

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	02/25/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 3/7/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

26 03 13 Bay Restoration Fund Implementation

3. Name of Promulgating Authority

Department of the Environment

4. Name of Regulations Coordinator Telephone Number
Renee D Matthews 410-537-3567

Mailing Address

1800 Washington Blvd

City State Zip Code
Baltimore MD 21230

Email

rmatthews@mde.state.md.us

5. Name of Person to Call About this Document Telephone No.
Jag Khuman 410-537-3981

Email Address

jag.khuman@maryland.gov

6. Check applicable items:

New Regulations

X- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: 1/24/14.

- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval
- Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes **X-** No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Helen Akparanta, Assistant Attorney General, (telephone #410-537-3036) on 1/24/14. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Robert M. Summers, Ph.D.

Title

Secretary

Date

1/24/14

Telephone No.

410-537-3084

DEPARTMENT OF THE ENVIRONMENT

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

26.03.13 .01-.04

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

Notice of Proposed Action

□

The Secretary proposes to amend the proposed regulations that were advertised in the Maryland Register, Volume 40, Issue 18 published on September 6, 2013. Public comments on the proposed regulations were accepted through October 7, 2013. Comments were received from the Maryland Association of Municipal Wastewater Agencies, Inc., Washington County Division of Environmental Management, Chesapeake Bay Foundation, and Committee Counsel for the Joint Committee on Administrative, Executive and Legislative Review.

Statement of Purpose

The purpose of this action is to amend regulations 26.03.13.01-.04.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic 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, Maryland Department of the Environment, 1800 Washington Boulevard, or call 410-537-3119, or email to jag.khuman@maryland.gov, or fax to . Comments will be accepted through 3/1/14. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 0

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Attached Document:

.01 Scope.

A. [facilities] *plants*

.03 Wastewater Fund.

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

[(2) To provide grant awards to wastewater facilities whose users have contributed to the Bay Restoration Fund:

(a) For up to 100 percent of the eligible cost to upgrade wastewater treatment facilities from biological nutrient removal treatment levels to enhanced nutrient removal treatment levels at the design capacity approved by the Department;

(b) For a portion of the operation and maintenance costs, starting in FY 2010, of wastewater treatment facilities that operate at the enhanced nutrient removal treatment levels, not to exceed 10 percent of the amount deposited into the Wastewater Fund annually;

(c) For the following categories in priority order, effective FY 2018:

(i) For up to 100 percent of the eligible cost to upgrade wastewater treatment facilities with design capacity of 500,000 gallons or more per day, from biological nutrient removal treatment levels to enhanced nutrient removal treatment levels;

(ii) For up to 100 percent of the eligible cost to upgrade wastewater treatment facilities with design capacity of less than 500,000 gallons per day, from biological nutrient removal treatment levels to achieve enhanced nutrient removal treatment levels;]

(2) *To provide grant awards to wastewater treatment plants whose users have contributed to the Bay Restoration Fund for up to 100 percent of the eligible cost to upgrade wastewater treatment plants from biological nutrient removal treatment levels to enhanced nutrient removal levels at the design capacity approved by the Department;*

(3) *For a portion of the operation and maintenance costs, starting in FY 2010, of wastewater treatment plants that operate at the enhanced nutrient removal treatment levels, not to exceed 10 percent of the amount deposited into the Wastewater Fund annually;*

[iii] (4) Starting in FY 2018, [For a] for an
INSERTAFTER used: in accordance with Section .04 of this Chapter
[These funds to be utilized under the Onsite Sewage Disposal System Fund regulations]

[iv] (5) Starting in FY 2018, [For] for

INSERT IN SECOND SENTENCE BEFORE local government shall have: To be eligible for funding, [The]
the

[3] (6) **INSERT AFTER To provide for:** the Department's

[4] (7) [facilities] treatment plants

[5] (8)

B. Project Prioritization.

(b) **INSERT AFTER Second for :** the most cost-effective

(d) [facilities] treatment plants

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

(b) **INSERT AFTER Second for:** the most cost-effective

(d) [facilities] treatment plants

(e) **INSERT AFTER Fifth for:** nitrogen reduction [upgrades]

INSERT AFTER disposal systems: in accordance with Section .04 of this Chapter
[with best available technology for nitrogen reduction]
[to meet the excess demand during the fiscal year]

C. [Priority] Ranking [seek] request for and accept

[(6) Other factors established by the Department.]

D. [projects within each subcategory below. Once the eligible cost for all construction ready projects for the fiscal year in subcategory (1) are fully funded, any remaining grant funds shall be allocated next to subcategory (2), and so on, until the all of the available funds for the budget fiscal year are fully allocated in the priority order below:]
construction ready projects in accordance with sub-section B. Project Prioritization and sub-section C. Ranking System above, and as follows:

- (1) [facilities] treatment plants
- (2) [facilities] treatment plants
- (3) [facilities] treatment plants
- (4) [facilities] treatment plants
- (5) [OSDS] Onsite Sewage Disposal System
[Nitrogen Reduction] nitrogen reduction

E. Enhanced Nutrient Removal Operation and Maintenance Grants.

- (1) [facilities] plants
- (2) [Subject to annual budget appropriations] [the] The [facilities] plants
[\$25,000] \$30,000 [\$25,000] \$30,000 [\$250,000] \$300,000

[increased or decreased] adjusted [if the Bay Restoration Fund fee amount is increased or decreased]

INSERT AFTER Statute: *or* [or in the sole discretion of the Department]

(3) [in its sole discretion]
[facility] *plant*

(4) (a) [facilities] *plants*
(c) [facility] *plant*

(d) [assist] *provide data requested by*
[by providing requested data in reporting the impact of the Bay Restoration Fund on growth] *about the impact that a wastewater treatment plant that was upgraded to ENR has had on growth within the municipality or county that such a wastewater treatment plant is located*

04 Onsite Sewage Disposal System Fund.

(b) [an existing] *a* [a new] *an*
(c) [Cost] *The cost*
(d) **INSERT AFTER connecting:** *a property using an*
[facility] *plant*
[Cost] *The cost*

(2) [§A(1)(a) – (d) of this regulation] *Section 04A(1)(a) – (b) of this chapter*

(3) [cost of] *Department's*

C. *Grant Awards:* [seek] *request and accept*
[subject to annual budget appropriation,]

(3) [the county's] *its.*