

# SENATE BILL 213

M1, M3

8lr0260  
CF HB 369

---

By: **The President (By Request – Administration) and Senators Frosh, Garagiola, Gladden, King, Madaleno, Peters, Pinsky, Raskin, ~~and Robey, Conway, Dyson, Lenett, Rosapepe, Harrington, Colburn, and Harris~~**

Introduced and read first time: January 18, 2008

Assigned to: Education, Health, and Environmental Affairs

---

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 5, 2008

---

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

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 stating the intent of the General Assembly; providing for the uses of the Fund;  
5 establishing in statute the BayStat Program and BayStat Subcabinet; requiring  
6 the BayStat Subcabinet to oversee the administration of the Program;  
7 establishing the responsibilities of the Program; requiring the BayStat  
8 Subcabinet to submit to the public a certain annual report and develop ~~an~~  
9 annual work and expenditure ~~plan~~ plans; requiring the Governor to submit ~~the~~  
10 annual work and expenditure ~~plan~~ plans to the General Assembly as part of the  
11 annual budget submission; requiring the BayStat Subcabinet to prepare a final  
12 work and expenditure plan; requiring the Program to implement certain  
13 measures for certain purposes; requiring the Program to distribute funds from  
14 the Trust Fund to the BayStat Subcabinet agencies; requiring the BayStat  
15 Subcabinet agencies to ~~redistribute the funds through grants to various entities~~  
16 ~~and to the Chesapeake Bay Nonpoint Source Fund~~ administer the funds,  
17 including redistributing the funds in a certain manner; requiring the Program  
18 to develop certain grant solicitations, guidelines, and applications; requiring  
19 grant agreements to comply with certain requirements; requiring grant  
20 recipients to submit a certain annual report that includes certain information;  
21 prohibiting the use of the Trust Fund for certain purposes; establishing a  
22 BayStat Program Scientific Advisory Panel, composed of certain individuals  
23 appointed by the Governor; establishing certain responsibilities for the Panel;

---

**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 authorizing State agencies that administer certain grants to receive certain  
2 administrative costs from the Trust Fund; establishing the Chesapeake Bay  
3 Nonpoint Source Fund as a special, continuing, nonlapsing fund in the Water  
4 Quality Financing Administration in the Department of the Environment;  
5 establishing the purpose of the Fund; establishing certain funding for the Fund;  
6 requiring the Fund to be subject to a certain audit; authorizing the  
7 Administration to establish accounts and subaccounts in the Fund for certain  
8 purposes; establishing the uses of the Fund; providing for certain bonding  
9 authority relating to money in the Fund; requiring the Administration to  
10 provide for a certain system of financial accounting, controls, audits, and  
11 reports for certain funds that conforms with certain State and federal laws;  
12 requiring a certain audit and audit report of certain funds; defining certain  
13 terms; and generally relating to dedicated funding sources for the restoration of  
14 the Chesapeake Bay and the waters of the State.

15 BY renumbering

16 Article – Natural Resources

17 Section 8–205

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

20 Annotated Code of Maryland

21 (2007 Replacement Volume)

22 (As enacted by Chapter 6 of the Acts of the General Assembly Special Session of  
23 2007)

24 BY repealing and reenacting, with amendments,

25 Article – Natural Resources

26 Section 8–2A–01

27 Annotated Code of Maryland

28 (2007 Replacement Volume)

29 (As enacted by Section 1 of this Act)

30 BY adding to

31 Article – Natural Resources

32 Section 8–2A–02 through 8–2A–04

33 Annotated Code of Maryland

34 (2007 Replacement Volume)

35 BY repealing and reenacting, with amendments,

36 Article – Environment

37 Section 9–1601, 9–1611, and 9–1616

38 Annotated Code of Maryland

39 (2007 Replacement Volume and 2007 Supplement)

40 BY adding to

41 Article – Environment

42 Section 9–1605.3 and 9–1617.1

43 Annotated Code of Maryland

1 (2007 Replacement Volume and 2007 Supplement)

2 BY renumbering

3 Article – Natural Resources

4 Section 8–2A–01 and 8–2A–02, respectively,

5 to be Section 8–2A–02 and 8–2A–01, respectively

6 Annotated Code of Maryland

7 (2007 Replacement Volume)

8 (As enacted by Section 2 of this Act)

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

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

15 **Article – Natural Resources**

16 **SUBTITLE 2A. CHESAPEAKE BAY 2010 TRUST FUND.**

17 **8–2A–01.**

18 (a) There is a Chesapeake Bay 2010 Trust Fund.

19 (b) The purpose of the Fund is to provide [the] financial assistance necessary  
 20 to [meet, by 2010,] **ADVANCE MARYLAND’S PROGRESS IN MEETING** the goals  
 21 established in the Chesapeake 2000 Agreement for the restoration of the Chesapeake  
 22 Bay and its tributaries, including the Patuxent River, **BY FOCUSING LIMITED**  
 23 **FINANCIAL RESOURCES ON NONPOINT SOURCE POLLUTION CONTROL PROJECTS**  
 24 **IN ALL REGIONS OF THE STATE.**

25 (c) The Secretary shall administer the Fund.

26 (d) (1) The Fund is a special, nonlapsing fund that is not subject to §  
 27 7–302 of the State Finance and Procurement Article.

28 (2) The Treasurer shall hold the Fund separately, and the Comptroller  
 29 shall account for the Fund.

30 (e) The Fund consists of:

31 (1) Money appropriated in the State budget for the Fund;

32 (2) Money distributed to the Fund under §§ 2–1104 and 2–1302.1 of  
 33 the Tax – General Article; and

1 (3) Any other money from any other source accepted for the benefit of  
2 the Fund.

3 (f) (1) The Fund may be used only for the implementation of **NONPOINT**  
4 **SOURCE POLLUTION CONTROL MEASURES PROJECTS TO ACHIEVE** the State's  
5 tributary strategy developed in accordance with the Chesapeake 2000 Agreement.

6 (2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, WHEN  
7 POSSIBLE, MONEYS IN THE FUND SHALL BE GRANTED TO LOCAL GOVERNMENTS  
8 AND OTHER POLITICAL SUBDIVISIONS FOR AGRICULTURAL, FORESTRY, STREAM  
9 AND WETLAND RESTORATION, AND URBAN AND SUBURBAN STORMWATER  
10 NONPOINT SOURCE POLLUTION CONTROL PROJECTS.

11 (g) (1) The Treasurer shall invest the money of the Fund in the same  
12 manner as other State money may be invested.

13 (2) Any investment earnings of the Fund shall be retained to the  
14 credit of the Fund.

15 (h) Money expended from the Fund for the restoration of the Chesapeake  
16 Bay and its tributaries, including the Patuxent River, is supplemental to and is not  
17 intended to take the place of funding that otherwise would be appropriated for Bay  
18 restoration.

19 **8-2A-02.**

20 (A) ~~(1)~~ IN THIS SECTION SUBTITLE THE FOLLOWING WORDS HAVE  
21 THE MEANINGS INDICATED.

22 ~~(2)~~ (B) "BAYSTAT PROGRAM" OR "PROGRAM" MEANS THE  
23 PROGRAM ESTABLISHED UNDER § 8-2A-03 OF THIS  
24 SUBTITLE.

25 ~~(3)~~ ~~(4)~~ (C) (1) "NONPOINT SOURCE POLLUTION CONTROL  
26 PROJECT" MEANS A PROJECT TO IMPROVE WATER QUALITY BY A REDUCTION OF  
27 NITROGEN, PHOSPHOROUS, OR SEDIMENT POLLUTION.

28 ~~(4)~~ (2) "NONPOINT SOURCE POLLUTION CONTROL  
29 PROJECT" INCLUDES:

30 ~~(1)~~ (I) AN AGRICULTURAL BEST MANAGEMENT  
31 IMPLEMENTATION PRACTICE, INCLUDING COVER CROPS, RIPARIAN FORESTED  
32 BUFFER, MANURE PROCESSING, GRASSED WATERWAYS, ANIMAL WASTE  
33 STORAGE STRUCTURES, AND LIVESTOCK FENCING;

1                    ~~2.~~ (II) AN URBAN OR SUBURBAN STORM WATER  
 2 PRACTICE;

3                    ~~3.~~ (III) A SUSTAINABLE FOREST MANAGEMENT  
 4 PRACTICE, INCLUDING A FOREST STEWARDSHIP PLAN OR A NONORNAMENTAL  
 5 URBAN AND SUBURBAN TREE PLANTING PROJECT;

6                    ~~4.~~ (IV) STREAM AND WETLAND RESTORATION;

7                    ~~5.~~ (V) RIPARIAN BUFFER PLANTING;

8                    ~~6.~~ (VI) A PROJECT THAT DEMONSTRATES THE  
 9 EFFECTIVENESS OF AN INNOVATIVE NONPOINT SOURCE POLLUTION  
 10 REDUCTION MEASURE PROVIDED THAT THE MEASURE IS CAPABLE OF  
 11 INTEGRATION INTO EXISTING NONPOINT SOURCE POLLUTION PROGRAMS;

12                    ~~7. (VII) TARGETED ENFORCEMENT OF NONPOINT~~  
 13 ~~SOURCE POLLUTION LAWS AND REGULATIONS THAT IMPROVE WATER QUALITY;~~

14                    ~~8. (VIII) (VII)~~ TECHNICAL ASSISTANCE NECESSARY  
 15 TO IMPLEMENT A NONPOINT SOURCE POLLUTION CONTROL PROJECT; AND

16                    ~~9. DEVELOPMENT, REDEVELOPMENT, OR~~  
 17 ~~IMPROVEMENT OF A MUNICIPAL PARK PROVIDED THAT THE DEVELOPMENT,~~  
 18 ~~REDEVELOPMENT, OR IMPROVEMENT INCORPORATES STATE OF THE ART AND~~  
 19 ~~SUSTAINABLE NONPOINT SOURCE POLLUTION CONTROL MEASURES~~

20                    ~~(IX) (VIII)~~ STRATEGIC MONITORING OF WATER QUALITY  
 21 IMPROVEMENTS FROM NONPOINT SOURCE POLLUTION CONTROL PROJECTS.

22                    ~~(4) (D)~~ “TRIBUTARY STRATEGIES” MEANS EACH OF  
 23 MARYLAND’S 10 WATERSHED-SPECIFIC PLANS AS AMENDED FROM TIME TO  
 24 TIME TO REDUCE THE AMOUNT OF NITROGEN, PHOSPHOROUS, AND SEDIMENT  
 25 POLLUTION THAT ENTERS THE CHESAPEAKE BAY AND ITS TRIBUTARIES.

26                    ~~(5) (E)~~ “TRUST FUND” MEANS THE CHESAPEAKE BAY 2010  
 27 TRUST FUND.

28 **8-2A-03.**

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

30                    (I) MEASURE AND EVALUATE EFFORTS TO RESTORE THE  
 31 CHESAPEAKE BAY; AND

1 (II) ADMINISTER THE TRUST FUND.

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

4 (3) THE BAYSTAT SUBCABINET IS COMPOSED OF:

5 (I) THE SECRETARY OF NATURAL RESOURCES;

6 (II) THE SECRETARY OF THE ENVIRONMENT;

7 (III) THE SECRETARY OF PLANNING;

8 (IV) THE SECRETARY OF AGRICULTURE; ~~AND~~

9 (V) THE PRESIDENT OF THE UNIVERSITY OF MARYLAND  
10 CENTER FOR ENVIRONMENTAL SCIENCE; ~~AND~~

11 (VI) THE DEAN OF THE COLLEGE OF AGRICULTURE AND  
12 NATURAL RESOURCES AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK;  
13 AND

14 (VII) THE CHAIR OF THE CRITICAL AREA COMMISSION FOR  
15 THE CHESAPEAKE AND ATLANTIC COASTAL BAYS.

16 (B) THE BAYSTAT PROGRAM SHALL:

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

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

22 (3) ASSESS THE EFFECTIVENESS OF ENFORCEMENT PROGRAMS  
23 IN CURBING POLLUTION AND ACHIEVING CHESAPEAKE BAY RESTORATION  
24 GOALS AND INSTITUTE ACTIONS TO IMPROVE THE EFFECTIVENESS OF  
25 ENFORCEMENT PROGRAMS;

26 (4) ADOPT MEASURABLE GOALS FOR CHESAPEAKE BAY  
27 RESTORATION;

28 (5) IDENTIFY NEW THREATS TO THE HEALTH OF THE  
29 CHESAPEAKE BAY;

1 (6) INCREASE PUBLIC AWARENESS OF, AND PARTICIPATION IN,  
2 EFFORTS TO RESTORE THE VITALITY OF THE CHESAPEAKE BAY; AND

3 (7) DIRECT THE ADMINISTRATION OF THE TRUST FUND.

4 (C) THE BAYSTAT SUBCABINET SHALL:

5 (1) REPORT ANNUALLY TO THE PUBLIC REGARDING:

6 (I) THE HEALTH OF THE CHESAPEAKE BAY TRIBUTARY  
7 BASIN;

8 (II) THE STATUS OF LOCAL, STATE, AND FEDERAL  
9 PROGRAMS TO RESTORE THE CHESAPEAKE BAY; AND

10 (III) ESTIMATED NUTRIENT REDUCTIONS ACHIEVED  
11 THROUGH PROJECTS FINANCED BY THE TRUST FUND; AND

12 (2) (I) DEVELOP AN ANNUAL WORK ~~AND EXPENDITURE~~ PLAN  
13 THAT:

14 ~~(I) IDENTIFIES IDENTIFIES~~ THE PLANNED WORK ~~AND~~  
15 ~~EXPENDITURES TO BE FUNDED WITH MONEY FROM THE TRUST FUND FOR THE~~  
16 ~~NEXT FISCAL YEAR, INCLUDING ANNUAL NUTRIENT AND SEDIMENT REDUCTION~~  
17 ~~TARGETS, PERFORMANCE MEASURES, AND ACCOUNTABILITY CRITERIA; AND~~

18 (II) ~~PROVIDES~~ DEVELOP AN ANNUAL EXPENDITURE PLAN  
19 THAT IDENTIFIES PLANNED EXPENDITURES FOR THE WORK PLAN AND  
20 INCLUDES AN ACCOUNTING OF ALL MONEYS DISTRIBUTED FROM THE TRUST  
21 FUND IN THE PREVIOUS FISCAL YEAR.

22 (D) THE GOVERNOR SHALL SUBMIT THE ANNUAL WORK AND  
23 EXPENDITURE ~~PLAN~~ PLANS TO THE GENERAL ASSEMBLY AS PART OF THE  
24 ANNUAL BUDGET SUBMISSION.

25 (E) ON AN ANNUAL BASIS THE BAYSTAT SUBCABINET SHALL PREPARE  
26 A FINAL WORK AND EXPENDITURE PLAN BASED ON THE BUDGET APPROVED BY  
27 THE GENERAL ASSEMBLY.

28 8-2A-04.

29 (A) THE BAYSTAT PROGRAM SHALL DIRECT THE ADMINISTRATION OF  
30 THE TRUST FUND IN ACCORDANCE WITH THIS SECTION.

1           **(B) (1) THE BAYSTAT PROGRAM SHALL IMPLEMENT NONPOINT**  
 2 **SOURCE POLLUTION REDUCTION MEASURES TO ACHIEVE THE TRIBUTARY**  
 3 **STRATEGIES BY TARGETING FUNDS, GEOGRAPHICALLY AND BY PRACTICE, TO**  
 4 **PROVEN, SCIENTIFICALLY-BASED PROJECTS THAT PROVIDE THE MOST**  
 5 **COST-EFFECTIVE AND MEASURABLE WATER QUALITY BENEFITS TO THE**  
 6 **CHESAPEAKE BAY.**

7           **(2) TO THE MAXIMUM EXTENT PRACTICABLE, THE BAYSTAT**  
 8 **PROGRAM SHALL DISTRIBUTE THE TRUST FUND MONEYS ON A COMPETITIVE**  
 9 **BASIS.**

10           **(C) (1) THE BAYSTAT PROGRAM SHALL DISTRIBUTE FUNDS FROM**  
 11 **THE TRUST FUND TO THE BAYSTAT SUBCABINET AGENCIES IN ACCORDANCE**  
 12 **WITH THE FINAL WORK AND EXPENDITURE PLANS.**

13           **(2) THE BAYSTAT SUBCABINET AGENCIES SHALL ~~REDISTRIBUTE~~**  
 14 **ADMINISTER THE FUNDS IN ACCORDANCE WITH THE FINAL WORK AND**  
 15 **EXPENDITURE PLANS, INCLUDING THE DISTRIBUTION OF FUNDS:**

16                   **(I) THROUGH GRANTS, ~~TO THE MAXIMUM EXTENT~~**  
 17 **~~PRACTICABLE ON A COMPETITIVE BASIS, TO:~~**

- 18                               **1. COUNTIES;**
- 19                               **2. BICOUNTY AGENCIES;**
- 20                               **3. MUNICIPALITIES;**
- 21                               **4. FOREST CONSERVANCY DISTRICT BOARDS;**
- 22                               **5. SOIL CONSERVATION DISTRICTS;**
- 23                               **6. ACADEMIC INSTITUTIONS; AND**
- 24                               **7. NONPROFIT ORGANIZATIONS HAVING A**  
 25 **DEMONSTRATED ABILITY TO IMPLEMENT NONPOINT SOURCE POLLUTION**  
 26 **CONTROL PROJECTS; ~~AND~~**

27                               **(II) TO THE CHESAPEAKE BAY NONPOINT SOURCE FUND**  
 28 **ESTABLISHED UNDER § 9-1605.3 OF THE ENVIRONMENT ARTICLE; AND**

29                               **(III) TO THE MARYLAND AGRICULTURAL COST-SHARE**  
 30 **PROGRAM ESTABLISHED UNDER TITLE 8, SUBTITLE 7 OF THE AGRICULTURE**  
 31 **ARTICLE FOR NONPOINT SOURCE POLLUTION CONTROL PROJECTS.**



1           (3) (I) THE BAYSTAT PROGRAM SHALL DEVELOP  
2 SOLICITATIONS, GUIDELINES, AND APPLICATIONS FOR TRUST FUND GRANTS  
3 THAT SHALL INCLUDE CONSIDERATION OF THE EXTENT TO WHICH A PROPOSED  
4 PROJECT, BOTH GEOGRAPHICALLY AND BY PRACTICE, WILL DELIVER THE  
5 GREATEST, MOST COST-EFFECTIVE, AND MEASURABLE NONPOINT SOURCE  
6 POLLUTION REDUCTION PER TRUST FUND DOLLAR.

7           (II) THE BAYSTAT PROGRAM ~~MAY~~ SHALL ENCOURAGE AND  
8 CONSIDER ~~A~~ MULTI-YEAR, MULTI-PARTNER PROPOSALS, LOCAL MATCH, OR  
9 COST-SHARE AGREEMENTS, OR ~~OTHER ACTION~~ SIMILAR ACTIONS PROPOSED BY  
10 A GRANT APPLICANT IN EVALUATING A TRUST FUND GRANT APPLICATION.

11           (D) ANY GRANT AGREEMENT REGARDING FUNDS FROM THE TRUST  
12 FUND SHALL:

13           (1) SPECIFY THE USE OF THE FUNDS PROVIDED UNDER THE  
14 GRANT, ACCOUNTABILITY MEASURES, AND PERFORMANCE REQUIREMENTS;  
15 ~~AND~~

16           (2) TAKE INTO ACCOUNT THE NEED FOR EFFICIENT, ~~MULTIYEAR~~  
17 MULTI-YEAR FUNDING AND ADMINISTRATION; AND

18           (3) INCLUDE PROVISIONS FOR VERIFICATION THAT PRACTICES  
19 ARE BEING IMPLEMENTED.

20           (E) (1) A RECIPIENT OF A TRUST FUND GRANT IN ANY FISCAL YEAR  
21 SHALL SUBMIT AN ANNUAL REPORT TO THE BAYSTAT PROGRAM BY NOVEMBER  
22 1 OF THE NEXT FISCAL YEAR.

23           (2) THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS  
24 SUBSECTION SHALL INCLUDE:

25           (I) AN ESTIMATE OF THE NUTRIENT LOADING REDUCTIONS  
26 RESULTING FROM AN ONGOING PROJECT; AND THE TIME FRAME FOR  
27 COMPLETION OF THE PROJECT; ~~AND~~

28           (II) AN ASSESSMENT OF EXPECTED NUTRIENT LOADING  
29 REDUCTIONS AND WATER QUALITY BENEFITS ACHIEVED THROUGH COMPLETED  
30 PROJECTS; AND

31           (III) THE METHODOLOGIES USED TO CALCULATE ITEMS (I)  
32 AND (II) OF THIS PARAGRAPH.

33           (F) FUNDS FROM THE TRUST FUND MAY NOT BE USED TO ~~PAY FOR~~  
34 ~~PRIVATE PROJECTS THAT ARE REQUIRED FOR REGULATORY COMPLIANCE~~

1 ~~PURPOSES~~ ENABLE AN INDIVIDUAL CITED FOR NONCOMPLIANCE WITH A  
2 NONPOINT SOURCE POLLUTION CONTROL LAW OR REGULATION TO ACHIEVE  
3 COMPLIANCE.

4 (G) (1) THERE IS A BAYSTAT PROGRAM SCIENTIFIC ADVISORY  
5 PANEL.

6 (2) THE GOVERNOR SHALL APPOINT THE CHAIR AND MEMBERS  
7 OF THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL.

8 (3) THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL  
9 SHALL INCLUDE SCIENTISTS AND OTHER TECHNICAL EXPERTS WITH  
10 DEMONSTRATED EXPERTISE IN THE DISCIPLINES RELATED TO PROTECTION  
11 AND RESTORATION OF THE CHESAPEAKE BAY.

12 (4) THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL  
13 SHALL:

14 (I) ON OR BEFORE ~~SEPTEMBER~~ AUGUST 1, ANNUALLY  
15 PROVIDE RECOMMENDATIONS TO THE BAYSTAT SUBCABINET ON THE USE OF  
16 FUNDS OF THE TRUST FUND FOR THE FOLLOWING FISCAL YEAR;

17 (II) MONITOR THE DISTRIBUTION OF FUNDS FROM THE  
18 TRUST FUND;

19 (III) REVIEW THE CATEGORIES OF GRANTS MADE IN THE  
20 PREVIOUS YEAR TO ASSESS NUTRIENT LOADING REDUCTION ESTIMATES AND  
21 COST EFFICIENCIES AND THE EFFECTIVENESS OF ANY INNOVATIVE NONPOINT  
22 SOURCE POLLUTION REDUCTION MEASURE;

23 (IV) REVIEW THE PROPOSED ANNUAL WORK ~~AND~~  
24 ~~EXPENDITURE~~ PLAN AND ADVISE THE BAYSTAT SUBCABINET OF ANY  
25 RECOMMENDED CHANGES;

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

28 (VI) ANNUALLY REVIEW ANY TRUST FUND MONEYS THAT  
29 ARE NOT DISTRIBUTED ON A COMPETITIVE BASIS TO ASSESS WHETHER THOSE  
30 MONEYS MAY BE DISTRIBUTED ON A COMPETITIVE BASIS;.

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

**Article – Environment**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

9–1601.

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

(b) “Administration” means the Maryland Water Quality Financing Administration.

(c) “Bay Restoration Fund” means the Bay Restoration Fund established under § 9–1605.2 of this subtitle.

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

(e) “Board” means the Board of Public Works.

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

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

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

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

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

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

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

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

(1) An enhanced nutrient removal technology that is capable of reducing the nitrogen and phosphorus concentrations in wastewater effluent to concentrations of not more than 3 milligrams per liter total nitrogen and not more

1 than 0.3 milligrams per liter total phosphorus, as calculated on an annually averaged  
2 basis; or

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

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

9 (1) If a local government or billing authority for a wastewater facility  
10 has established a definition for “equivalent dwelling unit” on or before January 1,  
11 2004, the average daily flow of wastewater effluent that the local government or  
12 billing authority has established to be equivalent to the average daily flow of  
13 wastewater effluent discharged by a residential dwelling, which may not exceed 250  
14 gallons; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9                   (ii) An onsite sewage disposal system; or

10                   (iii) A sewage holding tank.

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

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

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

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

27 **9–1605.3.**

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

29                   (2) **THE CHESAPEAKE BAY NONPOINT SOURCE FUND SHALL BE**  
30 **MAINTAINED AND ADMINISTERED BY THE ADMINISTRATION IN ACCORDANCE**  
31 **WITH THE PROVISIONS OF THIS SUBTITLE AND SUCH RULES OR PROGRAM**  
32 **DIRECTIVES AS THE SECRETARY OR THE BOARD MAY FROM TIME TO TIME**  
33 **PRESCRIBE.**

1           **(B) THE PURPOSE OF THE CHESAPEAKE BAY NONPOINT SOURCE FUND**  
2 **IS TO PROVIDE FINANCIAL ASSISTANCE FOR THE IMPLEMENTATION OF URBAN**  
3 **AND SUBURBAN STORMWATER MANAGEMENT PRACTICES, AND STREAM AND**  
4 **WETLAND RESTORATION.**

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

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

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

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

13                   **(4) ANY OTHER MONEYS FROM ANY OTHER SOURCE ACCEPTED**  
14 **FOR THE BENEFIT OF THE FUND.**

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

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

20                   **(3) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND**  
21 **RESOLUTION REGARDING THE HOLDING OR APPLICATION OF AMOUNTS IN THE**  
22 **CHESAPEAKE BAY NONPOINT SOURCE FUND, THE TREASURER SHALL**  
23 **SEPARATELY HOLD, AND THE COMPTROLLER SHALL ACCOUNT FOR, THE**  
24 **CHESAPEAKE BAY NONPOINT SOURCE FUND.**

25                   **(4) SUBJECT TO THE PROVISION OF ANY APPLICABLE BOND**  
26 **RESOLUTION GOVERNING THE INVESTMENT OF AMOUNTS IN THE CHESAPEAKE**  
27 **BAY NONPOINT SOURCE FUND, THE CHESAPEAKE BAY NONPOINT SOURCE**  
28 **FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER**  
29 **STATE FUNDS.**

30                   **(5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE**  
31 **CREDIT OF THE CHESAPEAKE BAY NONPOINT SOURCE FUND.**

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

1           **(7) THE ADMINISTRATION MAY FROM TIME TO TIME ESTABLISH**  
2 **ACCOUNTS AND SUBACCOUNTS WITHIN THE CHESAPEAKE BAY NONPOINT**  
3 **SOURCE FUND AS MAY BE DEEMED DESIRABLE TO EFFECTUATE THE PURPOSES**  
4 **OF THIS SUBTITLE, TO COMPLY WITH THE PROVISIONS OF ANY BOND**  
5 **RESOLUTION, OR TO MEET ANY REQUIREMENT OR RULES OR PROGRAM**  
6 **DIRECTIVES ESTABLISHED BY THE SECRETARY OR THE BOARD.**

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

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

11           **(1) TO AWARD GRANTS FOR UP TO 100 PERCENT OF PROJECT**  
12 **COSTS RELATING TO PLANNING, DESIGN, AND CONSTRUCTION OF URBAN AND**  
13 **SUBURBAN STORMWATER MANAGEMENT PRACTICES, AND STREAM AND**  
14 **WETLAND RESTORATION;**

15           **(2) AS A SOURCE OF REVENUE OR SECURITY FOR THE PAYMENT**  
16 **OF PRINCIPAL AND INTEREST ON BONDS ISSUED BY THE ADMINISTRATION IF**  
17 **THE PROCEEDS OF THE SALE OF SUCH BONDS WILL BE DEPOSITED IN THE**  
18 **CHESAPEAKE BAY NONPOINT SOURCE FUND;**

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

20           **(4) TO EARN INTEREST ON THE CHESAPEAKE BAY NONPOINT**  
21 **SOURCE FUND ACCOUNTS; AND**

22           **(5) FOR THE REASONABLE COSTS OF ADMINISTERING THE**  
23 **CHESAPEAKE BAY NONPOINT SOURCE FUND.**

24 9-1611.

25           (a) Bonds may be secured by a trust agreement by and between the  
26 Administration and a corporate trustee, which may be any trust company or bank  
27 having trust powers, within or without the State. Such trust agreement may pledge or  
28 assign all or any part of the revenues or corpus of the Water Quality Fund, Drinking  
29 Water Loan Fund, [or] **THE Bay Restoration Fund, OR THE CHESAPEAKE BAY**  
30 **NONPOINT SOURCE FUND**, or any account within these funds, and may pledge or  
31 assign or grant a lien on or security interest in any loan agreement or loan obligation.  
32 Any such trust agreement or resolution authorizing the issuance of bonds may contain  
33 such provisions for the protection and enforcement of the rights and remedies of the  
34 bondholders as may be deemed reasonable and proper, including covenants setting  
35 forth the duties of the Administration in relation to the making, administration and



1 enforcement of loans and the custody, safeguarding and application of moneys. Such  
2 trust agreement may set forth the rights and remedies of the bondholders and of the  
3 trustee and may restrict the individual right of action by bondholders. In addition to  
4 the foregoing, such trust agreement may contain such other provisions as the Director  
5 may deem reasonable and proper for the security of the bondholders, including,  
6 without limitation, covenants pertaining to the issuance of additional parity bonds  
7 upon conditions stated therein consistent with the requirements of this subtitle.

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

10 (c) (1) The revenues and moneys designated as security for bonds shall be  
11 set aside at such regular intervals as may be provided in the bond resolution in a  
12 special account in the Water Quality Fund, if the net sale proceeds will be deposited in  
13 the Water Quality Fund, the Drinking Water Loan Fund, if the net sale proceeds will  
14 be deposited in the Drinking Water Loan Fund, [or] the Bay Restoration Fund, if the  
15 net sale proceeds will be deposited in the Bay Restoration Fund, **OR THE**  
16 **CHESAPEAKE BAY NONPOINT SOURCE FUND, IF THE NET SALE PROCEEDS WILL**  
17 **BE DEPOSITED IN THE CHESAPEAKE BAY NONPOINT SOURCE FUND**, which is  
18 pledged to, and charged with, the payment of:

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

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

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

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

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

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

5 9-1616.

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

16 **9-1617.1.**

17 (A) (1) **THE ADMINISTRATION SHALL MAKE PROVISIONS FOR A**  
18 **SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS IN**  
19 **ACCORDANCE WITH GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL**  
20 **ACCOUNTING.**

21 (2) **ALL ACCOUNTING SYSTEMS AND RECORDS, AUDITING**  
22 **PROCEDURES AND STANDARDS, AND FINANCIAL REPORTING FOR THE WATER**  
23 **QUALITY FUND, THE DRINKING WATER LOAN FUND, THE BAY RESTORATION**  
24 **FUND, AND THE CHESAPEAKE BAY NONPOINT SOURCE FUND SHALL CONFORM**  
25 **TO THE REQUIREMENTS OF TITLE VI OF THE FEDERAL WATER POLLUTION**  
26 **CONTROL ACT, THE FEDERAL SAFE DRINKING WATER ACT, THE BAY**  
27 **RESTORATION FUND ACT, AND THE CHESAPEAKE BAY 2010 TRUST FUND**  
28 **UNDER TITLE 8, SUBTITLE 2A OF THE NATURAL RESOURCES ARTICLE, AS**  
29 **APPLICABLE, AND GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL**  
30 **ACCOUNTING.**

31 (B) (1) **AS SOON AS PRACTICAL AFTER THE CLOSING OF THE FISCAL**  
32 **YEAR, AN AUDIT SHALL BE MADE OF THE FINANCIAL BOOKS, RECORDS, AND**  
33 **ACCOUNTS OF THE ADMINISTRATION.**

34 (2) **THE AUDIT SHALL BE MADE BY INDEPENDENT CERTIFIED**  
35 **PUBLIC ACCOUNTANTS, SELECTED BY THE ADMINISTRATION, AND LICENSED TO**  
36 **PRACTICE IN THE STATE AS AUDITORS.**

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

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

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

9           (5) (I) THE AUDITORS SHALL REPORT TO THE SECRETARY THE  
10 RESULTS OF THEIR EXAMINATION, INCLUDING THEIR UNQUALIFIED OPINION ON  
11 THE PRESENTATION OF THE FINANCIAL POSITIONS OF THE WATER QUALITY  
12 FUND, THE DRINKING WATER LOAN FUND, THE BAY RESTORATION FUND, AND  
13 THE CHESAPEAKE BAY NONPOINT SOURCE FUND AND THE RESULTS OF THE  
14 ADMINISTRATION’S FINANCIAL OPERATIONS.

15                           (II) IF THE AUDITORS ARE UNABLE TO EXPRESS AN  
16 UNQUALIFIED OPINION, THE AUDITORS SHALL STATE AND EXPLAIN IN DETAIL  
17 THE REASONS FOR THEIR QUALIFICATIONS, DISCLAIMER, OR OPINION  
18 INCLUDING RECOMMENDATIONS NECESSARY TO MAKE POSSIBLE FUTURE  
19 UNQUALIFIED OPINIONS.

20           SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 8-2A-01 and  
21 8-2A-02, respectively, of Article – Natural Resources of the Annotated Code of  
22 Maryland, as enacted by Section 2 of this Act, shall be renumbered to be Section(s)  
23 8-2A-02 and 8-2A-01, respectively.

24           SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
25 effect July 1, 2008.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.