



**MARYLAND DEPARTMENT OF THE ENVIRONMENT**

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To: Bay Restoration Fund Billing Authorities

Re: Bay Restoration Fee & Department of Defense Accounts

From: Bob Summers, Director  
Water Management Administration

Date: August 10, 2006

On July 19, 2006, the State of Maryland and the Department of Defense (DoD) signed a Memorandum of Understanding (MOU) to resolve a dispute regarding the applicability of the Bay Restoration Fee to DoD. A copy for the MOU is available on MDE's website.

The State's legal position is that the federal government is not exempt from paying the Bay Restoration Fund (BRF) fee; however, the DoD asserts that the BRF fee is a tax and that the State may not tax the federal government. With the advice of counsel, the State has chosen to settle the matter with DoD rather than to litigate. As stated in the MOU, neither party concedes any legal position with respect to the BRF fee. The MDE has agreed to accept DoD's proposal to undertake nutrient removal upgrades at certain DoD-owned wastewater treatment plants at its own expense (Est. cost \$22.5 million) in lieu of paying the BRF fee.

As a result of this MOU, local billing authorities should not include the BRF fee on future water/sewer bills to any of the DoD customers/accounts. Also, non-payment of BRF fee from past billings should be voided. Please note, no other federal agencies are affected by the MOU and must be billed the BRF fee.

For questions or additional information, please contact MDE at 410-537-3567.

