

**Title 26**  
**DEPARTMENT OF THE ENVIRONMENT**

**Subtitle 03 WATER SUPPLY, SEWERAGE, SOLID WASTE AND POLLUTION CONTROL  
PLANNING AND FUNDING**

**26.03.13 Bay Restoration Fund Implementation**

*Authority: Environment Article, §9-1605.2, Annotated Code of Maryland,*

*2015 Md. Laws Chapter 124 and 2015 Md. Laws Chapter 153*

**Notice of Proposed Action**

The Secretary of the Environment proposes to amend Regulations .04 under **COMAR 26.03.13 Bay Restoration Fund Implementation**.

**Statement of Purpose**

The purpose of this action is to amend the existing regulations based on the statutory changes to Environment Article, §9-1605.2, Annotated Code of Maryland, during the 2015 legislative session in Md. Laws Chapter 124 (SB0863) and 2015 Md. Laws Chapter 153 (SB133).

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

**I. Summary of Economic Impact.** The proposed amendment will provide funding to local government environmental health departments.

Revenue (R+/R-)

**II. Types of Economic Impact.**

Expenditure (E+/E-)

Magnitude

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A. On issuing agency:

NONE

B. On other State agencies:

NONE

C. On local governments: (R+) Up to 60 million/year

Benefit (+)  
Cost (-) Magnitude

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D. On regulated industries or trade groups: NONE

E. On other industries or trade groups: NONE

F. Direct and indirect effects on public: NONE

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

C: Up to \$60 million per year (after payment of revenue bond debt service) of the Bay Restoration Fund (wastewater ) fees deposited to the Department may be used to provide grants to local governments for the expanded uses authorized in statute.

**Economic Impact on Small Businesses**

The proposed action has no impact on Small Businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Jag Khuman, Director, Water Quality Financing Administration, 1800 Washington Boulevard, Baltimore, MD 21230, or call 410-537-3981, or email to Jag.Khuman@maryland.gov, or fax to 410-537-3968. Comments will be accepted through \_\_\_\_\_. A public hearing has not been scheduled.

TEXT IN ITALIC ARE NEW ADDITIONS

TEXT IN ~~XYZ~~ WITH STRIKE THROUGH ARE DELETIONS

.01 - .02 (text unchanged)

**.03 Wastewater Fund.**

A. Bay Restoration Fund fees deposited into the Wastewater Fund shall be used:

(1) – (3) (text unchanged)

*(4) Starting in FY 2016, to provide up to 87.5% project costs relating to combined sewer overflow abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations;*

*(5) To provide up to 100% project costs relating to implementation of a stormwater alternative compliance plan, undertaken by an organization exempt from taxation under IRS §501(C)(3) or §501(C)(4) or §501(C)(19) or §501(D), because it was required by a local government that has implemented a fee under §4-202.1, Annotated Code of Maryland;*

[(4)] (6) Starting in FY 2018, ~~for an annual fund transfer to the Onsite Sewage Disposal System Fund~~ additional funding to be used in accordance with Regulation .04 of this chapter for the upgrade of onsite sewage disposal systems and other eligible uses under Environment Article, §9-1605.2(h)(2)(i)1, Annotated Code of Maryland;

[(5)] (7) Starting in FY 2018, for up to 50 percent of the eligible cost of cost-effective and efficient stormwater projects undertaken by local governments who have implemented a system of charges ~~under Environment Article, §4-204, Annotated Code of Maryland~~. To be eligible for funding, the local governments shall have funds available to cover the balance of project costs;

[(6)] (8) To provide for the Department's reasonable operating expenses to administer the Bay Restoration Wastewater Fund not to exceed 1.5 percent of the fees deposited into the Wastewater Fund annually;

[(7)] (9) To provide for future upgrades of wastewater treatment plants to achieve additional nutrient removal or water quality improvements at ENR treatment levels or better;

[(8)] (10) To earn interest.

B. Project Prioritization.

(1) Before FY 2018, priority for funding ~~ENR upgrades~~ shall be:

(a) First for ENR upgrades at wastewater treatment plants with a design capacity of 500,000 gallons per day or more that discharge to the Chesapeake Bay;

(b) Second for the most cost-effective ENR upgrades at wastewater treatment plants with a design capacity of less than 500,000 gallons per day that discharge to the Chesapeake Bay;

(c) Third for ENR upgrades at wastewater treatment plants that discharge into the Atlantic Coastal Bay or other waters of the State;

(d) Fourth for future upgrades of wastewater treatment plants to achieve additional nutrient removal or water quality improvements at ENR treatment levels or better[.];

*(e) Fifth for projects relating to combined sewer overflow abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations.*

(2) Starting in FY 2018, priority for funding shall be:

(a) – (d) (text unchanged)

~~[(e) Fifth for nitrogen reduction of onsite sewage disposal systems in accordance with Regulation .04 of this chapter by transferring funds annually from the Wastewater Fund to the Onsite Sewage Disposal System Fund;~~

~~(f) Sixth for eligible stormwater projects by local governments who have implemented a system of charges under Environment Article, §4-204, Annotated Code of Maryland.]~~

*(e) Fifth for any of the following types of projects based on their project ranking in accordance with §C of this regulation:*

*(i) combined sewer overflow abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations;*

*(ii) nitrogen reduction of onsite sewage disposal systems in accordance with Regulation .04 of this chapter by transferring funds annually from the Wastewater Fund to the Onsite Sewage Disposal System Fund;*

*(iii) stormwater projects by local governments who have implemented a system of charges;*

*(iv) stormwater alternative compliance plan per Regulation .03A(5).*

C. Ranking System. The Department shall request for and accept applications for financial assistance annually and prepare a project priority list that ranks individual projects based on the following factors:

(1) (text unchanged)

(2) Cost-effectiveness in providing water quality *and public health* benefits;

(3) – (5) (text unchanged)

D. Funding Allocation. Each fiscal year, the total available grant funds, net of revenue needed for payment of debt service on outstanding bonds, operation and maintenance grants, and allowed operating expenses shall be allocated in priority order to construction ready projects in accordance with §§B and C of this regulation ~~], and as follows:~~

~~(1) Major wastewater treatment plants for ENR upgrade that discharge to the Chesapeake Bay;~~

~~(2) Minor wastewater treatment plants for ENR upgrade that discharge to the Chesapeake Bay;~~

~~(3) Other wastewater treatment plants for ENR upgrade that discharge to the Atlantic Coastal Bay or other waters of the State;~~

~~(4) Other wastewater treatment plants for future upgrades to achieve additional nutrient removal or water quality improvements at ENR treatment levels or better;~~

~~(5) Onsite Sewage Disposal System Fund for nitrogen reduction, starting in fiscal year 2018;~~

~~(6) Stormwater management, starting in fiscal year 2018].~~

.04 (text unchanged)