

# HOUSE BILL 417

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CF SB 314

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By: **The Speaker (By Request – Administration) and Delegates Adams, Afzali, Anderton, Aumann, Beitzel, Carozza, Cassilly, Ciliberti, Clark, Flanagan, Folden, Hornberger, S. Howard, Jacobs, Kipke, Kittleman, Krebs, Malone, McComas, McKay, McMillan, Metzgar, Miele, Reilly, Rose, Saab, Shoemaker, Simonaire, Szeliga, Vogt, West, and B. Wilson**

Introduced and read first time: January 26, 2017

Assigned to: Environment and Transportation

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Clean Water Commerce Act of 2017**

3 FOR the purpose of authorizing funds in the Bay Restoration Fund to be used for the costs  
4 associated with the purchase of certain nutrient ~~credits~~ load reductions, not to exceed  
5 a certain amount per year in certain years; requiring certain regulations to be  
6 adopted in a certain manner and in accordance with certain requirements; requiring  
7 the Department of the Environment to consult with the Secretary of ~~Agriculture and~~  
8 Transportation, the Secretary of Natural Resources, the Secretary of Commerce, the  
9 Secretary of Agriculture, the Secretary of Planning, and certain stakeholders when  
10 developing certain regulations; requiring the load reductions purchased under this  
11 Act to be consistent with certain accounting procedures; requiring the Department  
12 to report to the Bay Restoration Fund Advisory Committee annually on the  
13 implementation of this Act; requiring the Department, on or before a certain date, to  
14 report to certain committees of the General Assembly on the implementation of this  
15 Act; authorizing the Department to enter into any contracts under this Act until a  
16 certain date; providing that contracts entered into by the Department under this Act  
17 may be funded for a certain period of time; providing for the termination of this Act;  
18 and generally relating to the use of funds in the Bay Restoration Fund.

19 BY repealing and reenacting, without amendments,

20 Article – Environment

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 9–1605.2(a)(1) and (i)(1)  
2 Annotated Code of Maryland  
3 (2014 Replacement Volume and 2016 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article – Environment  
6 Section 9–1605.2(i)(2) and (l)  
7 Annotated Code of Maryland  
8 (2014 Replacement Volume and 2016 Supplement)

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

11 **Article – Environment**

12 9–1605.2.

13 (a) (1) There is a Bay Restoration Fund.

14 (i) (1) In this subsection, “eligible costs” means the additional costs that would  
15 be attributable to upgrading a wastewater facility from biological nutrient removal to  
16 enhanced nutrient removal, as determined by the Department.

17 (2) Funds in the Bay Restoration Fund shall be used only:

18 (i) To award grants for up to 100% of eligible costs of projects  
19 relating to planning, design, construction, and upgrade of a wastewater facility for flows up  
20 to the design capacity of the wastewater facility, as approved by the Department, to achieve  
21 enhanced nutrient removal in accordance with paragraph (3) of this subsection;

22 (ii) In fiscal years 2016 and thereafter, for up to 87.5% of the total  
23 cost of projects, as approved by the Department, relating to combined sewer overflows  
24 abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including  
25 pumping stations;

26 (iii) In fiscal years 2010 and thereafter, for a portion of the operation  
27 and maintenance costs related to the enhanced nutrient removal technology, which may  
28 not exceed 10% of the total restoration fee collected from users of wastewater facilities  
29 under this section by the Comptroller annually;

30 (iv) In fiscal years 2018 and thereafter, after payment of outstanding  
31 bonds and the allocation of funds to other required uses of the Bay Restoration Fund for  
32 funding in the following order of priority:

33 1. For funding an upgrade of a wastewater facility to  
34 enhanced nutrient removal at wastewater facilities with a design capacity of 500,000  
35 gallons or more per day;

1                                   2.     For funding for the most cost-effective enhanced nutrient  
2 removal upgrades at wastewater facilities with a design capacity of less than 500,000  
3 gallons per day; and

4                                   3.     As determined by the Department and based on water  
5 quality and public health benefits, for the following:

6                                   A.     For costs identified under item (ii) of this paragraph;

7                                   B.     For costs identified under subsection (h)(2)(i)1 of this  
8 section; and

9                                   C.     With respect to a local government that has enacted and  
10 implemented a system of charges to fully fund the implementation of a stormwater  
11 management program, for grants to the local government for a portion of the costs of the  
12 most cost-effective and efficient stormwater control measures, as determined and approved  
13 by the Department, from the restoration fees collected annually by the Comptroller from  
14 users of wastewater facilities under this section;

15                                 (v)     As a source of revenue or security for the payment of principal  
16 and interest on bonds issued by the Administration if the proceeds of the sale of the bonds  
17 will be deposited in the Bay Restoration Fund;

18                                 (vi)    To earn interest on Bay Restoration Fund accounts;

19                                 (vii)   For the reasonable costs of administering the Bay Restoration  
20 Fund, which may not exceed 1.5% of the total restoration fees imposed on users of  
21 wastewater facilities that are collected by the Comptroller annually;

22                                 (viii)   For the reasonable administrative costs incurred by a local  
23 government or a billing authority for a water or wastewater facility collecting the  
24 restoration fees, in an amount not to exceed 5% of the total restoration fees collected by  
25 that local government or billing authority;

26                                 (ix)     For future upgrades of wastewater facilities to achieve additional  
27 nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7)  
28 of this subsection;

29                                 (x)     For costs associated with the issuance of bonds;

30                                 (xi)     Subject to the allocation of funds and the conditions under  
31 subsection (h) of this section, for projects related to the removal of nitrogen from on-site  
32 sewage disposal systems and cover crop activities; **[and]**

33                                 (xii)    For costs associated with the implementation of alternate  
34 compliance plans authorized in § 4-202.1(k)(3) of this article; **AND**

1                   **(XIII) ~~FOR~~ AFTER FUNDING ANY ELIGIBLE COSTS IDENTIFIED**  
 2 **UNDER ITEM (IV)1 AND 2 OF THIS PARAGRAPH, FOR COSTS ASSOCIATED WITH THE**  
 3 **PURCHASE OF COST-EFFECTIVE NITROGEN ~~AND~~, PHOSPHORUS, OR SEDIMENT LOAD**  
 4 **REDUCTIONS ~~NUTRIENT CREDITS~~ IN SUPPORT OF THE STATE'S EFFORTS TO**  
 5 **RESTORE THE HEALTH OF THE CHESAPEAKE BAY, NOT TO EXCEED \$4,000,000 IN**  
 6 **FISCAL YEAR 2018, \$6,000,000 IN FISCAL YEAR 2019, AND \$10,000,000 PER YEAR IN**  
 7 **FISCAL YEARS 2020 AND 2021.**

8                   **(3) THE NITROGEN, PHOSPHORUS, AND SEDIMENT LOAD**  
 9 **REDUCTIONS PURCHASED UNDER SUBPARAGRAPH (2)(XIII) OF THIS SUBSECTION:**

10                   **(I) CANNOT BE FROM THE AGRICULTURAL SECTOR; AND**

11                   **(II) MUST BE CREATED ON OR AFTER JULY 1, 2017.**

12           (l)   **(1) [The] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**  
 13 Department shall adopt regulations that are necessary or appropriate to carry out the  
 14 provisions of this section.

15                   **(2) REGULATIONS ADOPTED TO CARRY OUT SUBSECTION (I)(2)(XIII)**  
 16 **OF THIS SECTION SHALL ~~BE~~:**

17                   **(I) BE ADOPTED BEFORE THE PURCHASE OF ANY LOAD**  
 18 **REDUCTIONS;**

19                   **(II) SPECIFY A LOAD REDUCTION PURCHASED SHOULD**  
 20 **PROVIDE THE LOWEST COST PER POUND IN REDUCTION AND BE PURCHASED IN**  
 21 **ACCORDANCE WITH A COMPETITIVE PROCESS; AND**

22                   **(III) BE ADOPTED IN CONSULTATION WITH THE SECRETARY OF**  
 23 **AGRICULTURE ~~AND~~ TRANSPORTATION, THE SECRETARY OF NATURAL RESOURCES,**  
 24 **THE SECRETARY OF COMMERCE, THE SECRETARY OF AGRICULTURE, THE**  
 25 **SECRETARY OF PLANNING, AND PUBLIC AND PRIVATE SECTOR STAKEHOLDERS.**

26           **SECTION 2. AND BE IT FURTHER ENACTED, That the nutrient load reductions**  
 27 **purchased under § 9-1605.2(i)(2)(xiii) of the Environment Article, as enacted by Section 1**  
 28 **of this Act must be consistent with the Chesapeake Bay Program Partnership Accounting**  
 29 **Procedures.**

30           **SECTION 3. AND BE IT FURTHER ENACTED, That:**

31           (a)   **Beginning July 1, 2018, the Department of the Environment shall report each**  
 32 **year to the Bay Restoration Fund Advisory Committee on the implementation of this Act.**

1 (b) On or before October 1, 2020, the Department of the Environment shall report,  
2 in accordance with § 2-1246 of the State Government Article, to the House Environment  
3 and Transportation Committee and the Senate Education, Health, and Environmental  
4 Affairs Committee on the implementation of this Act.

5 SECTION 4. AND BE IT FURTHER ENACTED, That:

6 (a) The Department of the Environment may enter into any contracts for the  
7 purchase of nutrient load reductions under this Act until June 30, 2021.

8 (b) Any contract entered into by the Department of the Environment under this  
9 Act may be funded for the expected life of the best management practice resulting from a  
10 nutrient load reduction.

11 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 July 1, 2017. It shall remain effective for a period of 4 years and, at the end of June 30,  
13 2021, with no further action required by the General Assembly, this Act shall be abrogated  
14 and of no further force and effect.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.