

# SENATE BILL 213

M1, M3

8lr0260  
CF 8lr0261

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By: **The President (By Request - Administration) and Senators Frosh, Garagiola, Gladden, King, Madaleno, Peters, Pinsky, Raskin, and Robey**  
Introduced and read first time: January 18, 2008  
Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Chesapeake Bay 2010 Trust Fund and Nonpoint Source Fund**

3 FOR the purpose of altering the Chesapeake Bay 2010 Trust Fund and its purposes;  
4 providing for the uses of the Fund; establishing in statute the BayStat Program  
5 and BayStat Subcabinet; requiring the BayStat Subcabinet to oversee the  
6 administration of the Program; establishing the responsibilities of the Program;  
7 requiring the BayStat Subcabinet to submit to the public a certain annual  
8 report and develop an annual work and expenditure plan; requiring the  
9 Governor to submit the annual work and expenditure plan to the General  
10 Assembly as part of the annual budget submission; requiring the Program to  
11 implement certain measures for certain purposes; requiring the Program to  
12 distribute funds from the Trust Fund to the BayStat Subcabinet agencies;  
13 requiring the BayStat Subcabinet agencies to redistribute the funds through  
14 grants to various entities and to the Chesapeake Bay Nonpoint Source Fund;  
15 requiring the Program to develop certain grant solicitations, guidelines, and  
16 applications; requiring grant agreements to comply with certain requirements;  
17 requiring grant recipients to submit a certain annual report that includes  
18 certain information; prohibiting the use of the Trust Fund for certain purposes;  
19 establishing a BayStat Program Scientific Advisory Panel, composed of certain  
20 individuals appointed by the Governor; establishing certain responsibilities for  
21 the Panel; authorizing State agencies that administer certain grants to receive  
22 certain administrative costs from the Trust Fund; establishing the Chesapeake  
23 Bay Nonpoint Source Fund as a special, continuing, nonlapsing fund in the  
24 Water Quality Financing Administration in the Department of the  
25 Environment; establishing the purpose of the Fund; establishing certain  
26 funding for the Fund; requiring the Fund to be subject to a certain audit;  
27 authorizing the Administration to establish accounts and subaccounts in the  
28 Fund for certain purposes; establishing the uses of the Fund; providing for  
29 certain bonding authority relating to money in the Fund; requiring the  
30 Administration to provide for a certain system of financial accounting, controls,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 audits, and reports for certain funds that conforms with certain State and  
2 federal laws; requiring a certain audit and audit report of certain funds;  
3 defining certain terms; and generally relating to dedicated funding sources for  
4 the restoration of the Chesapeake Bay and the waters of the State.

5 BY renumbering

6 Article – Natural Resources

7 Section 8–205

8 to be Section 8–2A–01 to be under the new subtitle “Subtitle 2A. Chesapeake  
9 Bay 2010 Trust Fund”

10 Annotated Code of Maryland

11 (2007 Replacement Volume)

12 (As enacted by Chapter 6 of the Acts of the General Assembly Special Session of  
13 2007)

14 BY repealing and reenacting, with amendments,

15 Article – Natural Resources

16 Section 8–2A–01

17 Annotated Code of Maryland

18 (2007 Replacement Volume)

19 (As enacted by Section 1 of this Act)

20 BY adding to

21 Article – Natural Resources

22 Section 8–2A–02 through 8–2A–04

23 Annotated Code of Maryland

24 (2007 Replacement Volume)

25 BY repealing and reenacting, with amendments,

26 Article – Environment

27 Section 9–1601, 9–1611, and 9–1616

28 Annotated Code of Maryland

29 (2007 Replacement Volume and 2007 Supplement)

30 BY adding to

31 Article – Environment

32 Section 9–1605.3 and 9–1617.1

33 Annotated Code of Maryland

34 (2007 Replacement Volume and 2007 Supplement)

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
36 MARYLAND, That Section(s) 8–205 of Article – Natural Resources of the Annotated  
37 Code of Maryland be renumbered to be Section(s) 8–2A–01 to be under the new  
38 subtitle “Subtitle 2A. Chesapeake Bay 2010 Trust Fund”.

39 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
40 read as follows:



1 **8-2A-02.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
3 MEANINGS INDICATED.

4 (2) "BAYSTAT PROGRAM" OR "PROGRAM" MEANS THE PROGRAM  
5 ESTABLISHED UNDER § 8-2A-03 OF THIS SUBTITLE.

6 (3) (I) "NONPOINT SOURCE POLLUTION CONTROL PROJECT"  
7 MEANS A PROJECT TO IMPROVE WATER QUALITY BY A REDUCTION OF  
8 NITROGEN, PHOSPHOROUS, OR SEDIMENT POLLUTION.

9 (II) "NONPOINT SOURCE POLLUTION CONTROL PROJECT"  
10 INCLUDES:

11 1. AN AGRICULTURAL BEST MANAGEMENT  
12 IMPLEMENTATION PRACTICE, INCLUDING COVER CROPS, RIPARIAN FORESTED  
13 BUFFER, MANURE PROCESSING, GRASSED WATERWAYS, ANIMAL WASTE  
14 STORAGE STRUCTURES, AND LIVESTOCK FENCING;

15 2. AN URBAN OR SUBURBAN STORM WATER  
16 PRACTICE;

17 3. A FOREST MANAGEMENT PRACTICE OR  
18 NONORNAMENTAL URBAN AND SUBURBAN TREE PLANTING PROJECT;

19 4. STREAM AND WETLAND RESTORATION;

20 5. RIPARIAN BUFFER PLANTING;

21 6. A PROJECT THAT DEMONSTRATES THE  
22 EFFECTIVENESS OF AN INNOVATIVE NONPOINT SOURCE POLLUTION  
23 REDUCTION MEASURE PROVIDED THAT THE MEASURE IS CAPABLE OF  
24 INTEGRATION INTO EXISTING NONPOINT SOURCE POLLUTION PROGRAMS;

25 7. TARGETED ENFORCEMENT OF NONPOINT SOURCE  
26 POLLUTION LAWS AND REGULATIONS THAT IMPROVE WATER QUALITY;

27 8. TECHNICAL ASSISTANCE NECESSARY TO  
28 IMPLEMENT A NONPOINT SOURCE POLLUTION CONTROL PROJECT; AND

29 9. DEVELOPMENT, REDEVELOPMENT, OR  
30 IMPROVEMENT OF A MUNICIPAL PARK PROVIDED THAT THE DEVELOPMENT,

1 REDEVELOPMENT, OR IMPROVEMENT INCORPORATES STATE-OF-THE-ART AND  
2 SUSTAINABLE NONPOINT SOURCE POLLUTION CONTROL MEASURES.

3 (4) "TRIBUTARY STRATEGIES" MEANS EACH OF MARYLAND'S 10  
4 WATERSHED-SPECIFIC PLANS AS AMENDED FROM TIME TO TIME TO REDUCE  
5 THE AMOUNT OF NITROGEN, PHOSPHOROUS, AND SEDIMENT POLLUTION THAT  
6 ENTERS THE CHESAPEAKE BAY AND ITS TRIBUTARIES.

7 (5) "TRUST FUND" MEANS THE CHESAPEAKE BAY 2010 TRUST  
8 FUND.

9 **8-2A-03.**

10 (A) (1) THERE IS A BAYSTAT PROGRAM TO:

11 (I) MEASURE AND EVALUATE EFFORTS TO RESTORE THE  
12 CHESAPEAKE BAY; AND

13 (II) ADMINISTER THE TRUST FUND.

14 (2) THE BAYSTAT SUBCABINET SHALL OVERSEE THE  
15 ADMINISTRATION OF THE BAYSTAT PROGRAM.

16 (3) THE BAYSTAT SUBCABINET IS COMPOSED OF:

17 (I) THE SECRETARY OF NATURAL RESOURCES;

18 (II) THE SECRETARY OF THE ENVIRONMENT;

19 (III) THE SECRETARY OF PLANNING;

20 (IV) THE SECRETARY OF AGRICULTURE; AND

21 (V) THE PRESIDENT OF THE UNIVERSITY OF MARYLAND  
22 CENTER FOR ENVIRONMENTAL SCIENCE.

23 (B) THE BAYSTAT PROGRAM SHALL:

24 (1) PROVIDE ACCURATE AND TIMELY DATA TO POLICYMAKERS  
25 AND THE PUBLIC ABOUT THE EFFICACY AND COST-EFFECTIVENESS OF LOCAL,  
26 STATE, AND FEDERAL PROGRAMS TO RESTORE THE CHESAPEAKE BAY;

27 (2) TRACK AND ASSESS THE PROGRESS OF STATE AND FEDERAL  
28 PROGRAMS TO IMPROVE THE HEALTH OF THE CHESAPEAKE BAY;

1           **(3) ASSESS THE EFFECTIVENESS OF ENFORCEMENT PROGRAMS**  
2 **IN CURBING POLLUTION AND ACHIEVING CHESAPEAKE BAY RESTORATION**  
3 **GOALS AND INSTITUTE ACTIONS TO IMPROVE THE EFFECTIVENESS OF**  
4 **ENFORCEMENT PROGRAMS;**

5           **(4) ADOPT MEASURABLE GOALS FOR CHESAPEAKE BAY**  
6 **RESTORATION;**

7           **(5) IDENTIFY NEW THREATS TO THE HEALTH OF THE**  
8 **CHESAPEAKE BAY;**

9           **(6) INCREASE PUBLIC AWARENESS OF, AND PARTICIPATION IN,**  
10 **EFFORTS TO RESTORE THE VITALITY OF THE CHESAPEAKE BAY; AND**

11           **(7) DIRECT THE ADMINISTRATION OF THE TRUST FUND.**

12           **(C) THE BAYSTAT SUBCABINET SHALL:**

13           **(1) REPORT ANNUALLY TO THE PUBLIC REGARDING:**

14                   **(I) THE HEALTH OF THE CHESAPEAKE BAY TRIBUTARY**  
15 **BASIN;**

16                   **(II) THE STATUS OF LOCAL, STATE, AND FEDERAL**  
17 **PROGRAMS TO RESTORE THE CHESAPEAKE BAY; AND**

18                   **(III) ESTIMATED NUTRIENT REDUCTIONS ACHIEVED**  
19 **THROUGH PROJECTS FINANCED BY THE TRUST FUND; AND**

20           **(2) DEVELOP AN ANNUAL WORK AND EXPENDITURE PLAN THAT:**

21                   **(I) IDENTIFIES THE PLANNED WORK AND EXPENDITURES**  
22 **FROM THE TRUST FUND; AND**

23                   **(II) PROVIDES AN ACCOUNTING OF ALL MONEYS**  
24 **DISTRIBUTED FROM THE TRUST FUND IN THE PREVIOUS FISCAL YEAR.**

25           **(D) THE GOVERNOR SHALL SUBMIT THE ANNUAL WORK AND**  
26 **EXPENDITURE PLAN TO THE GENERAL ASSEMBLY AS PART OF THE ANNUAL**  
27 **BUDGET SUBMISSION.**

28 **8-2A-04.**

1           (A)    **THE BAYSTAT PROGRAM SHALL DIRECT THE ADMINISTRATION OF**  
2 **THE TRUST FUND IN ACCORDANCE WITH THIS SECTION.**

3           (B)    **THE PROGRAM SHALL IMPLEMENT NONPOINT SOURCE POLLUTION**  
4 **REDUCTION MEASURES TO ACHIEVE THE TRIBUTARY STRATEGIES BY**  
5 **TARGETING FUNDS THAT PROVIDE THE MOST COST-EFFECTIVE WATER QUALITY**  
6 **BENEFITS TO THE CHESAPEAKE BAY.**

7           (C)    **(1)    THE PROGRAM SHALL DISTRIBUTE FUNDS FROM THE TRUST**  
8 **FUND TO THE BAYSTAT SUBCABINET AGENCIES.**

9                   **(2)    THE BAYSTAT SUBCABINET AGENCIES SHALL REDISTRIBUTE**  
10 **THE FUNDS:**

11                           **(I)    THROUGH GRANTS, TO THE MAXIMUM EXTENT**  
12 **PRACTICABLE ON A COMPETITIVE BASIS, TO:**

- 13                                   1.    **COUNTIES;**
- 14                                   2.    **BICOUNTY AGENCIES;**
- 15                                   3.    **MUNICIPALITIES;**
- 16                                   4.    **FOREST CONSERVANCY DISTRICT BOARDS;**
- 17                                   5.    **SOIL CONSERVATION DISTRICTS;**
- 18                                   6.    **ACADEMIC INSTITUTIONS; AND**
- 19                                   7.    **NONPROFIT ORGANIZATIONS HAVING A**  
20 **DEMONSTRATED ABILITY TO IMPLEMENT NONPOINT SOURCE POLLUTION**  
21 **CONTROL PROJECTS; AND**

22                                   **(II)    TO THE CHESAPEAKE BAY NONPOINT SOURCE FUND**  
23 **ESTABLISHED UNDER § 9-1605.3 OF THE ENVIRONMENT ARTICLE.**

24                   **(3)    (I)    THE BAYSTAT PROGRAM SHALL DEVELOP**  
25 **SOLICITATIONS, GUIDELINES, AND APPLICATIONS FOR TRUST FUND GRANTS.**

26                                   **(II)    THE PROGRAM MAY ENCOURAGE AND CONSIDER A**  
27 **MATCH, COST-SHARE, OR OTHER ACTION PROPOSED BY A GRANT APPLICANT IN**  
28 **EVALUATING A TRUST FUND GRANT APPLICATION.**

1           (D) ANY GRANT AGREEMENT REGARDING FUNDS FROM THE TRUST  
2 FUND SHALL:

3           (1) SPECIFY THE USE OF THE FUNDS PROVIDED UNDER THE  
4 GRANT, ACCOUNTABILITY MEASURES, AND PERFORMANCE REQUIREMENTS;  
5 AND

6           (2) TAKE INTO ACCOUNT THE NEED FOR EFFICIENT, MULTIYEAR  
7 FUNDING AND ADMINISTRATION.

8           (E) (1) A RECIPIENT OF A TRUST FUND GRANT IN ANY FISCAL YEAR  
9 SHALL SUBMIT AN ANNUAL REPORT TO THE BAYSTAT PROGRAM BY NOVEMBER  
10 1 OF THE NEXT FISCAL YEAR.

11           (2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS  
12 SUBSECTION SHALL INCLUDE:

13           (I) AN ESTIMATE OF THE NUTRIENT LOADING REDUCTIONS  
14 RESULTING FROM AN ONGOING PROJECT, AND THE TIME FRAME FOR  
15 COMPLETION OF THE PROJECT; AND

16           (II) AN ASSESSMENT OF NUTRIENT LOADING REDUCTIONS  
17 AND WATER QUALITY BENEFITS ACHIEVED THROUGH COMPLETED PROJECTS.

18           (F) FUNDS FROM THE TRUST FUND MAY NOT BE USED TO PAY FOR  
19 PRIVATE PROJECTS THAT ARE REQUIRED FOR REGULATORY COMPLIANCE  
20 PURPOSES.

21           (G) (1) THERE IS A BAYSTAT PROGRAM SCIENTIFIC ADVISORY  
22 PANEL.

23           (2) THE GOVERNOR SHALL APPOINT THE CHAIR AND MEMBERS  
24 OF THE PANEL.

25           (3) THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL  
26 SHALL INCLUDE SCIENTISTS AND OTHER TECHNICAL EXPERTS WITH  
27 DEMONSTRATED EXPERTISE IN THE DISCIPLINES RELATED TO PROTECTION  
28 AND RESTORATION OF THE CHESAPEAKE BAY.

29           (4) THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL  
30 SHALL:



1 (I) ON OR BEFORE SEPTEMBER 1, ANNUALLY PROVIDE  
2 RECOMMENDATIONS TO THE BAYSTAT SUBCABINET ON THE USE OF FUNDS OF  
3 THE TRUST FUND FOR THE FOLLOWING FISCAL YEAR;

4 (II) MONITOR THE DISTRIBUTION OF FUNDS FROM THE  
5 TRUST FUND;

6 (III) REVIEW THE CATEGORIES OF GRANTS MADE IN THE  
7 PREVIOUS YEAR TO ASSESS NUTRIENT LOADING REDUCTION ESTIMATES AND  
8 COST EFFICIENCIES AND THE EFFECTIVENESS OF ANY INNOVATIVE NONPOINT  
9 SOURCE POLLUTION REDUCTION MEASURE;

10 (IV) REVIEW THE ANNUAL WORK AND EXPENDITURE PLAN  
11 AND ADVISE THE BAYSTAT SUBCABINET OF ANY RECOMMENDED CHANGES;

12 (V) ON REQUEST BY THE BAYSTAT SUBCABINET, REVIEW  
13 INDIVIDUAL GRANT APPLICATIONS; AND

14 (VI) ANNUALLY REVIEW ANY TRUST FUND MONEYS THAT  
15 ARE NOT DISTRIBUTED ON A COMPETITIVE BASIS TO ASSESS WHETHER THOSE  
16 MONEYS MAY BE DISTRIBUTED ON A COMPETITIVE BASIS;

17 (H) A STATE AGENCY THAT ADMINISTERS A TRUST FUND GRANT SHALL  
18 RECEIVE FROM THE FUND AN AMOUNT EQUIVALENT TO ITS REASONABLE  
19 DIRECT COSTS OF GRANT ADMINISTRATION.

## 20 Article - Environment

21 9-1601.

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

24 (b) "Administration" means the Maryland Water Quality Financing  
25 Administration.

26 (c) "Bay Restoration Fund" means the Bay Restoration Fund established  
27 under § 9-1605.2 of this subtitle.

28 (d) "Biological nutrient removal" means a biological nutrient removal  
29 technology capable of reducing the nitrogen in wastewater effluent to not more than 8  
30 milligrams per liter, as calculated on an annually averaged basis.

31 (e) "Board" means the Board of Public Works.

1 (f) “Bond” means a bond, note, or other evidence of obligation of the  
2 Administration issued under this subtitle, including a bond or revenue anticipation  
3 note, notes in the nature of commercial paper, and refunding bonds.

4 (g) “Bond resolution” means the resolution or resolutions of the Director,  
5 including the trust agreement, if any, authorizing the issuance of and providing for the  
6 terms and conditions applicable to bonds.

7 (h) “Borrower” means a local government or a person as defined in § 1–101(h)  
8 of this article who has received a loan.

9 (I) **“CHESAPEAKE BAY NONPOINT SOURCE FUND” MEANS THE**  
10 **CHESAPEAKE BAY NONPOINT SOURCE FUND ESTABLISHED UNDER § 9–1605.3**  
11 **OF THIS SUBTITLE.**

12 [(i)] (J) “Director” means the Director of the Administration.

13 [(j)] (K) “Drinking Water Loan Fund” means the Maryland Drinking Water  
14 Revolving Loan Fund.

15 [(k)] (L) “Eligible costs” means the costs identified under § 9–1605.2(i) of  
16 this subtitle.

17 [(l)] (M) “Enhanced nutrient removal” means:

18 (1) An enhanced nutrient removal technology that is capable of  
19 reducing the nitrogen and phosphorus concentrations in wastewater effluent to  
20 concentrations of not more than 3 milligrams per liter total nitrogen and not more  
21 than 0.3 milligrams per liter total phosphorus, as calculated on an annually averaged  
22 basis; or

23 (2) If the Department has determined that the concentrations under  
24 item (1) of this subsection are not practicable for a wastewater facility, the lowest  
25 average annual wastewater effluent nitrogen and phosphorus concentrations that the  
26 Department determines are practicable for that facility.

27 [(m)] (N) “Equivalent dwelling unit” means a measure of wastewater  
28 effluent where one unit is equivalent to:

29 (1) If a local government or billing authority for a wastewater facility  
30 has established a definition for “equivalent dwelling unit” on or before January 1,  
31 2004, the average daily flow of wastewater effluent that the local government or  
32 billing authority has established to be equivalent to the average daily flow of  
33 wastewater effluent discharged by a residential dwelling, which may not exceed 250  
34 gallons; or

1           (2) If a local government or billing authority has not established a  
2 definition for “equivalent dwelling unit” on or before January 1, 2004, or if a local  
3 government or billing authority has established a definition that exceeds 250 gallons  
4 of wastewater effluent per day, an average daily flow of 250 gallons of wastewater  
5 effluent.

6           [(n)] (O) “Facility” means a wastewater facility or all or a portion of a water  
7 supply system as defined in § 9–201(u) of this title.

8           [(o)] (P) “Federal Safe Drinking Water Act” means Title XIV of the Public  
9 Health Service Act, P.L. 93–523, as amended, 42 U.S.C. § 300f, et seq., and the rules  
10 and regulations promulgated thereunder.

11           [(p)] (Q) “Federal Water Pollution Control Act” means the Water Pollution  
12 Control Act of 1972, P.L. 92–500, as amended, 33 U.S.C. § 1251, et seq., and rules and  
13 regulations promulgated thereunder.

14           [(q)] (R) “Fund” means a fund established by this subtitle, including the  
15 Water Quality Fund, the Drinking Water Loan Fund, and the Bay Restoration Fund  
16 **AND THE CHESAPEAKE BAY NONPOINT SOURCE FUND.**

17           [(r)] (S) “Grant” means a grant from the Administration to a grantee.

18           [(s)] (T) “Grant agreement” means a written agreement between the  
19 Administration and a grantee with respect to a grant.

20           [(t)] (U) “Grantee” means the grant recipient.

21           [(u)] (V) “Lender” has the meaning stated in § 9–1606.1 of this subtitle.

22           [(v)] (W) “Linked deposit” has the meaning stated in § 9–1606.1 of this  
23 subtitle.

24           [(w)] (X) “Linked deposit loan” has the meaning stated in § 9–1606.1 of this  
25 subtitle.

26           [(x)] (Y) “Linked deposit program” has the meaning stated in § 9–1606.1 of  
27 this subtitle.

28           [(y)] (Z) “Loan” means a loan from the Administration to a borrower for the  
29 purpose of financing all or a portion of the cost of a wastewater facility, if the loan is  
30 from the Water Quality Fund, or water supply system, if the loan is from the Drinking  
31 Water Loan Fund.

32           [(z)] (AA) “Loan agreement” means a written agreement between the  
33 Administration and a borrower with respect to a loan.

1            [(aa)] **(BB)** “Loan obligation” means a bond, note, or other evidence of  
2 obligation, including a mortgage, deed of trust, lien, or other security instrument,  
3 issued or executed by a borrower to evidence its indebtedness under a loan agreement  
4 with respect to a loan.

5            [(bb)] **(CC)** (1) “Local government” means a county, municipal corporation,  
6 sanitary district, or other State or local public entity which has authority to own or  
7 operate a facility.

8                            (2) “Local government” includes any combination of two or more of the  
9 public entities under paragraph (1) of this subsection when acting jointly to construct  
10 or operate a facility.

11            [(cc)] **(DD)** (1) “Person” means an individual, corporation, partnership,  
12 association, the State, any unit of the State, commission, special taxing district, or the  
13 federal government.

14                            (2) “Person” does not include a county, municipal corporation,  
15 bi-county or multicounty agency under Article 28 or 29 of the Code, housing authority  
16 under Division II of the Housing and Community Development Article, school board,  
17 community college, or any other unit of a county or municipal corporation.

18            [(dd)] **(EE)** (1) “Residential dwelling” means a room or group of rooms  
19 occupied as living quarters by an individual, a single family, or other discrete group of  
20 persons with facilities that are used or intended to be used for living, sleeping,  
21 cooking, sanitation, and eating, including an apartment unit, condominium unit,  
22 cooperative unit, town house unit, mobile home, or house.

23                            (2) “Residential dwelling” does not include a hospital, hotel, motel,  
24 inn, boarding house, club, dormitory, school, college, or similar seasonal, institutional,  
25 or transient facility.

26            [(ee)] **(FF)** “Single site” means a discrete grouping of buildings or structures  
27 that are located on contiguous or adjacent property and owned by the same user.

28            [(ff)] **(GG)** (1) “User” means any person discharging wastewater to:

29                            (i) A wastewater facility that has a State discharge permit or  
30 national pollutant discharge elimination system discharge permit;

31                            (ii) An onsite sewage disposal system; or

32                            (iii) A sewage holding tank.

33                            (2) “User” does not include a person whose sole discharge is  
34 stormwater under a stormwater permit.

1            [(gg)] (HH) “Wastewater facility” means any equipment, plant, treatment  
2 works, structure, machinery, apparatus, interest in land, or any combination of these,  
3 which is acquired, used, constructed, or operated for the storage, collection, treatment,  
4 neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal  
5 of wastewater, or for the final disposal of residues resulting from the treatment of  
6 wastewater, including: treatment or disposal plants; outfall sewers, interceptor  
7 sewers, and collector sewers; pumping and ventilating stations, facilities, and works;  
8 programs and projects for controlling nonpoint sources of water pollution and for  
9 estuarine conservation and management; and other real or personal property and  
10 appurtenances incident to their development, use, or operation.

11            [(hh)] (II) “Water Quality Fund” means the Maryland Water Quality  
12 Revolving Loan Fund.

13            [(ii)] (JJ) “Water supply system” has the meaning stated in § 9–201(u) of this  
14 title.

15 **9–1605.3.**

16            (A) (1) **THERE IS A CHESAPEAKE BAY NONPOINT SOURCE FUND.**

17            (2) **THE CHESAPEAKE BAY NONPOINT SOURCE FUND SHALL BE**  
18 **MAINTAINED AND ADMINISTERED BY THE ADMINISTRATION IN ACCORDANCE**  
19 **WITH THE PROVISIONS OF THIS SUBTITLE AND SUCH RULES OR PROGRAM**  
20 **DIRECTIVES AS THE SECRETARY OR THE BOARD MAY FROM TIME TO TIME**  
21 **PRESCRIBE.**

22            (B) **THE PURPOSE OF THE CHESAPEAKE BAY NONPOINT SOURCE FUND**  
23 **IS TO PROVIDE FINANCIAL ASSISTANCE FOR THE IMPLEMENTATION OF URBAN**  
24 **AND SUBURBAN STORMWATER MANAGEMENT PRACTICES, AND STREAM AND**  
25 **WETLAND RESTORATION.**

26            (C) **THERE SHALL BE DEPOSITED IN THE CHESAPEAKE BAY NONPOINT**  
27 **SOURCE FUND:**

28            (1) **MONEY DISTRIBUTED TO THE CHESAPEAKE BAY NONPOINT**  
29 **SOURCE FUND UNDER § 8–2A–04 OF THE NATURAL RESOURCES ARTICLE AND**  
30 **APPROPRIATED IN THE STATE BUDGET FOR THE FUND;**

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

32            (3) **INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT**  
33 **OF MONEYS IN THE CHESAPEAKE BAY NONPOINT SOURCE FUND; AND**

1           (4) ANY OTHER MONEYS FROM ANY OTHER SOURCE ACCEPTED  
2 FOR THE BENEFIT OF THE FUND.

3           (D) (1) THE CHESAPEAKE BAY NONPOINT SOURCE FUND IS A  
4 SPECIAL, CONTINUING, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF  
5 THE STATE FINANCE AND PROCUREMENT ARTICLE.

6           (2) MONEY IN THE CHESAPEAKE BAY NONPOINT SOURCE FUND  
7 MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.

8           (3) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND  
9 RESOLUTION REGARDING THE HOLDING OR APPLICATION OF AMOUNTS IN THE  
10 CHESAPEAKE BAY NONPOINT SOURCE FUND, THE TREASURER SHALL  
11 SEPARATELY HOLD, AND THE COMPTROLLER SHALL ACCOUNT FOR, THE  
12 CHESAPEAKE BAY NONPOINT SOURCE FUND.

13           (4) SUBJECT TO THE PROVISION OF ANY APPLICABLE BOND  
14 RESOLUTION GOVERNING THE INVESTMENT OF AMOUNTS IN THE CHESAPEAKE  
15 BAY NONPOINT SOURCE FUND, THE CHESAPEAKE BAY NONPOINT SOURCE  
16 FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER  
17 STATE FUNDS.

18           (5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE  
19 CREDIT OF THE CHESAPEAKE BAY NONPOINT SOURCE FUND.

20           (6) THE CHESAPEAKE BAY NONPOINT SOURCE FUND SHALL BE  
21 SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED  
22 UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

23           (7) THE ADMINISTRATION MAY FROM TIME TO TIME ESTABLISH  
24 ACCOUNTS AND SUBACCOUNTS WITHIN THE CHESAPEAKE BAY NONPOINT  
25 SOURCE FUND AS MAY BE DEEMED DESIRABLE TO EFFECTUATE THE PURPOSES  
26 OF THIS SUBTITLE, TO COMPLY WITH THE PROVISIONS OF ANY BOND  
27 RESOLUTION, OR TO MEET ANY REQUIREMENT OR RULES OR PROGRAM  
28 DIRECTIVES ESTABLISHED BY THE SECRETARY OR THE BOARD.

29           (8) THE ADMINISTRATION SHALL OPERATE THE CHESAPEAKE  
30 BAY NONPOINT SOURCE FUND IN ACCORDANCE WITH §§ 9-1607 THROUGH  
31 9-1622 OF THIS SUBTITLE.

32           (E) THE CHESAPEAKE BAY NONPOINT SOURCE FUND SHALL BE USED:

33           (1) TO AWARD GRANTS FOR UP TO 100 PERCENT OF PROJECT  
34 COSTS RELATING TO PLANNING, DESIGN, AND CONSTRUCTION OF URBAN AND

1 SUBURBAN STORMWATER MANAGEMENT PRACTICES, AND STREAM AND  
2 WETLAND RESTORATION;

3 (2) AS A SOURCE OF REVENUE OR SECURITY FOR THE PAYMENT  
4 OF PRINCIPAL AND INTEREST ON BONDS ISSUED BY THE ADMINISTRATION IF  
5 THE PROCEEDS OF THE SALE OF SUCH BONDS WILL BE DEPOSITED IN THE  
6 CHESAPEAKE BAY NONPOINT SOURCE FUND;

7 (3) FOR COSTS ASSOCIATED WITH THE ISSUANCE OF BONDS;

8 (4) TO EARN INTEREST ON THE CHESAPEAKE BAY NONPOINT  
9 SOURCE FUND ACCOUNTS; AND

10 (5) FOR THE REASONABLE COSTS OF ADMINISTERING THE  
11 CHESAPEAKE BAY NONPOINT SOURCE FUND.

12 9-1611.

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

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

33 (c) (1) The revenues and moneys designated as security for bonds shall be  
34 set aside at such regular intervals as may be provided in the bond resolution in a  
35 special account in the Water Quality Fund, if the net sale proceeds will be deposited in  
36 the Water Quality Fund, the Drinking Water Loan Fund, if the net sale proceeds will  
37 be deposited in the Drinking Water Loan Fund, [or] the Bay Restoration Fund, if the  
38 net sale proceeds will be deposited in the Bay Restoration Fund, **OR THE**

1 **CHESAPEAKE BAY NONPOINT SOURCE FUND, IF THE NET SALE PROCEEDS WILL**  
2 **BE DEPOSITED IN THE CHESAPEAKE BAY NONPOINT SOURCE FUND,** which is  
3 pledged to, and charged with, the payment of:

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

5 (ii) The principal of such bonds as it falls due;

6 (iii) The necessary charges of the trustee, bond registrar, and  
7 paying agents; and

8 (iv) The redemption price or purchase price of bonds retired by  
9 call or purchase as provided in the bond resolution or trust agreement.

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

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

28 9-1616.

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



1 **9-1617.1**

2 (A) (1) THE ADMINISTRATION SHALL MAKE PROVISIONS FOR A  
3 SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS IN  
4 ACCORDANCE WITH GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL  
5 ACCOUNTING.

6 (2) ALL ACCOUNTING SYSTEMS AND RECORDS, AUDITING  
7 PROCEDURES AND STANDARDS, AND FINANCIAL REPORTING FOR THE WATER  
8 QUALITY FUND, THE DRINKING WATER LOAN FUND, THE BAY RESTORATION  
9 FUND, AND THE CHESAPEAKE BAY NONPOINT SOURCE FUND SHALL CONFORM  
10 TO THE REQUIREMENTS OF TITLE VI OF THE FEDERAL WATER POLLUTION  
11 CONTROL ACT, THE FEDERAL SAFE DRINKING WATER ACT, THE BAY  
12 RESTORATION FUND ACT, AND THE CHESAPEAKE BAY 2010 TRUST FUND  
13 UNDER TITLE 8, SUBTITLE 2A OF THE NATURAL RESOURCES ARTICLE, AS  
14 APPLICABLE, AND GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL  
15 ACCOUNTING.

16 (B) (1) AS SOON AS PRACTICAL AFTER THE CLOSING OF THE FISCAL  
17 YEAR, AN AUDIT SHALL BE MADE OF THE FINANCIAL BOOKS, RECORDS, AND  
18 ACCOUNTS OF THE ADMINISTRATION.

19 (2) THE AUDIT SHALL BE MADE BY INDEPENDENT CERTIFIED  
20 PUBLIC ACCOUNTANTS, SELECTED BY THE ADMINISTRATION, AND LICENSED TO  
21 PRACTICE IN THE STATE AS AUDITORS.

22 (3) (I) THE AUDITORS MAY NOT HAVE A PERSONAL INTEREST  
23 EITHER DIRECTLY OR INDIRECTLY IN THE FISCAL AFFAIRS OF THE  
24 ADMINISTRATION; AND

25 (II) SHALL BE EXPERIENCED AND QUALIFIED IN THE  
26 ACCOUNTING AND AUDITING OF PUBLIC BODIES.

27 (4) THE AUDIT REPORT SHALL BE PREPARED IN ACCORDANCE  
28 WITH GENERALLY ACCEPTED AUDITING PRINCIPLES AND POINT OUT ANY  
29 IRREGULARITIES FOUND TO EXIST.

30 (5) (I) THE AUDITORS SHALL REPORT TO THE SECRETARY THE  
31 RESULTS OF THEIR EXAMINATION, INCLUDING THEIR UNQUALIFIED OPINION ON  
32 THE PRESENTATION OF THE FINANCIAL POSITIONS OF THE WATER QUALITY  
33 FUND, THE DRINKING WATER LOAN FUND, THE BAY RESTORATION FUND, AND  
34 THE CHESAPEAKE BAY NONPOINT SOURCE FUND AND THE RESULTS OF THE  
35 ADMINISTRATION'S FINANCIAL OPERATIONS.

1                   **(II) IF THE AUDITORS ARE UNABLE TO EXPRESS AN**  
2 **UNQUALIFIED OPINION, THE AUDITORS SHALL STATE AND EXPLAIN IN DETAIL**  
3 **THE REASONS FOR THEIR QUALIFICATIONS, DISCLAIMER, OR OPINION**  
4 **INCLUDING RECOMMENDATIONS NECESSARY TO MAKE POSSIBLE FUTURE**  
5 **UNQUALIFIED OPINIONS.**

6           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 July 1, 2008.