

SENATE BILL 320

Unofficial Copy  
M3

2004 Regular Session  
(4r1001)

**ENROLLED BILL**

-- Education, Health, and Environmental Affairs/Environmental Matters --

Introduced by **The President (By Request - Administration) and Senators  
Colburn, Haines, Hooper, Jacobs, Kittleman, Schrader, and Stoltzfus**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Water Pollution - State Waters - ~~The Chesapeake Bay Watershed and~~**  
3 **Atlantic Coastal Bays Bay Restoration Fund**

4 FOR the purpose of adding a certain alternative to requirements for nutrient  
5 management plans; altering requirements relating to filings concerning nutrient  
6 management plans; eliminating the requirement that a certain farm owner or  
7 operator grant the Department of Agriculture the right of entry for a certain  
8 purpose; altering the term and fee for the renewal of certain licenses and  
9 certificates; authorizing the Department of Agriculture to issue certain  
10 certificates for persons operating a farm under certain circumstances;  
11 authorizing the Department of Agriculture to procure the services of private  
12 certified nutrient management consultants to develop nutrient management  
13 plans; authorizing the Department of Agriculture to review certain plans and  
14 records under certain circumstances; providing for certain site visits under  
15 certain circumstances; establishing the ~~Chesapeake Bay Watershed and Atlantic~~  
16 ~~Coastal Bays Bay~~ Restoration Fund in the Department of the Environment;

1 declaring certain legislative intent related to the Fund; authorizing the  
 2 Maryland Water Quality Financing Administration of the Department of the  
 3 Environment to award certain grants and loans from the Fund; providing for the  
 4 money in the Fund to be used for grants and loans to upgrade the nutrient  
 5 removal technology at certain wastewater facilities to achieve enhanced  
 6 nutrient removal and for certain other uses, in accordance with certain criteria;  
 7 establishing an environmental surcharge certain Bay restoration fees to be paid  
 8 by users of wastewater facilities, onsite sewage disposal systems, and sewage  
 9 holding tanks, and providing for certain exemptions; providing for the collection  
 10 of the fees by certain collection authorities; authorizing the Comptroller to adopt  
 11 certain regulations; providing for the management of the Fund, including the  
 12 establishment from certain fee revenue of a separate account within the Fund to  
 13 be used for certain purposes; providing for the payment of certain  
 14 administrative costs; establishing a certain advisory committee, and providing  
 15 for certain terms, membership, and duties of the committee; requiring certain  
 16 reports the committee to report to certain persons by certain dates; requiring  
 17 the Department to adopt certain regulations; authorizing the Department to  
 18 adopt certain regulations relating to a certain surcharge; providing for the  
 19 payment of certain bond revenue to the Fund; defining certain terms; providing  
 20 for the staggering of the terms of certain members of the Advisory Committee;  
 21 requiring the Department to jointly report to certain legislative committees on or  
 22 before a certain date; providing for the staggering of the terms of certain  
 23 members of the Advisory Committee; and generally relating to the  
 24 establishment and management of the Chesapeake Bay Watershed and Atlantic  
 25 Coastal Bays Restoration Fund reduction of nutrient water pollution in waters of  
 26 the State, particularly the Chesapeake Bay and the Atlantic Coastal Bays.

27 BY repealing and reenacting, with amendments,

28 Article - Agriculture

29 Section 8-801.1, 8-803, 8-803.1, and 8-806

30 Annotated Code of Maryland

31 (1999 Replacement Volume and 2003 Supplement)

32 BY repealing and reenacting, with amendments,

33 Article - Environment

34 Section 9-1601, 9-1604, 9-1611, 9-1616, and 9-1617

35 Annotated Code of Maryland

36 (1996 Replacement Volume and 2003 Supplement)

37 BY adding to

38 Article - Environment

39 Section 9-1605.2

40 Annotated Code of Maryland

41 (1996 Replacement Volume and 2003 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 Article - Agriculture

4 8-801.1.

5 (a) (1) Each nutrient management plan shall be developed considering  
6 factors including:

7 (i) Levels of bioavailable nitrogen and phosphorus in the soil;

8 (ii) Levels of bioavailable nitrogen and phosphorus in all fertilizer  
9 materials to be applied;

10 (iii) The amount of nitrogen and phosphorus necessary to achieve the  
11 expected crop yield for the land that is the subject of the nutrient management plan, as  
12 determined by:

13 1. The field's actual yield record and soil productivity for that  
14 crop; or

15 2. If information concerning actual yield record and soil  
16 productivity for a crop is unavailable, relevant information concerning similar fields  
17 and soil;

18 (iv) Soil erodibility and nutrient retention capacity;

19 (v) 1. The best reasonable scientific methods accepted by the  
20 Department and the University of Maryland Cooperative Extension Service; OR

21 2. SCIENTIFICALLY VALIDATED DATA FOR THE  
22 DEVELOPMENT OF A NUTRIENT MANAGEMENT PLAN AS DEFINED BY THE  
23 DEPARTMENT IN REGULATION; and

24 (vi) Existing best management practices.

25 (2) Each nutrient management plan shall provide flexibility for  
26 management decisions that may be required by conditions beyond the control of the  
27 farmer.

28 (b) (1) [Each] A SUMMARY OF EACH nutrient management plan shall be  
29 filed AND UPDATED with the Department[.];

30 (i) When it is developed; and

31 (ii) Each time it is updated] AT A TIME AND IN A FORM THAT THE  
32 DEPARTMENT REQUIRES BY REGULATION.

1           (2)     [Submission of the plan shall include a grant by the property owner  
2 or operator to the Department of a right of entry on the property to evaluate compliance  
3 with the plan as long as the Department:

4           (i)     Enters the property in daylight hours at a reasonable time that  
5 allows the property owner or operator the opportunity to be present; and

6           (ii)    Conducts its evaluation in a manner that minimizes any  
7 inconvenience to the farmer.

8           (3)]    The Department shall maintain a copy of each [nutrient management  
9 plan] SUMMARY for 3 years in a manner that protects the identity of the individual for  
10 whom the nutrient management plan was prepared.

11 8-803.

12       (a)     To apply for certification as a nutrient management consultant, an  
13 applicant shall:

14           (1)     Submit to the Department an application on the form the Department  
15 requires; and

16           (2)     Pay to the Department the certification fee stated in § 8-806 of this  
17 subtitle.

18       (b)     The Department shall certify any individual who:

19           (1)     Meets the requirements of this subtitle;

20           (2)     Meets the Department's educational requirements, including a  
21 program on the proper application of nutrients;

22           (3)     Passes a Department approved examination; and

23           (4)     (i)     Is employed by a person licensed under this subtitle; or

24                   (ii)    Holds a license as required by this subtitle.

25       (c)     To apply for a license an applicant shall:

26           (1)     Submit to the Department an application on the form the Department  
27 requires; and

28           (2)     Pay to the Department the applicable license fee stated in § 8-806 of  
29 this subtitle.

30       (d)     The Department shall license a person who meets the requirements of this  
31 subtitle.

32       (e)     A certificate or license is issued for 1 year unless the certificate or license is  
33 renewed as provided by this subtitle.

1 (f) The Department shall renew the certificate or license of any applicant for  
 2 [an additional 1-year] A 3-YEAR term if the applicant:

3 (1) Submits a renewal application on the form that the Department  
 4 requires;

5 (2) Pays to the Department the applicable fee stated in § 8-806 of this  
 6 subtitle;

7 (3) Complies with applicable continuing education requirements;

8 (4) Complies with applicable record keeping and reporting requirements;  
 9 and

10 (5) Otherwise is entitled to be certified or licensed.

11 (G) (1) THE DEPARTMENT MAY ISSUE A FARM OPERATOR'S PLAN  
 12 DEVELOPMENT CERTIFICATE TO A PERSON OPERATING A FARM FOR THE  
 13 DEVELOPMENT OF THAT PERSON'S OWN NUTRIENT MANAGEMENT PLAN.

14 (2) THE CERTIFICATE IS VALID PROVIDED THE PERSON OPERATING THE  
 15 FARM:

16 (I) HAS PAID THE ONE-TIME FEE PROVIDED IN § 8-806 OF THIS  
 17 SUBTITLE;

18 (II) HAS PASSED AN EXAMINATION AS DETERMINED BY THE  
 19 DEPARTMENT;

20 (III) COMPLIES WITH APPLICABLE CONTINUING EDUCATION  
 21 REQUIREMENTS;

22 (IV) COMPLIES WITH APPLICABLE RECORD KEEPING AND  
 23 REPORTING REQUIREMENTS; AND

24 (V) OTHERWISE IS ENTITLED TO BE CERTIFIED.

25 8-803.1.

26 (a) In this section, "gross income" means the actual income that is received in a  
 27 calendar year that results directly from the farm or agricultural use of the land.

28 (b) This section does not apply to:

29 (1) An agricultural operation with less than \$2,500 in gross income; or

30 (2) A livestock operation with less than eight animal units defined as  
 31 1,000 pounds of live animal weight per animal unit.

32 (c) The Governor shall provide sufficient funding in each fiscal year's budget  
 33 to:

- 1           (1)     Assist in the development of nutrient management plans;
- 2           (2)     Meet the technical assistance and evaluation requirements of this  
3 section;
- 4           (3)     Meet the State's requirements for the implementation of the Manure  
5 Transportation Project under § 8-704.2 of this title; and
- 6           (4)     Provide State assistance under the Maryland Agricultural Water  
7 Quality Cost Share Program in the Department.
- 8       (d)     (1)     State cost sharing may be made available [to farmers] to help offset  
9 the costs of having a nutrient management plan prepared by a certified nutrient  
10 management consultant who is not employed by the federal, State, or a local  
11 government.
- 12           (2)     The Secretary of Agriculture shall adopt regulations authorizing the  
13 disbursement of State cost sharing funds under this subsection.
- 14           (3)     THE DEPARTMENT MAY PROCURE THE SERVICES OF A PRIVATE  
15 CERTIFIED NUTRIENT MANAGEMENT CONSULTANT TO DEVELOP NUTRIENT  
16 MANAGEMENT PLANS FOR PERSONS OPERATING A FARM.
- 17       (e)     (1)     By December 31, 2001, a person who, in operating a farm, uses  
18 chemical fertilizer, shall have a nutrient management plan for nitrogen and  
19 phosphorus that meets the requirements of this subtitle.
- 20           (2)     (i)     By December 31, 2001, a person who, in operating a farm, uses  
21 sludge or animal manure, shall have a nutrient management plan for nitrogen.
- 22                   (ii)     By July 1, 2004, a person who, in operating a farm, uses sludge  
23 or animal manure, shall have a nutrient management plan for nitrogen and  
24 phosphorus.
- 25       (f)     (1)     By December 31, 2002, a person who, in operating a farm, uses  
26 chemical fertilizer, shall comply with a nutrient management plan for nitrogen and  
27 phosphorus that meets the requirements of this subtitle.
- 28           (2)     (i)     By December 31, 2002, a person who, in operating a farm, uses  
29 sludge or animal manure, shall comply with a nutrient management plan for nitrogen  
30 that meets the requirements of this subtitle.
- 31                   (ii)     By July 1, 2005, a person who, in operating a farm, uses sludge  
32 or animal manure, shall comply with a nutrient management plan for nitrogen and  
33 phosphorus that meets the requirements of this subtitle.
- 34       (g)     A person may meet the requirements of subsection (e) of this section by  
35 requesting, at least 60 days before the applicable date set forth in subsection (e) of this  
36 section, the development of a nutrient management plan by a certified nutrient  
37 management consultant.

1       (h)     (1)     If a person violates the provisions of subsection (e) of this section, the  
2 Department shall notify the person that the person is in violation of the requirement to  
3 have a nutrient management plan.

4               (2)     After a reasonable period of time, if the person fails to have a nutrient  
5 management plan, the person is subject to an administrative penalty not to exceed  
6 \$250.

7       (i)     (1)     A person who violates any provision of subsection (f) of this section or  
8 of any rule, regulation, or order adopted or issued under this section is subject to:

9               (i)     For a first violation, a warning; and

10              (ii)    For a second or subsequent violation, after an opportunity for a  
11 hearing which may be waived in writing by the person accused of a violation, an  
12 administrative penalty that may be imposed by the Department of Agriculture.

13              (2)     The penalty imposed on a person under paragraph (1)(ii) of this  
14 subsection shall be:

15              (i)     Up to \$100 for each violation, but not exceeding \$2,000 per  
16 farmer or operator per year; and

17              (ii)    Assessed with consideration given to:

18                      1.     The willfulness of the violation, the extent to which the  
19 existence of the violation was known to but uncorrected by the violator, and the extent  
20 to which the violator exercised reasonable care;

21                      2.     Any actual harm to the environment or to human health;

22                      3.     The available technology and economic reasonableness of  
23 controlling, reducing, or eliminating the violation; and

24                      4.     The extent to which the current violation is part of a  
25 recurrent pattern of the same or similar type of violation committed by the violator.

26              (3)     (i)     Except as provided in subparagraph (ii) of this paragraph, each  
27 day a violation occurs is a separate violation under this subsection.

28              (ii)    Daily penalties do not continue to accrue as long as the farmer  
29 takes reasonable steps to correct the violation.

30              (4)     Any penalty imposed under this subsection is payable to the Maryland  
31 Agricultural Water Quality Cost Share Program within the Department.

32       (j)     If a person violates any provision of this section, the Department may:

33              (1)     Require repayment of cost share funds under Subtitle 7 of this title for  
34 the project that is in violation; or

1 (2) Deny or restrict future cost share payments under Subtitle 7 of this  
 2 title.

3 (k) (1) The Department shall determine compliance with the provisions of  
 4 this section.

5 (2) THE DEPARTMENT MAY REVIEW THE NUTRIENT MANAGEMENT  
 6 PLAN AND RECORDS RELATING TO THE PLAN AT A LOCATION AGREED TO BY THE  
 7 DEPARTMENT AND THE PERSON OPERATING THE FARM.

8 (3) IN CONDUCTING A SITE VISIT AND REVIEWING THE NUTRIENT  
 9 MANAGEMENT PLAN AND RELATED RECORDS, THE DEPARTMENT'S EVALUATION  
 10 SHALL BE LIMITED SOLELY TO DETERMINING WHETHER THE PERSON OPERATING  
 11 THE FARM IS IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION AND THE  
 12 REGULATIONS IMPLEMENTING THIS SECTION.

13 (4) IN CONDUCTING A SITE VISIT, THE DEPARTMENT SHALL:

14 (I) PROVIDE THE PERSON OPERATING THE FARM AT LEAST 48  
 15 HOURS ADVANCE NOTICE;

16 (II) ENTER THE PROPERTY AT A REASONABLE TIME THAT ALLOWS  
 17 THE PERSON OPERATING THE FARM TO BE PRESENT; AND

18 (III) CONDUCT THE EVALUATION IN A MANNER THAT MINIMIZES  
 19 ANY INCONVENIENCE TO THE PERSON OPERATING THE FARM.

20 (5) IF A PERSON OPERATING A FARM FAILS TO COOPERATE WITH THE  
 21 DEPARTMENT'S REQUEST TO CONDUCT A SITE VISIT AND REVIEW OF A NUTRIENT  
 22 MANAGEMENT PLAN AND RECORDS RELATING TO THE PLAN, THAT PERSON IS  
 23 SUBJECT TO SUBSECTIONS (I) AND (J) OF THIS SECTION.

24 8-806.

25 (a) Except for a government agency, the Department shall charge the following  
 26 fees under this subtitle:

27 (1) Certificate (nutrient management consultant) ..... \$50;

28 (2) License (individual or sole proprietorship) ..... \$50;

29 (3) License (corporation or partnership) ..... \$100; [and]

30 (4) Renewal..... [\$50] \$150; AND

31 (5) CERTIFICATE (FARM OPERATOR'S PLAN DEVELOPMENT) ..... \$20.

32 (b) The Department shall charge an applicant for the full cost of any training  
 33 provided by the Department under this subtitle.



1 (c) All moneys collected under this subtitle shall be deposited in the General  
 2 Fund of the State.

3 **Article - Environment**

4 9-1601.

5 (a) Unless the context clearly requires otherwise, in this subtitle the following  
 6 words have the meanings indicated.

7 (b) "Administration" means the Maryland Water Quality Financing  
 8 Administration.

9 (C) "BAY RESTORATION FUND" MEANS THE CHESAPEAKE AND ATLANTIC  
 10 COASTAL BAYS BAY RESTORATION FUND ESTABLISHED UNDER § 9-1605.2 OF THIS  
 11 SUBTITLE.

12 (D) "BIOLOGICAL NUTRIENT REMOVAL" MEANS A BIOLOGICAL NUTRIENT  
 13 REMOVAL TECHNOLOGY CAPABLE OF REDUCING THE NITROGEN IN WASTEWATER  
 14 EFFLUENT TO NOT MORE THAN 8 MILLIGRAMS PER LITER, AS CALCULATED ON AN  
 15 ANNUALLY AVERAGED BASIS.

16 [(c)] ~~(D)~~ (E) "Board" means the Board of Public Works.

17 [(d)] ~~(E)~~ (F) "Bond" means a bond, note, or other evidence of obligation of the  
 18 Administration issued under this subtitle, including a bond or revenue anticipation  
 19 note, notes in the nature of commercial paper, and refunding bonds.

20 [(e)] ~~(F)~~ (G) "Bond resolution" means the resolution or resolutions of the  
 21 Director, including the trust agreement, if any, authorizing the issuance of and  
 22 providing for the terms and conditions applicable to bonds.

23 [(f)] ~~(G)~~ (H) "Borrower" means a local government or a person as defined in  
 24 § 1-101(h) of this article who has received a loan.

25 [(g)] ~~(H)~~ (I) "Director" means the Director of the Administration.

26 [(h)] ~~(I)~~ (J) "Drinking Water Loan Fund" means the Maryland Drinking  
 27 Water Revolving Loan Fund.

28 ~~(J)~~ (K) "ELIGIBLE COSTS" MEANS THOSE THE COSTS IDENTIFIED IN §  
 29 9-1605.2(E) UNDER § 9-1605.2(I) OF THIS SUBTITLE.

30 ~~(K)~~ (L) "ENHANCED NUTRIENT REMOVAL" MEANS:

31 (1) AN ENHANCED NUTRIENT REMOVAL TECHNOLOGY THAT IS  
 32 CAPABLE OF REDUCING THE NITROGEN AND PHOSPHORUS CONCENTRATIONS IN  
 33 WASTEWATER EFFLUENT TO CONCENTRATIONS OF NOT MORE THAN 4 3 MILLIGRAMS  
 34 PER LITER TOTAL NITROGEN AND NOT MORE THAN 0.3 MILLIGRAMS PER LITER  
 35 TOTAL PHOSPHORUS, AS CALCULATED ON AN ANNUALLY AVERAGED BASIS; OR

1 (2) IF THE DEPARTMENT HAS DETERMINED THAT THE  
 2 CONCENTRATIONS UNDER ITEM (1) OF THIS SUBSECTION ARE NOT PRACTICABLE  
 3 FOR A WASTEWATER FACILITY, THE LOWEST AVERAGE ANNUAL WASTEWATER  
 4 EFFLUENT NITROGEN AND PHOSPHORUS CONCENTRATIONS THAT THE  
 5 DEPARTMENT DETERMINES ARE PRACTICABLE FOR THAT FACILITY.

6 ~~(L)~~ (M) "EQUIVALENT DWELLING UNIT" MEANS A MEASURE OF  
 7 WASTEWATER EFFLUENT WHERE ONE UNIT IS EQUIVALENT TO:

8 (1) ~~AN AVERAGE OF 250 GALLONS OF WASTEWATER EFFLUENT PER DAY.~~  
 9 ~~THIS AVERAGE SHALL BE DETERMINED BY THE LOCAL GOVERNMENT OR BILLING~~  
 10 ~~AUTHORITY FOR A WASTEWATER FACILITY FOR THE CALENDAR QUARTER OR~~  
 11 ~~BILLING CYCLE OF THE WASTEWATER FACILITY; OR~~

12 ~~(2)~~ (2) IF A LOCAL GOVERNMENT OR BILLING AUTHORITY FOR A  
 13 WASTEWATER FACILITY HAS ESTABLISHED A DEFINITION FOR "EQUIVALENT  
 14 DWELLING UNIT" ON OR BEFORE JANUARY 1, 2004, THE TOTAL AVERAGE DAILY FLOW  
 15 OF WASTEWATER EFFLUENT THAT THE LOCAL GOVERNMENT OR BILLING  
 16 AUTHORITY FOR A WASTEWATER FACILITY DETERMINES HAS ESTABLISHED TO BE  
 17 EQUIVALENT TO THE AVERAGE DAILY FLOW OF WASTEWATER EFFLUENT  
 18 DISCHARGED BY A RESIDENTIAL DWELLING, AND WHICH MAY NOT EXCEED 250  
 19 GALLONS; OR

20 (2) IF A LOCAL GOVERNMENT OR BILLING AUTHORITY HAS NOT  
 21 ESTABLISHED A DEFINITION FOR "EQUIVALENT DWELLING UNIT" ON OR BEFORE  
 22 JANUARY 1, 2004, OR IF A LOCAL GOVERNMENT OR BILLING AUTHORITY HAS  
 23 ESTABLISHED A DEFINITION THAT EXCEEDS 250 GALLONS OF WASTEWATER  
 24 EFFLUENT PER DAY, AN AVERAGE DAILY FLOW OF 250 GALLONS OF WASTEWATER  
 25 EFFLUENT.

26 [(i)] ~~(M)~~ (N) "Facility" means a wastewater facility or all or a portion of a  
 27 water supply system as defined in § 9-201(u) of this article.

28 [(j)] ~~(N)~~ (O) "Federal Safe Drinking Water Act" means Title XIV of the  
 29 Public Health Service Act, P.L. 93-523, as amended, 42 U.S.C. § 300f, et seq., and the  
 30 rules and regulations promulgated thereunder.

31 [(k)] ~~(O)~~ (P) "Federal Water Pollution Control Act" means the Water  
 32 Pollution Control Act of 1972, P.L. 92-500, as amended, 33 U.S.C. § 1251, et seq., and  
 33 rules and regulations promulgated thereunder.

34 [(l)] ~~(P)~~ (Q) "Fund" means a fund established by this subtitle, including the  
 35 Water Quality Fund, the Drinking Water Loan Fund, AND THE ~~WATERSHED BAY~~  
 36 RESTORATION FUND.

37 ~~(Q)~~ (R) "GRANT" MEANS A GRANT FROM THE ADMINISTRATION TO A  
 38 GRANTEE.

39 ~~(R)~~ (S) "GRANT AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN  
 40 THE ADMINISTRATION AND A GRANTEE WITH RESPECT TO A GRANT.

1     ~~(S)~~     (T)     "GRANTEE" MEANS THE GRANT RECIPIENT.

2     [(m)]     ~~(F)~~     (U)     "Lender" has the meaning stated in § 9-1606.1 of this subtitle.

3     [(n)]     ~~(U)~~     (V)     "Linked deposit" has the meaning stated in § 9-1606.1 of this  
4 subtitle.

5     [(o)]     ~~(V)~~     (W)     "Linked deposit loan" has the meaning stated in § 9-1606.1 of  
6 this subtitle.

7     [(p)]     ~~(W)~~     (X)     "Linked deposit program" has the meaning stated in § 9-1606.1  
8 of this subtitle.

9     ~~[(q)]~~     ~~(X)~~     ~~"Local government" means a county, municipal corporation, sanitary~~  
10 ~~district, or other State or local public entity which has authority to own or operate a~~  
11 ~~facility, and includes any combination of 2 or more of the foregoing, acting jointly to~~  
12 ~~construct or operate a facility.~~

13     [(r)]     (Y)     "Loan" means a loan from the Administration to a borrower for the  
14 purpose of financing all or a portion of the cost of a wastewater facility, if the loan is  
15 from the Water Quality Fund, or water supply system, if the loan is from the  
16 Drinking Water Loan Fund.

17     [(s)]     (Z)     "Loan agreement" means a written agreement between the  
18 Administration and a borrower with respect to a loan.

19     [(t)]     (AA)     "Loan obligation" means a bond, note, or other evidence of obligation,  
20 including a mortgage, deed of trust, lien, or other security instrument, issued or  
21 executed by a borrower to evidence its indebtedness under a loan agreement with  
22 respect to a loan.

23     (BB)     (1)     "LOCAL GOVERNMENT" MEANS A COUNTY, MUNICIPAL  
24 CORPORATION, SANITARY DISTRICT, OR OTHER STATE OR LOCAL PUBLIC ENTITY  
25 WHICH HAS AUTHORITY TO OWN OR OPERATE A FACILITY.

26             (2)     "LOCAL GOVERNMENT" INCLUDES ANY COMBINATION OF TWO OR  
27 MORE OF THE PUBLIC ENTITIES UNDER PARAGRAPH (1) OF THIS SUBSECTION WHEN  
28 ACTING JOINTLY TO CONSTRUCT OR OPERATE A FACILITY.

29     (CC)     (1)     ~~"PERSON" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP,~~  
30 ~~ASSOCIATION, THE STATE, A COUNTY, MUNICIPAL CORPORATION, COMMISSION, OR~~  
31 ~~OTHER POLITICAL SUBDIVISION OF THE STATE, AND ANY OF THEIR UNITS UNIT OF~~  
32 ~~THE STATE, COMMISSION, SPECIAL TAXING DISTRICT, OR THE FEDERAL~~  
33 ~~GOVERNMENT.~~

34             (2)     "PERSON" DOES NOT INCLUDE A COUNTY, MUNICIPAL  
35 CORPORATION, BI-COUNTY OR MULTI-COUNTY AGENCY UNDER ARTICLE 28 OR 29 OF  
36 THE CODE, HOUSING AUTHORITY UNDER ARTICLE 44A OF THE CODE, SCHOOL  
37 BOARD, COMMUNITY COLLEGE, OR ANY OTHER UNIT OF A COUNTY OR MUNICIPAL  
38 CORPORATION.

1 ~~(BB)~~ (DD) (1) "RESIDENTIAL DWELLING" MEANS A ROOM OR GROUP OF  
 2 ROOMS OCCUPIED AS LIVING QUARTERS BY AN INDIVIDUAL, A SINGLE FAMILY, OR  
 3 OTHER DISCRETE GROUP OF PERSONS WITH FACILITIES THAT ARE USED OR  
 4 INTENDED TO BE USED FOR LIVING, SLEEPING, COOKING, SANITATION, AND EATING,  
 5 INCLUDING AN APARTMENT UNIT, CONDOMINIUM UNIT, COOPERATIVE UNIT, TOWN  
 6 HOUSE UNIT, MOBILE HOME, OR HOUSE.

7 (2) "RESIDENTIAL DWELLING" DOES NOT INCLUDE A HOSPITAL, HOTEL,  
 8 MOTEL, INN, BOARDING HOUSE, ~~CONVENT, MONASTERY,~~ CLUB, DORMITORY, SCHOOL,  
 9 COLLEGE, OR SIMILAR SEASONAL, INSTITUTIONAL, OR TRANSIENT FACILITY.

10 (EE) "SINGLE SITE" MEANS A DISCRETE GROUPING OF BUILDINGS OR  
 11 STRUCTURES THAT ARE LOCATED ON CONTIGUOUS OR ADJACENT PROPERTY AND  
 12 OWNED BY THE SAME USER.

13 ~~(CC)~~ (FF) (1) "USER" MEANS ANY PERSON DISCHARGING WASTEWATER TO:

14 (I) A WASTEWATER FACILITY THAT HAS A STATE DISCHARGE  
 15 PERMIT OR NATIONAL POLLUTION POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 16 DISCHARGE PERMIT;

17 (II) AN ONSITE SEWAGE DISPOSAL SYSTEM; OR

18 (III) A SEWAGE HOLDING TANK.

19 (2) "USER" DOES NOT INCLUDE A PERSON WHOSE SOLE DISCHARGE IS  
 20 STORMWATER UNDER A STORMWATER PERMIT.

21 [(u)] ~~(DD)~~ (GG) "Wastewater Facility" means any equipment, plant, treatment  
 22 works, structure, machinery, apparatus, interest in land, or any combination of these,  
 23 which is acquired, used, constructed, or operated for the storage, collection,  
 24 treatment, neutralization, stabilization, reduction, recycling, reclamation, separation,  
 25 or disposal of wastewater, or for the final disposal of residues resulting from the  
 26 treatment of wastewater, including: treatment or disposal plants; outfall sewers,  
 27 interceptor sewers, and collector sewers; pumping and ventilating stations, facilities,  
 28 and works; programs and projects for controlling nonpoint sources of water pollution  
 29 and for estuarine conservation and management; and other real or personal property  
 30 and appurtenances incident to their development, use, or operation.

31 [(v)] ~~(EE)~~ (HH) "Water Quality Fund" means the Maryland Water Quality  
 32 Revolving Loan Fund.

33 [(w)] ~~(FF)~~ (II) "Water supply system" has the meaning stated in § 9-201(u) of  
 34 this title.

35 ~~(GG) "WATERSHED RESTORATION FUND" MEANS THE CHESAPEAKE BAY~~  
 36 ~~WATERSHED RESTORATION FUND.~~

1 9-1604.

2 In addition to the powers set forth elsewhere in this subtitle, but subject to such  
3 rules or program directives as the Secretary may from time to time prescribe, the  
4 Administration may:

5 (1) Adopt and alter an official seal;

6 (2) Sue and be sued, plead, and be impleaded;

7 (3) Adopt bylaws, rules, and regulations to carry out the provisions of  
8 this subtitle;

9 (4) Maintain an office at such place as the Secretary may designate;

10 (5) Employ consultants, accountants, attorneys, financial experts, and  
11 other personnel and agents as may be necessary in its judgment, and fix their  
12 compensation;

13 (6) Establish regulations, criteria, or guidelines with respect to loans,  
14 loan agreements, loan obligations, GRANTS, GRANT AGREEMENTS, AND GRANT  
15 OBLIGATIONS;

16 (7) Receive and accept from any source, private or public, contributions,  
17 grants, or gifts of money or property;

18 (8) Enter into contracts of any kind, and execute all instruments  
19 necessary or convenient with respect to carrying out the powers in this subtitle to  
20 accomplish the purposes of the Administration;

21 (9) Make loans, enter into loan agreements, and accept and enforce loan  
22 obligations;

23 (10) AWARD GRANTS, ENTER INTO GRANT AGREEMENTS, AND ACCEPT  
24 AND ENFORCE GRANT OBLIGATIONS;

25 [(10)] (11) Subject to the prior approval of the Board and the Secretary,  
26 issue bonds under this subtitle; and

27 [(11)] (12) Do all acts and things necessary or convenient to carry out the  
28 powers granted by this subtitle.

29 9-1605.2.

30 (A) (1) ~~THERE IS A CHESAPEAKE BAY WATERSHED AND ATLANTIC COASTAL~~  
31 ~~BAYS BAY RESTORATION FUND.~~

32 (2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE BAY  
33 RESTORATION FUND BE:

1 (I) USED, IN PART, TO PROVIDE THE FUNDING NECESSARY TO  
 2 UPGRADE ANY OF THE WASTEWATER TREATMENT FACILITIES THAT ARE LOCATED IN  
 3 THE STATE OR USED BY CITIZENS OF THE STATE IN ORDER TO ACHIEVE ENHANCED  
 4 NUTRIENT REMOVAL WHERE IT IS COST-EFFECTIVE TO DO SO; AND

5 (II) AVAILABLE FOR TREATMENT FACILITIES DISCHARGING INTO  
 6 THE ATLANTIC COASTAL BAYS OR OTHER WATERS OF THE STATE, BUT THAT  
 7 PRIORITY BE GIVEN TO TREATMENT FACILITIES DISCHARGING INTO THE  
 8 CHESAPEAKE BAY.

9 (3) THE ~~WATERSHED BAY~~ RESTORATION FUND SHALL BE MAINTAINED  
 10 AND ADMINISTERED BY THE ADMINISTRATION IN ACCORDANCE WITH THE  
 11 PROVISIONS OF THIS ~~SUBTITLE~~ SECTION AND ANY RULES OR PROGRAM DIRECTIVES  
 12 AS THE SECRETARY OR THE BOARD MAY PRESCRIBE.

13 (3) (4) ~~FOR THE PURPOSES OF THIS SUBTITLE,~~ THERE IS  
 14 ESTABLISHED AN ENVIRONMENTAL SURCHARGE ~~A BAY RESTORATION FEE~~ TO BE  
 15 PAID BY ANY USER OF A WASTEWATER FACILITY, AN ONSITE SEWAGE DISPOSAL  
 16 SYSTEM, OR A HOLDING TANK THAT:

17 (I) IS LOCATED IN THE STATE AS FOLLOWS; OR

18 (II) SERVES A MARYLAND USER AND IS ELIGIBLE FOR FUNDING  
 19 UNDER THIS SUBTITLE.

20 (B) (1) THE BAY RESTORATION FEE IS:

21 (I) ~~BEGINNING JANUARY 1, 2005,~~ FOR EACH RESIDENTIAL  
 22 DWELLING THAT RECEIVES AN INDIVIDUAL SEWER BILL AND EACH USER OF AN  
 23 ONSITE SEWAGE DISPOSAL SYSTEM OR A HOLDING TANK THAT RECEIVES A WATER  
 24 BILL, ~~THE ENVIRONMENTAL SURCHARGE SHALL BE~~ \$2.50 PER MONTH.;

25 (II) ~~BEGINNING JULY OCTOBER 1, 2005,~~ FOR EACH USER OF AN  
 26 ONSITE SEWAGE DISPOSAL SYSTEM, ~~\$2.50 PER MONTH THAT DOES NOT RECEIVE A~~  
 27 WATER BILL, \$30 PER YEAR;

28 (III) ~~BEGINNING JULY OCTOBER 1, 2005,~~ FOR EACH USER OF A  
 29 SEWAGE HOLDING TANK, ~~\$2.50 PER MONTH THAT DOES NOT RECEIVE A WATER BILL,~~  
 30 \$30 PER YEAR; AND

31 (IV) ~~BEGINNING JANUARY 1, 2005,~~ FOR A BUILDING OR GROUP OF  
 32 BUILDINGS UNDER SINGLE OWNERSHIP OR MANAGEMENT THAT RECEIVES A SEWER  
 33 BILL AND THAT CONTAINS MULTIPLE RESIDENTIAL DWELLINGS THAT DO NOT  
 34 RECEIVE AN INDIVIDUAL SEWER BILL OR FOR A NONRESIDENTIAL USER WITH AN  
 35 AVERAGE OF 8,000 EQUIVALENT DWELLING UNITS OR LESS, ~~THE ENVIRONMENTAL~~  
 36 SURCHARGE SHALL BE:

37 1. FOR EACH EQUIVALENT DWELLING UNIT NOT EXCEEDING  
 38 ~~2,000~~ 3,000 EQUIVALENT DWELLING UNITS, \$2.50 PER MONTH ~~FOR EACH EQUIVALENT~~  
 39 DWELLING UNIT; AND



1 FACILITY SHALL USE EXISTING MEASURING METHODS METHODS OF  
 2 MEASUREMENT, WHICH MAY INCLUDE WATER USAGE OR OTHER ESTIMATION  
 3 METHODS.

4 (II) THE AVERAGING PERIOD IS:

5 1. THE BILLING PERIOD ESTABLISHED BY THE LOCAL  
 6 GOVERNMENT OR BILLING AUTHORITY; OR

7 2. IF A BILLING PERIOD IS NOT ESTABLISHED BY THE LOCAL  
 8 GOVERNMENT OR BILLING AUTHORITY, A QUARTER OF A CALENDAR YEAR.

9 (IV) (C) A NONRESIDENTIAL USER OF A WASTEWATER FACILITY IS  
 10 EXEMPT FROM PAYING THE SURCHARGE RESTORATION FEE IF:

11 ~~+~~ (1) (I) 1. THE USER'S WASTEWATER FACILITY'S  
 12 AVERAGE ANNUAL EFFLUENT NITROGEN AND PHOSPHORUS CONCENTRATIONS, AS  
 13 REPORTED IN THE FACILITY'S STATE DISCHARGE MONITORING REPORTS FOR THE  
 14 PREVIOUS CALENDAR YEAR, HAVE NOT EXCEEDED 3 MILLIGRAMS PER LITER TOTAL  
 15 NITROGEN AND 0.3 MILLIGRAMS PER LITER TOTAL PHOSPHORUS; AND  
 16 DEMONSTRATE THAT THE FACILITY IS ACHIEVING ENHANCED NUTRIENT REMOVAL,  
 17 AS DEFINED UNDER § 9-1601(L) OF THIS SUBTITLE; OR

18 2. THE DEPARTMENT HAS DETERMINED THAT THE  
 19 WASTEWATER FACILITY DOES NOT DISCHARGE NITROGEN OR PHOSPHORUS AND IS  
 20 NOT REQUIRED TO MONITOR FOR NITROGEN OR PHOSPHORUS IN ITS DISCHARGE  
 21 PERMIT; AND

22 2. (II) ~~THE OWNER OF THE THE USER'S WASTEWATER~~  
 23 FACILITY HAS NOT RECEIVED A STATE OR FEDERAL GRANT FOR BIOLOGICAL  
 24 NUTRIENT REMOVAL OR ENHANCED NUTRIENT REMOVAL FOR THAT FACILITY;:

25 (2) (I) THE USER'S WASTEWATER FACILITY DISCHARGES TO  
 26 GROUNDWATER AND THE ANNUAL AVERAGE NUTRIENT CONCENTRATIONS IN THE  
 27 WASTEWATER PRIOR TO DISCHARGE TO GROUNDWATER HAVE NOT EXCEEDED 3  
 28 MILLIGRAMS PER LITER TOTAL NITROGEN AND 0.3 MILLIGRAMS PER LITER TOTAL  
 29 PHOSPHORUS, AS DEMONSTRATED BY ANALYSIS OF THE GROUNDWATER FROM  
 30 MONITORING WELLS LOCATED ON THE PROPERTY AND AS REPORTED IN DISCHARGE  
 31 MONITORING REPORTS FOR THE PREVIOUS CALENDAR YEAR; AND

32 (II) THE USER'S WASTEWATER FACILITY HAS NOT RECEIVED A  
 33 FEDERAL OR STATE GRANT FOR THAT FACILITY; OR

34 (3) THE DEPARTMENT DETERMINES THAT:

35 (I) THE USER'S WASTEWATER FACILITY DISCHARGES  
 36 NONCONTACT COOLING WATER, WATER FROM DEWATERING OPERATIONS, OR  
 37 RECLAIMED WASTEWATER FROM A FACILITY WHOSE USERS PAY IN TO THE FUND;  
 38 AND



1 (II) THE DISCHARGE DOES NOT RESULT IN A NET INCREASE IN  
2 LOADING OF NUTRIENTS COMPARED TO THE INTAKE WATER.

3 ~~(V) (D) (1)~~ SUBJECT TO THE APPROVAL OF THE  
4 ADMINISTRATION, A LOCAL GOVERNMENT OR A BILLING AUTHORITY FOR A WATER  
5 OR WASTEWATER FACILITY MAY ESTABLISH A PROGRAM TO EXEMPT FROM THE  
6 REQUIREMENTS OF THIS SECTION A RESIDENTIAL DWELLING ABLE TO  
7 DEMONSTRATE SUBSTANTIAL FINANCIAL HARDSHIP AS A RESULT OF THE  
8 SURCHARGE RESTORATION FEE.

9 ~~(VI) 1. THE SURCHARGE MAY BE ADJUSTED FOR FISCAL YEAR~~  
10 ~~2008 AND SUBSEQUENT YEARS IN ACCORDANCE WITH REGULATIONS ADOPTED~~  
11 ~~UNDER SUBSECTION (G) OF THIS TITLE.~~

12 ~~2. ANY ADJUSTMENT TO THE AMOUNT OF THE SURCHARGE~~  
13 ~~SHALL BE MADE SUBJECT TO AND IN COMPLIANCE WITH THE REQUIREMENTS OF~~  
14 ~~ANY APPLICABLE BOND RESOLUTION.~~

15 ~~(VII) 1. (2) (I) THE SURCHARGE EXCEPT AS PROVIDED IN~~  
16 ~~SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE BAY RESTORATION FEE SHALL BE~~  
17 ~~COLLECTED BY THE WASTEWATER FACILITY LOCAL GOVERNMENT OR THE BILLING~~  
18 ~~AUTHORITY FOR THE WATER OR WASTEWATER FACILITY, AS APPROPRIATE, ON~~  
19 ~~BEHALF OF THE STATE.~~

20 (II) FOR A WASTEWATER FACILITY WITHOUT A BILLING  
21 AUTHORITY, THE COMPTROLLER MAY COLLECT THE RESTORATION FEE FROM THE  
22 FACILITY OWNER.

23 (3) A LOCAL GOVERNMENT, BILLING AUTHORITY FOR A WATER OR  
24 WASTEWATER FACILITY, OR ANY OTHER AUTHORIZED COLLECTING AGENCY:

25 (I) MAY USE ALL OF ITS EXISTING PROCEDURES AND AUTHORITY  
26 FOR COLLECTING A WATER AND OR SEWER BILL, AN ONSITE SEWAGE DISPOSAL  
27 SYSTEM BILL, OR A HOLDING TANK BILL IN ORDER TO ENFORCE THE COLLECTION  
28 OF THE BAY RESTORATION FEE; AND

29 (II) SHALL ESTABLISH A SEGREGATED ACCOUNT FOR THE DEPOSIT  
30 OF FUNDS COLLECTED UNDER THIS SECTION.

31 ~~2. THE BILLING AUTHORITY FOR THE WASTEWATER~~  
32 ~~FACILITY SHALL ADD THE FULL AMOUNT OF THE SURCHARGE TO EACH CUSTOMER'S~~  
33 ~~BILL AND SHALL ESTABLISH A SEGREGATED ACCOUNT FOR THE DEPOSIT OF FUNDS~~  
34 ~~COLLECTED UNDER THIS SUBTITLE.~~

35 ~~3. A. THE ADMINISTRATION SHALL DETERMINE THE~~  
36 ~~METHOD OF COLLECTION OF THE SURCHARGE FROM THE WASTEWATER FACILITY.~~

37 ~~B. THE COLLECTIONS SHALL ACCRUE TO THE FUND.~~

1                   ~~(VIII) FOR A WASTEWATER FACILITY WITHOUT A BILLING~~  
2 ~~AUTHORITY, THE ADMINISTRATION MAY COLLECT THE SURCHARGE FROM THE~~  
3 ~~FACILITY OWNER.~~

4           (E)     (1)     ~~THE WASTEWATER FACILITY A LOCAL GOVERNMENT, THE BILLING~~  
5 ~~AUTHORITY FOR THE A WATER OR WASTEWATER FACILITY, OR ANY OTHER~~  
6 ~~AUTHORIZED COLLECTING AGENCY SHALL COMPLETE AND SUBMIT, UNDER OATH, A~~  
7 ~~RETURN AND REMIT THE RESTORATION FEES COLLECTED TO THE COMPTROLLER;~~

8                   (I)     ON OR BEFORE THE 20TH DAY OF THE MONTH THAT FOLLOWS  
9 THE CALENDAR QUARTER IN WHICH THE RESTORATION FEE WAS COLLECTED; AND

10                  (II)    FOR OTHER PERIODS AND ON OTHER DATES THAT THE  
11 COMPTROLLER MAY SPECIFY BY REGULATION, INCLUDING PERIODS IN WHICH NO  
12 RESTORATION FEE HAS BEEN COLLECTED.

13                  (2)     EXCEPT TO THE EXTENT OF ANY INCONSISTENCY WITH THIS  
14 SUBSECTION, THE PROVISIONS OF TITLE 13 OF THE TAX - GENERAL ARTICLE THAT  
15 ARE APPLICABLE TO THE SALES AND USE TAX SHALL GOVERN THE  
16 ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE RESTORATION FEE  
17 UNDER THIS SECTION.

18                  (3)     THE COMPTROLLER;

19                   ~~(4)~~     ~~SHALL ADMINISTER THE RESTORATION FEE; AND~~

20                   ~~(4)~~     MAY ADOPT REGULATIONS NECESSARY TO ADMINISTER,  
21 COLLECT, AND ENFORCE THE RESTORATION FEE.

22                  (4)     (I)     FROM THE RESTORATION FEE REVENUE, THE COMPTROLLER  
23 SHALL DISTRIBUTE TO AN ADMINISTRATIVE COST ACCOUNT THE AMOUNT THAT IS  
24 NECESSARY TO ADMINISTER THE FEE, WHICH MAY NOT EXCEED 0.5% OF THE FEES  
25 COLLECTED BY THE COMPTROLLER.

26                  (II)    AFTER MAKING THE DISTRIBUTION REQUIRED UNDER  
27 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE COMPTROLLER SHALL DEPOSIT THE  
28 RESTORATION FEE IN THE BAY RESTORATION FUND.

29                  (5)     THE STATE CENTRAL COLLECTION UNIT MAY COLLECT DELINQUENT  
30 ACCOUNTS UNDER THIS SECTION IN ACCORDANCE WITH § 3-302 OF THE STATE  
31 FINANCE AND PROCUREMENT ARTICLE.

32           ~~(B)~~   (F)     (1) (I)   ~~THE WATERSHED BAY RESTORATION FUND IS A SPECIAL,~~  
33 ~~CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE~~  
34 ~~FINANCE AND PROCUREMENT ARTICLE AND SHALL BE AVAILABLE IN PERPETUITY~~  
35 ~~FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE IN ACCORDANCE WITH~~  
36 ~~THE PROVISIONS OF THIS SECTION.~~

37                   (II)    MONEY IN THE FUND MAY NOT REVERT OR BE TRANSFERRED  
38 TO THE GENERAL FUND OF THE STATE.

1           (2)     THE ~~WATERSHED BAY~~ RESTORATION FUND SHALL BE AVAILABLE  
2 FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE IN ACCORDANCE WITH  
3 THE PROVISIONS OF THIS ~~SUBTITLE, SECTION~~ FOR:

4                     (I)     ELIGIBLE COSTS OF PROJECTS RELATING TO PLANNING,  
5 DESIGN, CONSTRUCTION, AND UPGRADES OF WASTEWATER FACILITIES TO ACHIEVE  
6 ENHANCED NUTRIENT REMOVAL AS REQUIRED BY THE CONDITIONS OF A GRANT  
7 AGREEMENT AND A DISCHARGE PERMIT; AND

8                     (II)    ALL PROJECTS IDENTIFIED IN ~~SUBSECTION~~ SUBSECTIONS (H)  
9 AND(I) OF THIS SECTION.

10           (3)     SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND  
11 RESOLUTION REGARDING THE HOLDING OR APPLICATION OF AMOUNTS IN THE  
12 ~~WATERSHED BAY~~ RESTORATION FUND, THE TREASURER SHALL SEPARATELY HOLD,  
13 AND THE COMPTROLLER SHALL ACCOUNT FOR, THE ~~WATERSHED BAY~~ RESTORATION  
14 FUND.

15           (4)     SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND  
16 RESOLUTION GOVERNING THE INVESTMENT OF AMOUNTS IN THE ~~WATERSHED BAY~~  
17 RESTORATION FUND, THE ~~WATERSHED BAY~~ RESTORATION FUND SHALL BE  
18 INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

19           (5)     ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT  
20 OF THE ~~WATERSHED BAY~~ RESTORATION FUND.

21           (6)     THE ~~WATERSHED BAY~~ RESTORATION FUND SHALL BE SUBJECT TO  
22 AUDIT ~~ONCE EVERY 2 YEARS~~ BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED  
23 ~~FOR IN UNDER~~ § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

24           (7)     THE ADMINISTRATION SHALL OPERATE THE ~~WATERSHED BAY~~  
25 RESTORATION FUND IN ACCORDANCE WITH §§ 9-1616 THROUGH 9-1621 OF THIS  
26 SUBTITLE.

27           ~~(8)     THE DEPARTMENT SHALL DETERMINE THE PRIORITY RANKING OF~~  
28 ~~PROJECTS.~~

29    ~~(C)~~    (G)     THERE SHALL BE DEPOSITED IN THE ~~WATERSHED BAY~~  
30 RESTORATION FUND:

31           (1)     FUNDS RECEIVED FROM THE ~~ENVIRONMENTAL SURCHARGE~~  
32 RESTORATION FEE;

33           (2)     NET PROCEEDS OF BONDS ISSUED BY THE ADMINISTRATION;

34           (3)     INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF  
35 MONEY IN THE ~~WATERSHED BAY~~ RESTORATION FUND; AND

1 (4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY SOURCES,  
2 PUBLIC OR PRIVATE, FOR THE PURPOSES FOR WHICH THE ~~WATERSHED~~ BAY  
3 RESTORATION FUND HAS BEEN ESTABLISHED.

4 ~~(D)~~ (H) (1) WITH REGARD TO THE FUNDS COLLECTED UNDER SUBSECTION  
5 (B)(1)(I), FROM USERS OF AN ONSITE SEWAGE DISPOSAL SYSTEM OR HOLDING TANK  
6 THAT RECEIVE A WATER BILL, (II), AND (III) OF THIS SECTION, BEGINNING IN FISCAL  
7 YEAR 2006, THE COMPTROLLER SHALL:

8 (I) ESTABLISH A SEPARATE ACCOUNT WITHIN THE BAY  
9 RESTORATION FUND; AND

10 (II) ~~1.~~ ~~DEPOSIT 70% OF THE FUNDS IN THAT ACCOUNT, TO BE~~  
11 ~~USED FOR PROJECTS THAT WILL ENHANCE THE REMOVAL OF NITROGEN FROM~~  
12 ~~ONSITE SEWAGE DISPOSAL SYSTEMS OR FOR OTHER COST EFFECTIVE METHODS TO~~  
13 ~~REDUCE THE DISCHARGE OF NITROGEN FROM ONSITE SEWAGE DISPOSAL SYSTEMS,~~  
14 ~~WITH PRIORITY GIVEN TO THE UPGRADING OF FAILING SYSTEMS LOCATED IN THE~~  
15 ~~CHESAPEAKE AND ATLANTIC COASTAL BAYS CRITICAL AREA; AND DISBURSE THE~~  
16 ~~FUNDS AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION.~~

17 (2) THE COMPTROLLER SHALL:

18 (I) DEPOSIT 60% OF THE FUNDS IN THE SEPARATE ACCOUNT TO  
19 BE USED FOR:

20 1. WITH PRIORITY GIVEN TO FAILING SYSTEMS AND  
21 HOLDING TANKS LOCATED IN THE CHESAPEAKE AND ATLANTIC COASTAL BAYS  
22 CRITICAL AREA, GRANTS OR LOANS FOR UP TO 100% OF:

23 A. THE COSTS ATTRIBUTABLE TO UPGRADING AN ONSITE  
24 SEWAGE DISPOSAL SYSTEM TO THE BEST AVAILABLE TECHNOLOGY FOR THE  
25 REMOVAL OF NITROGEN; OR

26 B. THE COST DIFFERENCE BETWEEN A CONVENTIONAL  
27 ONSITE SEWAGE DISPOSAL SYSTEM AND A SYSTEM THAT UTILIZES THE BEST  
28 AVAILABLE TECHNOLOGY FOR THE REMOVAL OF NITROGEN; AND

29 2. THE REASONABLE COSTS OF THE DEPARTMENT, NOT TO  
30 EXCEED 8% OF THE FUNDS DEPOSITED INTO THE SEPARATE ACCOUNT, TO:

31 A. IMPLEMENT AN EDUCATION, OUTREACH, AND UPGRADE  
32 PROGRAM TO ADVISE OWNERS OF ONSITE SEWAGE DISPOSAL SYSTEMS AND  
33 HOLDING TANKS ON THE PROPER MAINTENANCE OF THE SYSTEMS AND TANKS AND  
34 THE AVAILABILITY OF GRANTS AND LOANS UNDER ITEM 1 OF THIS SUBPARAGRAPH;

35 B. REVIEW AND APPROVE THE DESIGN AND CONSTRUCTION  
36 OF ONSITE SEWAGE DISPOSAL SYSTEM OR HOLDING TANK UPGRADES;

37 C. ISSUE GRANTS OR LOANS AS PROVIDED UNDER  
38 SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH; AND

1 D. PROVIDE TECHNICAL SUPPORT FOR OWNERS OF  
 2 UPGRADED ONSITE SEWAGE DISPOSAL SYSTEMS OR HOLDING TANKS TO OPERATE  
 3 AND MAINTAIN THE UPGRADED SYSTEMS; AND

4 2. (II) TRANSFER 30% 40% OF THE FUNDS TO THE  
 5 MARYLAND AGRICULTURE WATER QUALITY COST SHARE PROGRAM IN THE  
 6 DEPARTMENT OF AGRICULTURE IN ORDER TO FUND COVER CROP ACTIVITIES.

7 ~~(2)~~ (3) ~~THE ADMINISTRATION COMPTROLLER, IN CONSULTATION~~  
 8 ~~WITH THE ADMINISTRATION,~~ MAY ESTABLISH ANY OTHER ACCOUNTS AND  
 9 SUBACCOUNTS WITHIN THE ~~WATERSHED BAY RESTORATION FUND~~ AS NECESSARY  
 10 TO:

11 ~~(1)~~ (I) EFFECTUATE THE PURPOSES OF THIS SUBTITLE;

12 ~~(2)~~ (II) COMPLY WITH THE PROVISIONS OF ANY BOND RESOLUTION;

13 ~~(3)~~ (III) MEET THE REQUIREMENTS OF ANY FEDERAL OR STATE LAW OR  
 14 OF ANY GRANT OR AWARD TO THE ~~WATERSHED BAY RESTORATION FUND~~; AND

15 ~~(4)~~ (IV) MEET ANY RULES OR PROGRAM DIRECTIVES ESTABLISHED BY  
 16 THE SECRETARY OR THE BOARD.

17 ~~(E)~~ (I) (1) IN THIS SUBSECTION, "ELIGIBLE COSTS" MEANS THE  
 18 ADDITIONAL COSTS THAT WOULD BE ATTRIBUTABLE TO UPGRADING A  
 19 WASTEWATER FACILITY FROM BIOLOGICAL NUTRIENT REMOVAL TO ENHANCED  
 20 NUTRIENT REMOVAL, AS DETERMINED BY THE DEPARTMENT.

21 (2) FUNDS IN THE ~~WATERSHED BAY RESTORATION FUND~~ MAY SHALL BE  
 22 USED ONLY:

23 (I) TO AWARD GRANTS FOR UP TO 100% OF ELIGIBLE COSTS OF  
 24 PROJECTS RELATING TO PLANNING, DESIGN, CONSTRUCTION, AND UPGRADE OF A  
 25 WASTEWATER FACILITY ~~WITH A DESIGN CAPACITY OF 500,000 GALLONS OR MORE~~  
 26 ~~PER DAY FOR FLOWS UP TO THE DESIGN CAPACITY OF THE WASTEWATER FACILITY,~~  
 27 ~~AS APPROVED BY THE DEPARTMENT,~~ TO ACHIEVE ENHANCED NUTRIENT REMOVAL  
 28 ~~AS REQUIRED BY THE CONDITIONS OF A GRANT AGREEMENT AND A DISCHARGE~~  
 29 ~~PERMIT~~ IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.;

30 (II) 1. IN FISCAL YEARS 2005 THROUGH 2009, INCLUSIVE, FOR A  
 31 PORTION OF THE COSTS OF PROJECTS RELATING TO COMBINED SEWER OVERFLOWS  
 32 ABATEMENT, REHABILITATION OF EXISTING SEWERS, AND UPGRADING  
 33 CONVEYANCE SYSTEMS, INCLUDING PUMPING STATIONS, TO BE DISTRIBUTED TO  
 34 WASTEWATER FACILITIES BASED ON THE AVERAGE ANNUAL FLOW OF THE  
 35 WASTEWATER FACILITY AND THE EXTENT OF THE UPGRADES NEEDED, NOT TO  
 36 EXCEED AN ANNUAL TOTAL OF \$7,000,000 \$5,000,000; AND

37 2. IN FISCAL YEARS 2010 AND THEREAFTER, FOR A PORTION  
 38 OF THE OPERATION AND MAINTENANCE COSTS RELATED TO THE ENHANCED  
 39 NUTRIENT REMOVAL TECHNOLOGY, WHICH MAY NOT EXCEED 10% OF THE TOTAL

1 ~~ENVIRONMENTAL SURCHARGE RESTORATION FEE~~ COLLECTED *FROM USERS OF*  
 2 ~~WASTEWATER FACILITIES~~ UNDER THIS SECTION BY THE ADMINISTRATION  
 3 ~~COMPTROLLER~~ ANNUALLY;

4 (III) AS A SOURCE OF REVENUE OR SECURITY FOR THE PAYMENT OF  
 5 PRINCIPAL AND INTEREST ON BONDS ISSUED BY THE ADMINISTRATION IF THE  
 6 PROCEEDS OF THE SALE OF THE BONDS WILL BE DEPOSITED IN THE ~~WATERSHED~~  
 7 BAY RESTORATION FUND;

8 (IV) TO EARN INTEREST ON ~~WATERSHED~~ BAY RESTORATION FUND  
 9 ACCOUNTS;

10 (V) FOR THE REASONABLE COSTS OF ADMINISTERING THE  
 11 ~~WATERSHED BAY RESTORATION FUND~~, WHICH MAY NOT EXCEED 1.5% OF THE TOTAL  
 12 ~~ENVIRONMENTAL SURCHARGE RESTORATION FEES IMPOSED ON USERS OF~~  
 13 ~~WASTEWATER FACILITIES THAT ARE~~ COLLECTED BY THE ADMINISTRATION  
 14 ~~COMPTROLLER~~ ANNUALLY;

15 (VI) ~~IN FISCAL YEARS 2005 THROUGH 2007, INCLUSIVE,~~ FOR THE  
 16 REASONABLE ADMINISTRATIVE COSTS INCURRED BY A LOCAL GOVERNMENT OR A  
 17 BILLING AUTHORITY FOR A WATER OR WASTEWATER FACILITY COLLECTING THE  
 18 ~~ENVIRONMENTAL SURCHARGE RESTORATION FEES, THE ADMINISTRATIVE COSTS~~  
 19 ~~MAY BE RETAINED BY THE BILLING AUTHORITY~~ IN AN AMOUNT NOT TO EXCEED 3%  
 20 5% OF THE TOTAL ENVIRONMENTAL SURCHARGE RESTORATION FEES COLLECTED  
 21 ~~BY THE~~ THAT LOCAL GOVERNMENT OR BILLING AUTHORITY;

22 (VII) FOR FUTURE UPGRADES OF WASTEWATER FACILITIES ~~WITH A~~  
 23 ~~DESIGN CAPACITY OF LESS THAN 500,000 GALLONS PER DAY TO ACHIEVE~~  
 24 ADDITIONAL NUTRIENT REMOVAL OR WATER QUALITY IMPROVEMENT, IN  
 25 ACCORDANCE WITH ~~PARAGRAPH (4)~~ PARAGRAPHS (6) AND (7) OF THIS SUBSECTION;  
 26 ~~AND~~

27 (VIII) FOR COSTS ASSOCIATED WITH THE ISSUANCE OF BONDS; AND

28 (IX) SUBJECT TO THE CONDITIONS UNDER SUBSECTION (H) OF THIS  
 29 SECTION, PROJECTS RELATED TO THE REMOVAL OF NITROGEN FROM ONSITE  
 30 SEWAGE DISPOSAL SYSTEMS AND COVER CROP ACTIVITIES.

31 (3) THE GRANT AGREEMENT AND STATE DISCHARGE PERMIT, IF  
 32 APPLICABLE, SHALL REQUIRE AN OWNER OF A WASTEWATER FACILITY TO OPERATE  
 33 THE ENHANCED NUTRIENT REMOVAL FACILITY IN A MANNER THAT OPTIMIZES THE  
 34 NUTRIENT REMOVAL CAPABILITY OF THE FACILITY IN ORDER TO ACHIEVE  
 35 ENHANCED NUTRIENT REMOVAL PERFORMANCE LEVELS.

36 (4) (I) ALL WASTEWATER FACILITIES SERVING MARYLAND USERS  
 37 THAT HAVE CONTRIBUTED TO THE BAY RESTORATION FUND ARE ELIGIBLE FOR  
 38 GRANTS UNDER THIS SECTION, INCLUDING THE BLUE PLAINS WASTEWATER  
 39 TREATMENT PLANT IN THE DISTRICT OF COLUMBIA.

1 (II) GRANTS ISSUED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION  
 2 FOR UPGRADES TO THE BLUE PLAINS WASTEWATER TREATMENT PLANT MAY BE  
 3 AWARDED ONLY IF EACH PARTY TO THE BLUE PLAINS INTERMUNICIPAL  
 4 AGREEMENT OF 1985 CONTRIBUTES A PROPORTIONAL SHARE OF THE UPGRADE  
 5 COSTS IN ACCORDANCE WITH THE BLUE PLAINS INTERMUNICIPAL AGREEMENT OF  
 6 1985, AS REVISED AND UPDATED.

7 ~~(4)~~ ~~(4)~~ (5) PRIORITY FOR FUNDING AN UPGRADE OF A WASTEWATER  
 8 FACILITY SHALL BE COMMENCED ONLY ON COMPLETION OF GIVEN TO ENHANCED  
 9 NUTRIENT REMOVAL UPGRADES AT WASTEWATER FACILITIES WITH A DESIGN  
 10 CAPACITY OF 500,000 GALLONS OR MORE PER DAY.

11 ~~(H)~~ (6) (I) THE ELIGIBILITY AND PRIORITY RANKING OF A  
 12 PROJECT SHALL BE DETERMINED BY THE DEPARTMENT BASED ON CRITERIA  
 13 ESTABLISHED IN REGULATIONS ADOPTED BY THE DEPARTMENT, IN ACCORDANCE  
 14 WITH SUBSECTION ~~(G)~~ (K) OF THIS SECTION.

15 (II) THE CRITERIA ADOPTED BY THE DEPARTMENT SHALL  
 16 INCLUDE, AS APPROPRIATE, CONSIDERATION OF:

17 1. THE COST-EFFECTIVENESS IN PROVIDING WATER  
 18 QUALITY BENEFIT;

19 2. THE WATER QUALITY BENEFIT TO A BODY OF WATER  
 20 IDENTIFIED BY THE DEPARTMENT AS IMPAIRED UNDER SECTION 303(D) OF THE  
 21 CLEAN WATER ACT;

22 3. THE READINESS OF A WASTEWATER FACILITY TO  
 23 PROCEED TO CONSTRUCTION; AND

24 4. THE NITROGEN AND PHOSPHORUS LOADS DISCHARGED  
 25 BY A WASTEWATER FACILITY.

26 (7) A WASTEWATER FACILITY THAT HAS NOT BEEN OFFERED OR HAS  
 27 NOT RECEIVED FUNDS FROM THE DEPARTMENT UNDER THIS SECTION OR FROM ANY  
 28 OTHER FUND IN THE DEPARTMENT MAY NOT BE REQUIRED TO UPGRADE TO  
 29 ENHANCED NUTRIENT REMOVAL LEVELS, EXCEPT AS OTHERWISE REQUIRED UNDER  
 30 FEDERAL OR STATE LAW.

31 ~~(F)~~ (J) (1) THERE IS A WATERSHED BAY RESTORATION FUND ADVISORY  
 32 COMMITTEE.

33 (2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

34 (I) THE SECRETARIES OF THE ENVIRONMENT, AGRICULTURE,  
 35 PLANNING, NATURAL RESOURCES, AND BUDGET AND MANAGEMENT, OR THEIR  
 36 DESIGNEES;

37 (II) ONE MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT  
 38 OF THE SENATE;

1 (III) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY  
2 THE SPEAKER OF THE HOUSE OF DELEGATES;

3 (IV) TWO ~~PERSONS~~ INDIVIDUALS REPRESENTING PUBLICLY OWNED  
4 WASTEWATER FACILITIES, APPOINTED BY THE GOVERNOR;

5 (V) TWO ~~PERSONS~~ INDIVIDUALS REPRESENTING ENVIRONMENTAL  
6 ORGANIZATIONS, APPOINTED BY THE GOVERNOR;

7 (VI) ONE ~~PERSON~~ INDIVIDUAL EACH FROM THE MARYLAND  
8 ASSOCIATION OF COUNTIES AND THE MARYLAND MUNICIPAL LEAGUE, APPOINTED  
9 BY THE GOVERNOR;

10 (VII) TWO ~~PERSONS~~ INDIVIDUALS REPRESENTING THE BUSINESS  
11 COMMUNITY, APPOINTED BY THE GOVERNOR; ~~AND~~

12 (VIII) TWO ~~PERSONS~~ INDIVIDUALS REPRESENTING LOCAL HEALTH  
13 DEPARTMENTS ~~WITH WHO HAVE~~ EXPERTISE IN ~~ON-SITE~~ ONSITE SEWAGE DISPOSAL  
14 SYSTEMS, APPOINTED BY THE GOVERNOR; AND

15 (IX) ONE INDIVIDUAL REPRESENTING A UNIVERSITY OR RESEARCH  
16 INSTITUTE WHO HAS EXPERTISE IN NUTRIENT POLLUTION, APPOINTED BY THE  
17 GOVERNOR.

18 (3) THE GOVERNOR SHALL APPOINT THE CHAIRMAN OF THE  
19 COMMITTEE FROM THE DESIGNATED MEMBERS OF THE COMMITTEE.

20 (4) THE COMMITTEE MAY CONSULT WITH ANY STAKEHOLDER GROUP AS  
21 IT DEEMS NECESSARY.

22 (5) (I) THE TERM OF A MEMBER IS 4 YEARS.

23 (II) A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS  
24 APPOINTED.

25 (III) THE TERMS OF THE MEMBERS APPOINTED BY THE GOVERNOR  
26 ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE  
27 COMMITTEE ON OCTOBER 1, 2004.

28 (IV) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE  
29 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

30 (V) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN  
31 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED  
32 AND QUALIFIES.

33 (6) THE COMMITTEE SHALL:

34 (I) PERFORM AN ANALYSIS OF THE COST OF NUTRIENT REMOVAL  
35 FROM WASTEWATER FACILITIES;



1 (II) IDENTIFY ADDITIONAL SOURCES FOR FUNDING THE  
 2 ~~WATERSHED BAY RESTORATION FUND, INCLUDING A MEANS OF ESTABLISHING A~~  
 3 ~~SIMILAR IMPACT FEE FOR ON-SITE SEWAGE DISPOSAL SYSTEM OWNERS;~~

4 (III) MAKE RECOMMENDATIONS TO IMPROVE THE EFFECTIVENESS  
 5 OF THE ~~WATERSHED BAY RESTORATION FUND~~ IN REDUCING NUTRIENT LOADINGS  
 6 TO THE WATERS OF THE STATE;

7 (IV) MAKE RECOMMENDATIONS REGARDING THE APPROPRIATE  
 8 ~~ENVIRONMENTAL SURCHARGE RESTORATION FEE~~ TO BE ASSESSED IN FISCAL YEAR  
 9 2008 AND SUBSEQUENT YEARS AS NECESSARY TO MEET THE FINANCING NEEDS OF  
 10 THE ~~WATERSHED BAY RESTORATION FUND~~;

11 (V) IN CONSULTATION WITH THE GOVERNING BODY OF EACH  
 12 COUNTY:

13 1. IDENTIFY USERS OF ONSITE SEWAGE DISPOSAL SYSTEMS  
 14 AND HOLDING TANKS; AND

15 2. MAKE RECOMMENDATIONS TO THE GOVERNING BODY OF  
 16 EACH COUNTY ON THE BEST METHOD OF COLLECTING THE BAY RESTORATION FEE  
 17 FROM THE USERS OF ONSITE SEWAGE DISPOSAL SYSTEMS AND HOLDING TANKS  
 18 THAT DO NOT RECEIVE WATER BILLS;

19 (VI) ADVISE THE DEPARTMENT ON THE COMPONENTS OF AN  
 20 EDUCATION, OUTREACH, AND UPGRADE PROGRAM ESTABLISHED WITHIN THE  
 21 DEPARTMENT UNDER SUBSECTION (H)(2)(I)2 OF THIS SECTION;

22 (VII) STUDY THE AVAILABILITY OF MONEY FROM THE FUND FOR  
 23 THE SUPPLEMENTAL ASSISTANCE PROGRAM WITHIN THE DEPARTMENT TO PROVIDE  
 24 GRANTS TO SMALLER, ECONOMICALLY DISADVANTAGED COMMUNITIES IN THE  
 25 STATE TO UPGRADE THEIR WASTEWATER COLLECTION AND TREATMENT  
 26 FACILITIES;

27 (VIII) ADVISE THE SECRETARY CONCERNING THE ADOPTION OF  
 28 REGULATIONS AS DESCRIBED IN SUBSECTION ~~(G)~~ (K) OF THIS SECTION; AND

29 ~~(VI)~~ (IX) BEGINNING JANUARY 1, 2006, AND EVERY ~~2 YEARS~~ YEAR  
 30 THEREAFTER, REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE  
 31 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON ITS FINDINGS AND  
 32 RECOMMENDATIONS.

33 (7) MEMBERS OF THE COMMITTEE:

34 (I) MAY NOT RECEIVE COMPENSATION; BUT

35 (II) ARE ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER  
 36 THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

1 (8) THE DEPARTMENT OF THE ENVIRONMENT, DEPARTMENT OF  
 2 AGRICULTURE, DEPARTMENT OF PLANNING, DEPARTMENT OF NATURAL  
 3 RESOURCES, AND DEPARTMENT OF BUDGET AND MANAGEMENT SHALL PROVIDE  
 4 STAFF SUPPORT FOR THE COMMITTEE.

5 ~~(G)~~ ~~(+)~~ ~~(K)~~ THE DEPARTMENT SHALL ADOPT ~~ANY~~ REGULATIONS THAT ARE  
 6 NECESSARY OR APPROPRIATE TO CARRY OUT THE PROVISIONS OF THIS ~~SUBTITLE~~  
 7 SECTION.

8 ~~(2)~~ ~~THE DEPARTMENT, IN CONSULTATION WITH THE WATERSHED FUND~~  
 9 ~~ADVISORY COMMITTEE, MAY ADOPT REGULATIONS THAT ESTABLISH THE AMOUNT,~~  
 10 ~~METHOD OF CALCULATION, AND TYPES OF ENVIRONMENTAL SURCHARGES TO BE~~  
 11 ~~DEPOSITED IN THE WATERSHED RESTORATION FUND FOR FISCAL YEAR 2008 AND~~  
 12 ~~SUBSEQUENT YEARS.~~

13 9-1611.

14 (a) Bonds may be secured by a trust agreement by and between the  
 15 Administration and a corporate trustee, which may be any trust company or bank  
 16 having trust powers, within or without the State. Such trust agreement may pledge or  
 17 assign all or any part of the revenues or corpus of the Water Quality [Fund or] FUND,  
 18 Drinking Water Loan Fund, OR ~~WATERSHED BAY~~ RESTORATION FUND, or any  
 19 account [therein] WITHIN THESE FUNDS, and may pledge or assign or grant a lien on  
 20 or security interest in any loan agreement or loan obligation. Any such trust  
 21 agreement or resolution authorizing the issuance of bonds may contain such  
 22 provisions for the protection and enforcement of the rights and remedies of the  
 23 bondholders as may be deemed reasonable and proper, including covenants setting  
 24 forth the duties of the Administration in relation to the making, administration and  
 25 enforcement of loans and the custody, safeguarding and application of moneys. Such  
 26 trust agreement may set forth the rights and remedies of the bondholders and of the  
 27 trustee and may restrict the individual right of action by bondholders. In addition to  
 28 the foregoing, such trust agreement may contain such other provisions as the Director  
 29 may deem reasonable and proper for the security of the bondholders, including,  
 30 without limitation, covenants pertaining to the issuance of additional parity bonds  
 31 upon conditions stated therein consistent with the requirements of this subtitle.

32 (b) The proceeds of the sale of bonds shall be disbursed in such manner and  
 33 under such restrictions, if any, as may be provided in such trust agreement.

34 (c) (1) The revenues and moneys designated as security for bonds shall be  
 35 set aside at such regular intervals as may be provided in the bond resolution in a  
 36 special account in the Water Quality Fund, if the net sale proceeds will be deposited in  
 37 the Water Quality Fund, [or] the Drinking Water Loan Fund, if the net sale proceeds  
 38 will be deposited in the Drinking Water Loan Fund, OR THE ~~WATERSHED BAY~~  
 39 RESTORATION FUND, IF THE NET SALE PROCEEDS WILL BE DEPOSITED IN THE  
 40 ~~WATERSHED BAY~~ RESTORATION FUND, which is pledged to, and charged with, the  
 41 payment of:

42 (i) The interest upon such bonds as such interest falls due;

- 1 (ii) The principal of such bonds as it falls due;
- 2 (iii) The necessary charges of the trustee, bond registrar, and paying  
3 agents; and
- 4 (iv) The redemption price or purchase price of bonds retired by call  
5 or purchase as provided in the bond resolution or trust agreement.

6 (2) Any amounts set aside in such special account which are not needed  
7 to provide for the payment of the items included under paragraph (1) of this  
8 subsection may be used for any other lawful purpose, to the extent provided in the  
9 bond resolution. Such pledge shall be valid and binding from the time when the  
10 pledge is made. Such revenues or other moneys so pledged and thereafter received by  
11 the Administration shall immediately be subject to the lien of such pledge without  
12 any physical delivery thereof or further act, and the lien of any such pledge shall be  
13 valid and binding as against all parties having any claims of any kind in tort,  
14 contract, or otherwise against the Administration or the Water Quality Fund, [or] the  
15 Drinking Water Loan Fund, OR THE ~~WATERSHED BAY~~ RESTORATION FUND,  
16 irrespective of whether such parties have notice thereof. Neither the bond resolution  
17 nor any trust agreement by which a pledge is created need be filed or recorded except  
18 in the records of the Administration, any public general or public local law to the  
19 contrary notwithstanding.

20 (d) Any net earnings of the Administration, beyond that necessary for the  
21 retirement of bonds or to implement the public purposes or programs of the  
22 Administration, shall not inure to the benefit of any person, other than the State of  
23 Maryland for use to accomplish the purposes of this subtitle.

24 9-1616.

25 The Administration shall not be required to give any bond as security for costs,  
26 supersedeas, or any other security in any suit or action brought by or against it, or in  
27 proceedings to which it may be a party, in any court of this State, and the  
28 Administration shall have the remedies of appeal of whatever kind to all courts  
29 without bonds, supersedeas, or security of any kind. No builder's, materialman's,  
30 contractor's, laborer's, or mechanic's liens of any kind or character shall ever attach to  
31 or become a lien upon the Water Quality [Fund or] FUND, the Drinking Water Loan  
32 Fund, OR THE ~~WATERSHED BAY~~ RESTORATION FUND or any property, real or  
33 personal, belonging to the Administration and no assignment of wages shall be  
34 binding upon or recognized by the Administration.

35 9-1617.

36 The Administration shall make provision for a system of financial accounting,  
37 controls, audits, and reports in accordance with generally accepted principles of  
38 governmental accounting. All accounting systems and records, auditing procedures  
39 and standards, and financial reporting for the Water Quality Fund, THE DRINKING  
40 WATER LOAN FUND, AND THE ~~WATERSHED BAY~~ RESTORATION FUND shall conform to  
41 the requirements of Title VI of the Federal Water Pollution Control Act, THE  
42 FEDERAL SAFE DRINKING WATER ACT, AND THE ~~CHESAPEAKE BAY WATERSHED AND~~

1 ~~ATLANTIC COASTAL BAYS~~ BAY RESTORATION FUND ACT, AS APPLICABLE and, to the  
 2 extent not inconsistent therewith, generally accepted principles of governmental  
 3 accounting. As soon as practical after the closing of the fiscal year, an audit shall be  
 4 made of the financial books, records, and accounts of the Administration. The audit  
 5 shall be made by independent certified public accountants, selected by the  
 6 Administration, and licensed to practice in the State as auditors. The auditors may  
 7 not have a personal interest either directly or indirectly in the fiscal affairs of the  
 8 Administration. They shall be experienced and qualified in the accounting and  
 9 auditing of public bodies. The report of audit shall be prepared in accordance with  
 10 generally accepted auditing principles and point out any irregularities found to exist.  
 11 The auditors shall report to the Secretary the results of their examination, including  
 12 their unqualified opinion on the presentation of the financial positions of the Water  
 13 Quality [Fund and] FUND, the Drinking Water Loan Fund, AND THE ~~WATERSHED~~  
 14 BAY RESTORATION FUND, and the results of the Administration's financial  
 15 operations. If they are unable to express an unqualified opinion they shall state and  
 16 explain in detail the reasons for their qualifications, disclaimer, or opinion including  
 17 recommendations necessary to make possible future unqualified opinions.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members  
 19 of the ~~Chesapeake Bay Watershed~~ Restoration Fund Advisory Committee, appointed  
 20 by the Governor, shall expire as follows:

- 21 (1) four members in 2005;
- 22 (2) four members in 2006; and
- 23 (3) ~~four~~ three members in 2007.

24 SECTION 3. AND BE IT FURTHER ENACTED, That the Bay Restoration  
 25 Fund Advisory Committee, in consultation with the governing body of each county,  
 26 shall study and, subject to § 2-1246 of the State Government Article, report on or  
 27 before January 15, 2005, to the Senate Education, Health, and Environmental Affairs  
 28 Committee and the House Environmental Matters Committee regarding methods  
 29 evaluated and recommended for the collection of the Bay restoration fee by local  
 30 governments from users of onsite sewage disposal systems and users of sewage  
 31 holding tanks that do not receive water bills, in accordance with § 9-1605.2 of the  
 32 Environment Article, as enacted by Section 1 of this Act.

33 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December  
 34 31, 2006, the Bay Restoration Fund Advisory Committee, in conjunction with the  
 35 Maryland Association of Counties and the Maryland Municipal League, shall, subject  
 36 to § 2-1246 of the State Government Article, jointly report to the Senate Education,  
 37 Health, and Environmental Affairs Committee and the House Environmental Matters  
 38 Committee regarding the extent of administrative costs incurred by local  
 39 governments in the collection of the Bay restoration fee and the reasonableness of the  
 40 reimbursement authorized under § 9-1605.2(i)(2)(vi) of the Environment Article, as  
 41 enacted under by Section 1 of this Act.

1       SECTION ~~3.~~ 5. AND BE IT FURTHER ENACTED, That , on or before December  
2 31, 2006, the Department of the Environment shall, subject to § 2-1246 of the State  
3 Government Article, jointly report to the Senate Education, Health, and  
4 Environmental Affairs Committee and the House Environmental Matters Committee  
5 regarding the implementation of the onsite sewage disposal system and holding tank  
6 education, outreach, and upgrade program and the extent of administrative costs  
7 incurred by the Department in the implementation of the program authorized under §  
8 9-1605.2(h)(2)(i) of the Environment Article, as enacted by Section 1 of this Act.

9       SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 ~~July~~ ~~October~~ July 1, 2004.