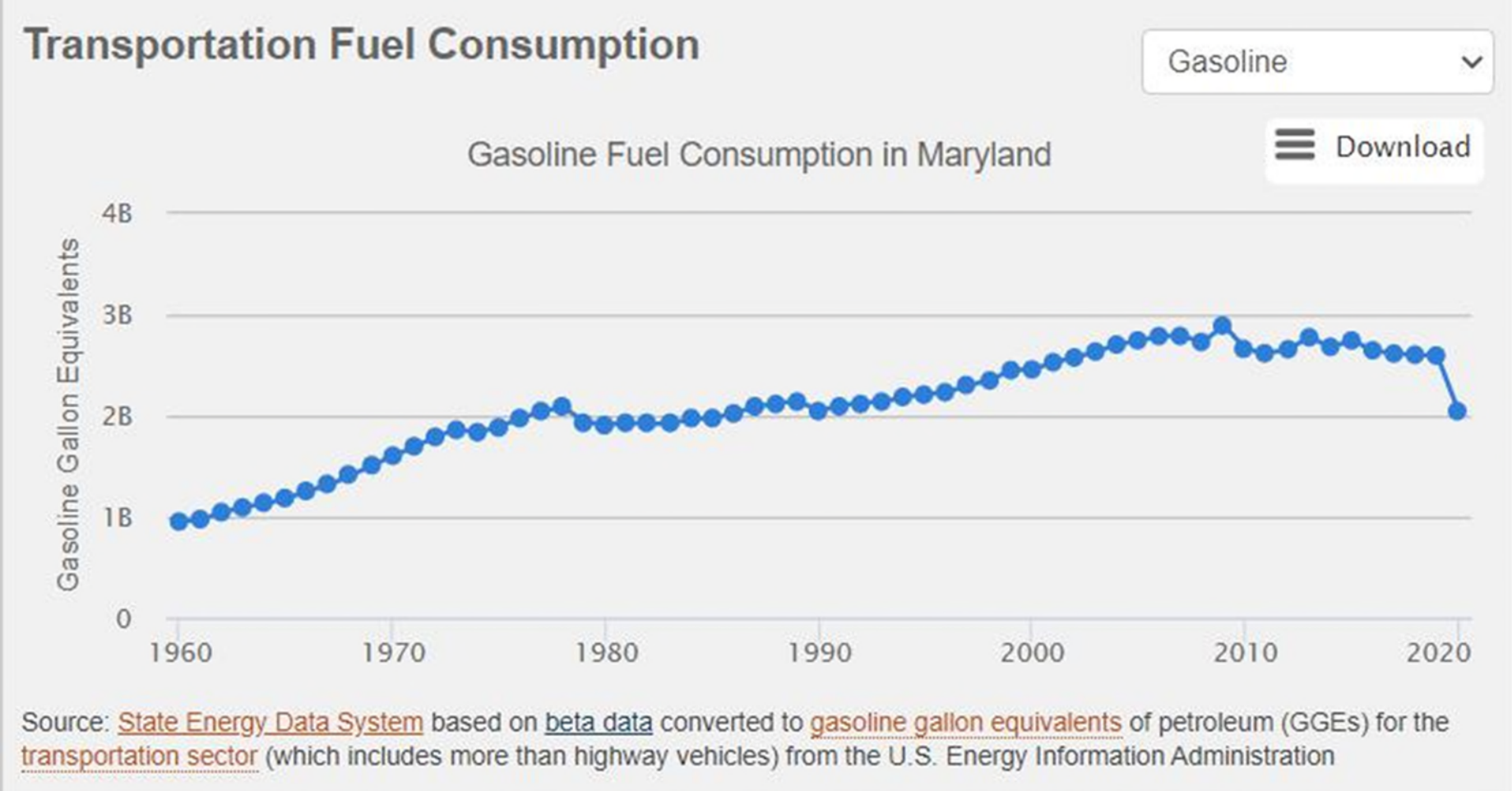


Image courtesy of Coltura, source: US Energy Information Agency

# QUESTIONS?

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