

# CHAPTER 141

(Senate Bill 442)

AN ACT concerning

## Environment – Clean Air Permit Fees

FOR the purpose of ~~prohibiting all~~ altering the circumstances under which certain moneys in the Maryland Clean Air Fund from reverting or being transferred to must be deposited in the General Fund; increasing the maximum amount of a certain fee; eliminating increasing the cap on a certain fee in certain years; eliminating the cap on a certain fee after a certain year; clarifying the calculation of certain fees; altering a certain definition; removing obsolete language; making stylistic changes; and generally relating to air quality and permit fees.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section ~~2-107~~ 2-101(h), 2-107, and 2-403  
Annotated Code of Maryland  
(2007 Replacement Volume and 2007 Supplement)

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

### Article – Environment

#### 2-101.

(h) “Regulated emissions” means the actual rate of emissions, in tons per year, of any registered pollutant emitted by a source, to be calculated using criteria consistent with 40 CFR 70 (operating permit program)[, and subject to a limit of 4,000 tons per year of any single pollutant].

#### 2-107.

(a) There is a Maryland Clean Air Fund.

(b) All application fees, permit fees, renewal fees, and funds collected by the Department under this title or Title 6, Subtitle 4 of this article, including any civil or administrative penalty or any fine imposed by a court under these provisions, shall be paid into the Maryland Clean Air Fund.

(c) (1) Subject to the appropriation process in the annual operating budget, the Department shall use the Maryland Clean Air Fund for:

(i) Activities conducted under this title that are related to identifying, monitoring, and regulating air pollution in this State, including program development of these activities as provided in the State budget; and

(ii) Providing grants to local governments to supplement funding for programs conducted by local governments that are consistent with this title and the State program.

(2) Subject to Title 10, Subtitle 1 of the State Government Article (Administrative Procedure Act – Regulations), the Department shall adopt rules and regulations for the management and use of the money in the Fund.

(3) At the end of the fiscal year, the Department shall prepare an annual report on the Maryland Clean Air Fund that includes an accounting of all financial receipts and expenditures to and from the Fund and shall:

(i) Provide a copy of the report to the General Assembly, as provided under § 2–1246 of the State Government Article; and

(ii) Upon request, make the report available to permit holders under this title.

(4) ~~When the Fund equals or exceeds a maximum limit of \$750,000~~ **\$2,000,000**, additional moneys received for the Fund by the Department shall be deposited to the General Fund. ~~MONEYS IN THE FUND MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.~~

2–403.

(a) (1) The Department, by regulation, shall require and collect a fee for each permit issued under § 2–401 of this subtitle.

(2) In adopting the regulations under this section, the Department shall consult with industry to determine that the permit fee is reasonable and directly related to the actual cost of the permitting and regulatory activity, and does not exceed a certain dollar amount.

(b) (1) The amount of the fees shall cover:

(i) The reasonable cost of reviewing and acting on the application for the permits;

(ii) The reasonable costs incurred in implementing and enforcing the terms and conditions of the permits, exclusive of any court costs or other costs associated with any enforcement actions; and

(iii) The costs identified in § 502(b)(3) of the Clean Air Act Amendments of 1990.

(2) Fees assessed and collected under this section shall be used exclusively for the development and administration of the permit program under this subtitle.

(c) ~~[(1)]~~ The fee established under this section may not exceed~~£~~:

~~(i) For calendar year 1993, \$15 per ton of regulated emissions;~~

~~(ii) For calendar year 1994, \$18 per ton of regulated emissions;~~

~~(iii) For calendar year 1995, \$20 per ton of regulated emissions;~~

and

~~(iv) For calendar year 1996 and each calendar year thereafter, \$25 per ton of regulated emissions.~~

~~(2) The fee established under this section may not exceed, for any single source, \$200,000]~~

**(I) \$50 PER TON OF REGULATED EMISSIONS; AND**

**(II) \$500,000 FOR ANY SINGLE SOURCE IN CALENDAR YEARS 2008 AND 2009.**

**(2) FOR PURPOSES OF CALCULATING FEES UNDER THIS SECTION, CARBON DIOXIDE EMISSIONS SHALL BE EXCLUDED.**

(3) [For purposes of this section, starting in calendar year 1997, the dollar amounts used in] **THE FEE ESTABLISHED UNDER** this section may be adjusted to reflect changes in the Consumer Price Index, as authorized by 40 CFR Part 70 (Operating Permit Program).

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 24, 2008.**