

# HOUSE BILL 1350

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By: **Delegate Kullen**

Introduced and read first time: March 1, 2007

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Water Pollution Control – Funding**

3 FOR the purpose of establishing a Fertilizer Application Environmental Impact Fee  
4 for certain fertilizer applications; requiring a certain fertilizer applicator to  
5 include the environmental impact fee on a certain bill for fertilizer application;  
6 requiring a certain fertilizer applicator to remit the environmental impact fee to  
7 the Comptroller; authorizing the Comptroller to adopt certain regulations;  
8 requiring the Comptroller to deposit the environmental impact fee in a certain  
9 fund in a certain manner; specifying the use of certain revenues from certain  
10 fees; requiring a certain applicant to submit a certain calculation of certain  
11 nontidal wetland areas; prohibiting the Department of the Environment from  
12 issuing a certain permit and prohibiting the Board of Public Works from issuing  
13 a certain license until a certain applicant pays a certain fee; exempting certain  
14 projects from being subject to a certain fee; establishing a Wetlands Impact Fee  
15 for certain disturbances of tidal and nontidal wetland areas; requiring the  
16 Secretary of the Environment to deposit the Wetlands Impact Fee in a certain  
17 fund to be used for certain purposes; altering a certain fund and specifying that  
18 the fund consists of certain fees; authorizing the Board to award financial  
19 assistance to certain projects relating to stormwater management and wetlands  
20 creation and restoration; requiring priority be given to certain projects for  
21 certain grants; defining certain terms; and generally relating to funding water  
22 pollution control.

23 BY adding to  
24 Article – Agriculture  
25 Section 6–210.2

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (1999 Replacement Volume and 2006 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Environment  
5 Section 5–906, 5–907, 9–345, 9–350, 16–205, and 16–307  
6 Annotated Code of Maryland  
7 (1996 Replacement Volume and 2006 Supplement)

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

10 **Article – Agriculture**

11 **6–210.2.**

12 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
13 INDICATED:

14 (1) “CUSTOMER” MEANS A PERSON WHO:

15 (I) OWNS OR RENTS RESIDENTIAL PROPERTY; AND

16 (II) HAS ENTERED INTO A CONTRACT WITH A PERSON  
17 ENGAGED IN THE BUSINESS OF FERTILIZER APPLICATION.

18 (2) “FERTILIZER APPLICATION” MEANS THE SPREADING OF  
19 COMMERCIAL FERTILIZER BY CONTRACT OR OTHERWISE, FOR ANY PERSON  
20 OWNING OR RENTING A RESIDENTIAL PROPERTY.

21 (3) “FERTILIZER APPLICATOR” MEANS A PERSON ENGAGED IN  
22 THE BUSINESS OF FERTILIZER APPLICATION.

23 (B) (1) AS AN ADDED COST OF FERTILIZER APPLICATION, THERE IS A  
24 FERTILIZER APPLICATION ENVIRONMENTAL IMPACT FEE THAT SHALL EQUAL  
25 10% OF THE TOTAL COST OF THE FERTILIZER APPLICATION.

26 (2) A FERTILIZER APPLICATOR SHALL INCLUDE THE  
27 ENVIRONMENTAL IMPACT FEE ON A CUSTOMER’S BILL FOR FERTILIZER  
28 APPLICATION.

1           (c) (1) A FERTILIZER APPLICATOR SHALL REMIT THE  
2 ENVIRONMENTAL IMPACT FEE COLLECTED TO THE COMPTROLLER.

3           (2) EXCEPT TO THE EXTENT OF ANY INCONSISTENCY WITH THIS  
4 SUBSECTION, THE PROVISIONS OF TITLE 13 OF THE TAX – GENERAL ARTICLE  
5 THAT ARE APPLICABLE TO THE SALES AND USE TAX SHALL GOVERN THE  
6 ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE ENVIRONMENTAL  
7 IMPACT FEE UNDER THIS SECTION.

8           (3) THE COMPTROLLER MAY ADOPT REGULATIONS NECESSARY  
9 TO ADMINISTER, COLLECT, AND ENFORCE THE ENVIRONMENTAL IMPACT FEE.

10           (4) (I) THE COMPTROLLER SHALL DEPOSIT THE  
11 ENVIRONMENTAL IMPACT FEE IN THE WATER POLLUTION CONTROL FUND  
12 ESTABLISHED UNDER § 9-345 OF THE ENVIRONMENT ARTICLE IN A MANNER  
13 AGREED ON BY THE DEPARTMENT OF THE ENVIRONMENT AND THE  
14 COMPTROLLER.

15                           (II) REVENUE DEPOSITED IN THE WATER POLLUTION  
16 CONTROL FUND IN ACCORDANCE WITH THIS SECTION SHALL BE USED FOR:

17                                   1. FINANCIAL ASSISTANCE TO IMPLEMENT  
18 STORMWATER MANAGEMENT PRACTICES IN COUNTIES, MUNICIPALITIES, AND  
19 INCORPORATED COMMUNITIES UNDER § 9-350 OF THE ENVIRONMENT  
20 ARTICLE;

21                                   2. FINANCIAL ASSISTANCE TO CREATE AND  
22 RESTORE WETLAND AREAS UNDER § 9-350 OF THE ENVIRONMENT ARTICLE;  
23 AND

24                                   3. THE REASONABLE COSTS OF THE DEPARTMENT  
25 OF THE ENVIRONMENT, NOT TO EXCEED 8% OF THE REVENUE COLLECTED IN  
26 ACCORDANCE WITH THIS SECTION, TO AWARD FINANCIAL ASSISTANCE AS  
27 PROVIDED UNDER ITEMS 1 AND 2 OF THIS SUBPARAGRAPH.

28   Article – Environment

29 5-906.

1 (a) The following types of activities shall be exempt from the permit  
2 requirements of this section if notice is given to the Department and best management  
3 practices are implemented:

4 (1) Activities which normally occur in nontidal wetlands with minimal  
5 impact on nontidal wetlands, including the repair and maintenance of existing  
6 structures, utilities, including underground utilities, rights-of-way, and railroad beds;  
7 or

8 (2) Activities in isolated nontidal wetlands of less than 1 acre and  
9 having no significant plant or wildlife value.

10 (b) (1) After December 31, 1990 a person may not conduct a regulated  
11 activity without first obtaining a permit from the Department.

12 (2) In addition to obtaining a permit, a person shall comply with all  
13 other pollution control, flood hazard reduction, sediment control, stormwater  
14 management, local zoning, and other applicable federal, State, and local regulations.

15 (c) To apply for a permit, the applicant shall submit:

16 (1) [a] **A** delineation of the affected nontidal wetlands;

17 (2) **A CALCULATION OF THE TOTAL NONTIDAL WETLANDS AREA**  
18 **THAT WILL BE DISTURBED BY A REGULATED ACTIVITY; AND**

19 (3) [and all] **ALL** other information as required by the Department.

20 (d) Within 45 days from receipt of the application, the Department shall  
21 notify the applicant whether the application is complete and the delineation is correct.  
22 If the Department fails to notify the applicant about the application or delineation  
23 within 45 days, the delineation shall be treated by the Department as correct and the  
24 application shall be treated as complete. The Department may request further  
25 information or provide for an extension of this deadline when extenuating  
26 circumstances prevent consideration of the application.

27 (e) After receipt of a complete application, under the procedures of § 5-204(b)  
28 through (e) of this title the Department shall issue public notice of an opportunity to  
29 submit written comments or to request a hearing. A hearing shall be held within 45  
30 days if requested, unless extenuating circumstances justify an extension of time. The  
31 hearing is not a contested case under the State Government Article.

1 (f) In granting a permit, the Department may impose conditions or  
2 limitations required to carry out the provisions of this subtitle.

3 (g) The Department may require a bond or other instrument to secure  
4 compliance with the conditions in the permit.

5 (h) The Department may issue a temporary emergency permit for a  
6 regulated activity if:

7 (1) An unacceptable threat to life or severe loss of property will occur  
8 if an emergency permit is not granted; and

9 (2) The anticipated threat or loss may occur before a permit can be  
10 issued or modified as provided under this subtitle.

11 (i) (1) By December 31, 1989 the Department shall designate by  
12 regulation nontidal wetlands for which the buffer is to be expanded beyond 25 feet, but  
13 the total buffer may not exceed 100 feet, to assure adequate protections from adjacent  
14 activities or conditions which may adversely affect the nontidal wetland and  
15 associated aquatic ecosystem.

16 (2) Activities or conditions where the buffer may be expanded beyond  
17 25 feet include the presence of slopes, highly erodible soils or other soils with  
18 development constraints, or the presence of nontidal wetlands of special State concern.

19 (j) The Department shall grant, deny, or condition a permit within 45 days  
20 of a public hearing or within 60 days of the receipt of a completed application if no  
21 hearing is held. After notifying the applicant, the Department may extend its action  
22 beyond these time periods for an additional 30 days for extenuating circumstances.

23 5-907.

24 (a) **[The] IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (C) OF**  
25 **THIS SECTION, THE** Department may not issue a nontidal wetland permit for a  
26 regulated activity unless the Department finds that the applicant has demonstrated  
27 that the regulated activity:

28 (1) (i) Is water dependent and requires access to the nontidal  
29 wetland as a central element of its basic function; or

30 (ii) Is not water dependent and has no practicable alternative;

1           (2) Will minimize alteration or impairment of the nontidal wetland,  
2 including existing topography, vegetation, fish and wildlife resources, and hydrological  
3 conditions;

4           (3) Will not cause or contribute to a degradation of groundwaters or  
5 surface waters; and

6           (4) Is consistent with any comprehensive management plan that may  
7 be developed in accordance with § 5–908 of this subtitle.

8           (b) The applicant shall demonstrate to the satisfaction of the Department  
9 that practicable alternatives have been analyzed and that the regulated activity has  
10 no practicable alternative. In evaluating whether the proposed regulated activity has a  
11 practicable alternative, the Department shall consider:

12           (1) Whether the basic project purpose cannot be reasonably  
13 accomplished utilizing 1 or more other sites in the same general area that would avoid  
14 or result in less adverse impact on nontidal wetlands;

15           (2) Whether a reduction in the size, scope, configuration, or density of  
16 the project as proposed and all alternative designs that would result in less adverse  
17 impact on the nontidal wetland would not accomplish the basic purpose of the project;

18           (3) In cases where the applicant has rejected alternatives to the  
19 project as proposed due to constraints such as inadequate zoning, infrastructure, or  
20 parcel size, whether the applicant has made reasonable attempts to remove or  
21 accommodate these constraints; and

22           (4) The economic value of the proposed regulated activity in meeting a  
23 demonstrated public need in the area and the ecological and economic value associated  
24 with the nontidal wetland.

25           **(c) (1) THE DEPARTMENT MAY NOT ISSUE A NONTIDAL WETLAND**  
26 **PERMIT FOR A REGULATED ACTIVITY UNLESS THE APPLICANT HAS PAID A**  
27 **WETLANDS IMPACT FEE TO THE DEPARTMENT.**

28           **(2) THE WETLANDS IMPACT FEE IS \$1,000 PER SQUARE FOOT OF**  
29 **WETLAND AREAS THAT ARE DISTURBED BY A REGULATED ACTIVITY.**

30           **(3) (i) THE SECRETARY SHALL DEPOSIT THE WETLANDS**  
31 **IMPACT FEE IN THE WATER POLLUTION CONTROL FUND ESTABLISHED UNDER**  
32 **§ 9–345 OF THIS ARTICLE.**

1                   **(II) REVENUE DEPOSITED IN THE WATER POLLUTION**  
2 **CONTROL FUND IN ACCORDANCE WITH THIS SECTION SHALL BE USED FOR:**

3                   **1. FINANCIAL ASSISTANCE TO IMPLEMENT**  
4 **STORMWATER MANAGEMENT PRACTICES IN COUNTIES, MUNICIPALITIES, AND**  
5 **INCORPORATED COMMUNITIES UNDER § 9-350 OF THIS ARTICLE;**

6                   **2. FINANCIAL ASSISTANCE TO CREATE AND**  
7 **RESTORE WETLAND AREAS UNDER § 9-350 OF THIS ARTICLE; AND**

8                   **3. THE REASONABLE COSTS OF THE DEPARTMENT,**  
9 **NOT TO EXCEED 0.5% OF THE REVENUE COLLECTED IN ACCORDANCE WITH THIS**  
10 **SECTION, TO AWARD FINANCIAL ASSISTANCE AS PROVIDED UNDER ITEMS 1 AND**  
11 **2 OF THIS SUBPARAGRAPH.**

12 9-345.

13           (a) There is a Water Pollution Control Fund consisting of:

14                   **(1) THE FERTILIZER APPLICATION ENVIRONMENTAL IMPACT**  
15 **FEE COLLECTED UNDER § 6-210.2 OF THE AGRICULTURE ARTICLE;**

16                   **(2) THE WETLANDS IMPACT FEE COLLECTED UNDER §§ 5-907,**  
17 **16-205, AND 16-307 OF THIS ARTICLE;**

18                   **(3) [moneys] MONEYS** made available under water quality loan  
19 authorizations; or

20                   **(4) [by funds] FUNDS** appropriated in the State budget.

21           (b) The Board of Public Works, upon the recommendation of the Secretary,  
22 may award financial assistance for the following types of projects:

23                   (1) Construction of sewerage systems under §§ 9-347 and 9-348 of  
24 this subtitle;

25                   (2) Industrial user pretreatment projects under § 9-349 of this  
26 subtitle;

1           (3) Best management practices to control or prevent agriculturally  
2 related nonpoint source pollution under § 9–350 of this subtitle and Title 8, Subtitle 7  
3 of the Agriculture Article; [and]

4           (4) Practices to reduce pollution from stormwater runoff in existing  
5 urbanized areas under § 9–350 of this subtitle;

6           **(5) PROJECTS TO IMPLEMENT STORMWATER MANAGEMENT**  
7 **PRACTICES IN COUNTIES, MUNICIPALITIES, AND INCORPORATED COMMUNITIES**  
8 **UNDER § 9–350 OF THIS SUBTITLE; AND**

9           **(6) PROJECTS TO CREATE AND RESTORE WETLAND AREAS UNDER**  
10 **§ 9–350 OF THIS SUBTITLE.**

11           (c) (1) The Secretary, with the approval of the Board of Public Works,  
12 shall adopt rules and regulations that establish application procedures and criteria for  
13 the award of financial assistance under this subtitle. The criteria shall provide the  
14 basis for project priority rankings and shall include, **SUBJECT TO PARAGRAPH (2)**  
15 **OF THIS SUBSECTION**, as appropriate:

16                   (i) The water quality or public health impacts caused by  
17 existing circumstances;

18                   (ii) Previous efforts expended to correct any existing problem;

19                   (iii) Financial capacity of the applicant;

20                   (iv) The problem prevention aspects of a proposed project;

21                   (v) Cost effectiveness of a proposed project;

22                   (vi) Planning requirements;

23                   (vii) Provisions for monitoring and review; and

24                   (viii) Measures to assure accountability for all funds awarded  
25 under this subtitle.

26           **(2) FOR FINANCIAL ASSISTANCE AWARDED UNDER SUBSECTION**  
27 **(B)(5) OF THIS SECTION, THE CRITERIA SHALL INCLUDE:**



1                   **(I) THE WATER QUALITY OR PUBLIC HEALTH IMPACTS**  
2 **CAUSED BY EXISTING CIRCUMSTANCES, WITH PRIORITY GIVEN TO PROJECTS IN**  
3 **LOCATIONS THAT:**

4                   **1. ARE IN CLOSEST PROXIMITY TO A WATERWAY OF**  
5 **THE STATE THAT FLOWS INTO THE CHESAPEAKE BAY; AND**

6                   **2. HAVE THE GREATEST PERCENTAGE OF**  
7 **IMPERVIOUS SURFACES;**

8                   **(II) FINANCIAL CAPACITY OF THE APPLICANT;**

9                   **(III) THE PROBLEM PREVENTION ASPECTS OF A PROPOSED**  
10 **PROJECT;**

11                   **(IV) COST EFFECTIVENESS OF A PROPOSED PROJECT;**

12                   **(V) PLANNING REQUIREMENTS;**

13                   **(VI) PROVISIONS FOR MONITORING AND REVIEW; AND**

14                   **(VII) MEASURES TO ASSURE ACCOUNTABILITY FOR ALL**  
15 **FUNDS AWARDED UNDER THIS SUBTITLE.**

16                   **[(2)] (3)** Project priority systems shall be established. Prior to  
17 adopting rules and regulations and establishing project priority rankings under this  
18 section, the Secretary shall consult with the Secretaries of Natural Resources,  
19 Agriculture, and Business and Economic Development and the Secretary of the  
20 Department of Planning.

21 9-350.

22                   (a) (1) Grants may be awarded to counties and municipalities for projects  
23 to reduce pollution from stormwater runoff in existing urbanized areas.

24                   (2) Grants may be used for construction on privately owned property  
25 if:

26                   (i) Necessary for the purpose of the project; and

1 (ii) An agreement has been made with the property owner.

2 **(3) GRANTS MAY BE AWARDED TO COUNTIES, MUNICIPALITIES,**  
3 **AND INCORPORATED COMMUNITIES FOR PROJECTS TO IMPLEMENT**  
4 **STORMWATER MANAGEMENT PRACTICES.**

5 **[(3)] (4) [A] EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS**  
6 **SUBSECTION, A grant awarded under this subsection:**

7 (i) Shall not exceed 75 percent of all eligible costs; and

8 (ii) Shall not exceed \$500,000.

9 **(5) A GRANT AWARDED UNDER PARAGRAPH (3) OF THIS**  
10 **SUBSECTION MAY BE AWARDED FOR UP TO 100% OF ALL ELIGIBLE COSTS.**

11 (b) (1) In addition to cost sharing funds provided under Title 8, Subtitle 7  
12 of the Agriculture Article, grants may be awarded for projects to implement best  
13 management practices to prevent or control agriculturally related nonpoint sources of  
14 water pollution on State land or to governmental entities in other areas in which the  
15 potential for water pollution from agriculture is substantial. When cost sharing funds  
16 are provided under Title 8, Subtitle 7 of the Agriculture Article, the procedures and  
17 requirements of that law rather than § 9-345 apply.

18 (2) Grants awarded under this subsection to governmental entities or  
19 for use on State land may be awarded for up to 100 percent of the total cost of a  
20 project. However, in awarding such grants, the applicant's financial capability to cost  
21 share and any resultant economic benefit shall be considered in determining the  
22 extent of any required matching dollar amount.

23 (3) All grants awarded under this subsection shall be made after prior  
24 consultation with the Secretary of Agriculture.

25 **(c) (1) A GRANT MAY BE AWARDED TO COUNTIES, MUNICIPALITIES,**  
26 **INCORPORATED COMMUNITIES, AND LANDOWNERS FOR THE CREATION AND**  
27 **RESTORATION OF WETLAND AREAS.**

28 **(2) A GRANT AWARDED UNDER THIS SUBSECTION MAY BE**  
29 **AWARDED FOR UP TO 100% OF ALL ELIGIBLE COSTS.**

30 16-205.

1 (a) The Board may require as a condition to issuance of a wetlands license  
2 that compensation be made to the State, of a kind and in an amount deemed  
3 appropriate by the Board.

4 (b) Monetary compensation received by the State in conjunction with a  
5 wetlands license may not be applied to the State annuity bond fund account.

6 (c) (1) There is created a special fund, known as the Tidal Wetlands  
7 Compensation Fund.

8 (2) The following money shall be deposited in the Tidal Wetlands  
9 Compensation Fund:

10 (i) Any monetary compensation paid [to the State in  
11 conjunction with a wetlands license, including compensation paid] by an applicant  
12 instead of engaging in the creation, restoration, or enhancement of a tidal wetland;

13 (ii) Any penalty imposed by a court in accordance with this title;  
14 and

15 (iii) Any penalty imposed by the Department under this title.

16 (d) Funds in the Tidal Wetlands Compensation Fund may be appropriated  
17 only for acquisition and conservation of wetland areas by the State, including cost  
18 sharing assistance to landowners in the management and control of phragmites under  
19 Title 8, Subtitle 21 of the Natural Resources Article.

20 (e) Funds appropriated in the budget for wetlands acquisition and  
21 conservation under this section:

22 (1) Shall remain available until expended; and

23 (2) May not be reverted under any other provision of law.

24 **(F) (1) BEFORE THE ISSUANCE OF A LICENSE, AN APPLICANT SHALL**  
25 **PROVIDE TO THE BOARD INFORMATION ON THE TOTAL WETLAND AREA THAT**  
26 **WILL BE DISTURBED BY DREDGE OR FILL ACTIVITIES.**

27 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
28 **PARAGRAPH, THE BOARD MAY NOT ISSUE A LICENSE TO AN APPLICANT FOR THE**

1 **DREDGING OR FILLING ON STATE WETLANDS UNLESS AN APPLICANT HAS PAID A**  
2 **WETLANDS IMPACT FEE TO THE BOARD.**

3 **(II) THE BOARD MAY NOT REQUIRE THE PAYMENT OF A**  
4 **WETLANDS IMPACT FEE BY AN APPLICANT FOR:**

5 **1. A SHORELINE STABILIZATION PROJECT; OR**

6 **2. A RESIDENTIAL PIER.**

7 **(3) THE WETLANDS IMPACT FEE IS \$1,000 PER SQUARE FOOT OF**  
8 **WETLAND AREAS THAT ARE DISTURBED BY DREDGE OR FILL ACTIVITIES.**

9 **(4) (I) THE BOARD SHALL DEPOSIT THE WETLANDS IMPACT**  
10 **FEE INTO THE WATER POLLUTION CONTROL FUND ESTABLISHED UNDER §**  
11 **9-345 OF THIS ARTICLE.**

12 **(II) REVENUE DEPOSITED INTO THE WATER POLLUTION**  
13 **CONTROL FUND IN ACCORDANCE WITH THIS SECTION SHALL BE USED FOR:**

14 **1. FINANCIAL ASSISTANCE TO IMPLEMENT**  
15 **STORMWATER MANAGEMENT PRACTICES IN COUNTIES, MUNICIPALITIES, AND**  
16 **INCORPORATED COMMUNITIES UNDER § 9-350 OF THIS ARTICLE;**

17 **2. FINANCIAL ASSISTANCE TO CREATE AND**  
18 **RESTORE WETLAND AREAS UNDER § 9-350 OF THIS ARTICLE; AND**

19 **3. THE REASONABLE COSTS OF THE DEPARTMENT,**  
20 **NOT TO EXCEED 0.5% OF THE REVENUE COLLECTED IN ACCORDANCE WITH THIS**  
21 **SECTION, TO AWARD FINANCIAL ASSISTANCE AS PROVIDED UNDER ITEMS 1 AND**  
22 **2 OF THIS SUBPARAGRAPH.**

23 16-307.

24 **(a) (1) Any person proposing to conduct on any wetland an activity not**  
25 **authorized by the regulations adopted under the provisions of § 16-302 of this subtitle**  
26 **shall apply for a permit with the Secretary, on the form the Secretary prescribes.**

27 **(2) The application shall include a detailed description of the proposed**  
28 **work and a map showing the areas of wetland directly affected, the location of the**

1 proposed work, and the names of the owners of record of adjacent land, and every  
2 claimant of water rights in or adjacent to the wetland known to the applicant.

3 (3) (i) Within 30 days after receipt of an application, the Secretary  
4 shall notify the applicant, in writing, of the extent of State wetlands involved in the  
5 proposed activity and indicate the method of compliance with the license requirements  
6 of § 16–202 of this title.

7 (ii) If the applicant claims that any part of the designated State  
8 wetlands is private wetlands by virtue of the existence of a valid grant, lease, or  
9 patent, or a grant confirmed by Article 5 of the Maryland Declaration of Rights, the  
10 Secretary shall investigate and determine the validity of the claim and notify the  
11 applicant of the Secretary's determination.

12 (iii) If, within 30 days after receipt of the Secretary's  
13 determination, the applicant files with the Secretary a written objection to the  
14 determination, the Secretary shall promptly institute an appropriate judicial  
15 proceeding to determine whether the land or part of the land covered by the  
16 application in dispute, is State or private wetland. The State shall bear the cost of the  
17 proceeding.

18 (4) The Secretary shall mail a copy of the application to the chief  
19 administrative officer in the county where the proposed work or any portion is located.

20 (5) (i) No later than 30 days after receipt of the application, the  
21 Secretary shall issue public notice of the opportunity to submit written comments or to  
22 request a hearing. A hearing shall be held if requested.

23 (ii) If an electric company, as defined in § 1–101 of the Public  
24 Utility Companies Article, applies to the Public Service Commission for a certificate of  
25 public convenience associated with power plant construction which involves private  
26 wetlands, the hearing and permit procedure shall be in accordance with § 3–306 of the  
27 Natural Resources Article.

28 (iii) At a requested hearing any person may appear and give  
29 testimony.

30 (6) Every permit application, map, or document shall be open for  
31 public inspection at the offices of the Secretary and the chief administrative officer in  
32 the county.

1           (7) A person may not reapply until after the expiration of 18 months  
2 from the date of the denial of a prior application or the final determination of an  
3 appeal from the denial.

4           **(B) (1) THE DEPARTMENT MAY NOT ISSUE A PERMIT FOR AN**  
5 **ACTIVITY UNLESS THE APPLICANT HAS PAID A WETLANDS IMPACT FEE TO THE**  
6 **DEPARTMENT.**

7           **(2) (I) THE WETLANDS IMPACT FEE IS \$1,000 PER SQUARE**  
8 **FOOT OF WETLAND AREAS THAT ARE DISTURBED BY AN ACTIVITY.**

9           **(II) THE DEPARTMENT MAY NOT COLLECT A WETLANDS**  
10 **IMPACT FEE FOR:**

11                   **1. A SHORELINE STABILIZATION PROJECT; OR**

12                   **2. A RESIDENTIAL PIER.**

13           **(3) (I) THE SECRETARY SHALL DEPOSIT THE WETLANDS**  
14 **IMPACT FEE IN THE WATER POLLUTION CONTROL FUND ESTABLISHED UNDER**  
15 **§ 9-345 OF THIS ARTICLE.**

16           **(II) REVENUE DEPOSITED INTO THE WATER POLLUTION**  
17 **CONTROL FUND IN ACCORDANCE WITH THIS SECTION SHALL BE USED FOR:**

18                   **1. FINANCIAL ASSISTANCE TO IMPLEMENT**  
19 **STORMWATER MANAGEMENT PRACTICES IN COUNTIES, MUNICIPALITIES, AND**  
20 **INCORPORATED COMMUNITIES UNDER § 9-350 OF THIS ARTICLE;**

21                   **2. FINANCIAL ASSISTANCE TO CREATE AND**  
22 **RESTORE WETLAND AREAS UNDER § 9-350 OF THIS ARTICLE; AND**

23                   **3. THE REASONABLE COSTS OF THE DEPARTMENT,**  
24 **NOT TO EXCEED 0.5% OF THE REVENUE COLLECTED IN ACCORDANCE WITH THIS**  
25 **SECTION, TO AWARD FINANCIAL ASSISTANCE AS PROVIDED UNDER ITEMS 1 AND**  
26 **2 OF THIS SUBPARAGRAPH.**

27           **[(b)] (C)** In granting, denying, or limiting any permit, the Secretary or the  
28 Secretary's designated hearing officer shall consider the effect of the proposed work  
29 with reference to the public health and welfare, marine fisheries, shellfisheries,

1 wildlife, economic benefits, the protection of life and property from flood, hurricane,  
2 and any other natural disaster, and the public policy set forth in this title. In granting  
3 a permit the Secretary may impose conditions or limitations designed to carry out the  
4 public policy set forth in this title. The Secretary may require a bond in an amount  
5 and with surety and conditions satisfactory to the Secretary, to secure compliance with  
6 any condition or limitation in the permit. The Secretary may suspend or revoke a  
7 permit if the Secretary finds that the applicant has not complied with any condition or  
8 limitation in the permit or has exceeded the scope of the work as set forth in the  
9 application. The Secretary shall state on the record the Secretary's findings and  
10 reasons for any action taken under this subsection.

11        [(c)] (D)        The Secretary shall render a decision within 30 days after the  
12 public comment period. Failure to act in conformance with either of these  
13 requirements is automatic approval of the application for permit as submitted.

14        [(d)] (E)        The Secretary shall provide opportunity for a contested case  
15 hearing in accordance with the provisions of § 5-204(f) through (h) of this article.

16        SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2007.