

CHAPTER 121

(House Bill 369)

AN ACT concerning

Chesapeake Bay and Atlantic Coastal Bays 2010 Trust Fund and Nonpoint Source Fund

FOR the purpose of altering the Chesapeake Bay and Atlantic Coastal Bays 2010 Trust Fund and its purposes; stating the intent of the General Assembly; providing for the uses of the Fund; establishing in statute the BayStat Program and BayStat Subcabinet; requiring the BayStat Subcabinet to oversee the administration of the Program; establishing the responsibilities of the Program; requiring the BayStat Subcabinet to submit to the public a certain annual report and develop ~~an~~ annual work and expenditure ~~plan~~ plans; requiring the Governor to submit ~~the~~ annual work and expenditure ~~plan~~ plans to the General Assembly as part of the annual budget submission; requiring the BayStat Subcabinet to prepare a final work and expenditure plan; requiring the Program to implement certain measures for certain purposes; requiring the Program to distribute funds from the Trust Fund to the BayStat Subcabinet agencies; requiring the BayStat Subcabinet agencies to ~~redistribute the funds through grants to various entities and to the Chesapeake Bay Nonpoint Source Fund~~ administer the funds, including redistributing the funds in a certain manner; requiring the Program to develop certain grant solicitations, guidelines, and applications; requiring grant agreements to comply with certain requirements; requiring grant recipients to submit a certain annual report that includes certain information; prohibiting the use of the Trust Fund for certain purposes; establishing a BayStat Program Scientific Advisory Panel, composed of certain individuals appointed by the Governor; establishing certain responsibilities for the Panel; authorizing ~~State~~ the BayStat Subcabinet agencies ~~that administer certain grants to receive certain administrative costs from the Trust Fund~~ to distribute to a certain administrative cost account a certain amount to administer grant programs; establishing the Chesapeake Bay and Atlantic Coastal Bays Nonpoint Source Fund as a special, continuing, nonlapsing fund in the Water Quality Financing Administration in the Department of the Environment; establishing the purpose of the Fund; establishing certain funding for the Fund; requiring the Fund to be subject to a certain audit; authorizing the Administration to establish accounts and subaccounts in the Fund for certain purposes; establishing the uses of the Fund; providing for certain bonding authority relating to money in the Fund; requiring the Administration to provide for a certain system of financial accounting, controls, audits, and reports for certain funds that conforms with certain State and federal laws; requiring a certain audit and audit report of certain funds; defining certain terms; and generally relating to dedicated funding sources for

the restoration of the Chesapeake ~~Bay~~ and Atlantic Coastal Bays and the waters of the State.

BY renumbering

Article – Natural Resources

Section 8–205

to be Section 8–2A–01 to be under the new subtitle “Subtitle 2A. Chesapeake ~~Bay~~ and Atlantic Coastal Bays 2010 Trust Fund”

Annotated Code of Maryland

(2007 Replacement Volume)

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

BY repealing and reenacting, with amendments,

Article – Natural Resources

Section 8–2A–01

Annotated Code of Maryland

(2007 Replacement Volume)

(As enacted by Section 1 of this Act)

BY adding to

Article – Natural Resources

Section 8–2A–02 through 8–2A–04

Annotated Code of Maryland

(2007 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–1601, 9–1611, and 9–1616

Annotated Code of Maryland

(2007 Replacement Volume and 2007 Supplement)

BY adding to

Article – Environment

Section 9–1605.3 and 9–1617.1

Annotated Code of Maryland

(2007 Replacement Volume and 2007 Supplement)

BY renumbering

Article – Natural Resources

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

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

Annotated Code of Maryland

(2007 Replacement Volume)

(As enacted by Section 2 of this Act)

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

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

Article – Natural Resources

SUBTITLE 2A. CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS 2010 TRUST FUND.

8–2A–01.

(a) There is a Chesapeake ~~Bay~~ AND ATLANTIC COASTAL BAYS 2010 Trust Fund.

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

(c) The Secretary shall administer the Fund.

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

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

(e) The Fund consists of:

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

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

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

(f) **(1)** The Fund may be used only for the implementation of **NONPOINT SOURCE POLLUTION CONTROL ~~MEASURES~~ PROJECTS TO ACHIEVE** the State's tributary strategy developed in accordance with the Chesapeake 2000 Agreement **AND TO IMPROVE THE HEALTH OF THE ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES.**

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

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

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

(h) Money expended from the Fund for the restoration of the Chesapeake ~~Bay and its~~ **AND ATLANTIC COASTAL BAYS AND THEIR** tributaries, including the Patuxent River, is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for ~~Bay~~ **BAY** restoration.

8-2A-02.

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

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

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

~~(H)~~ **(2) "NONPOINT SOURCE POLLUTION CONTROL PROJECT" INCLUDES:**

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

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

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

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

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

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

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

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

~~9.~~ (VIII) ~~DEVELOPMENT, REDEVELOPMENT, OR IMPROVEMENT OF A MUNICIPAL PARK PROVIDED THAT THE DEVELOPMENT, REDEVELOPMENT, OR IMPROVEMENT INCORPORATES STATE-OF-THE-ART AND SUSTAINABLE NONPOINT SOURCE POLLUTION CONTROL MEASURES~~ IMPROVEMENT OF A MUNICIPAL PARK LOCATED ON OR ADJACENT TO A WATERWAY, PROVIDED THAT THE IMPROVEMENT IS LIMITED TO STATE-OF-THE-ART AND SUSTAINABLE NONPOINT SOURCE POLLUTION CONTROL MEASURES THAT DEMONSTRABLY IMPROVE WATER QUALITY BY REDUCING NITROGEN, PHOSPHORUS, AND SEDIMENT POLLUTION; AND

(IX) STRATEGIC MONITORING OF WATER QUALITY IMPROVEMENTS FROM NONPOINT SOURCE POLLUTION CONTROL PROJECTS THAT HAVE BEEN FUNDED, IN WHOLE OR IN PART, WITH GRANTS FROM THE TRUST FUND.

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

~~(5)~~ (E) **“TRUST FUND” MEANS THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS 2010 TRUST FUND.**

8-2A-03.

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

(I) **MEASURE AND EVALUATE EFFORTS TO RESTORE THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS; AND**

(II) **ADMINISTER THE TRUST FUND.**

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

(3) **THE BAYSTAT SUBCABINET IS COMPOSED OF:**

(I) **THE SECRETARY OF NATURAL RESOURCES;**

(II) **THE SECRETARY OF THE ENVIRONMENT;**

(III) **THE SECRETARY OF PLANNING;**

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

(V) **THE PRESIDENT OF THE UNIVERSITY OF MARYLAND CENTER FOR ENVIRONMENTAL SCIENCE;**

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

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

(B) **THE BAYSTAT PROGRAM SHALL:**

(1) **PROVIDE ACCURATE AND TIMELY DATA TO POLICYMAKERS AND THE PUBLIC ABOUT THE EFFICACY AND COST-EFFECTIVENESS OF LOCAL, STATE, AND FEDERAL PROGRAMS TO RESTORE THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS;**

(2) **TRACK AND ASSESS THE PROGRESS OF STATE AND FEDERAL PROGRAMS TO IMPROVE THE HEALTH OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS;**

(3) **ASSESS THE EFFECTIVENESS OF ENFORCEMENT PROGRAMS IN CURBING POLLUTION AND ACHIEVING CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS RESTORATION GOALS AND INSTITUTE ACTIONS TO IMPROVE THE EFFECTIVENESS OF ENFORCEMENT PROGRAMS;**

(4) **ADOPT MEASURABLE GOALS FOR CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS RESTORATION;**

(5) **IDENTIFY NEW THREATS TO THE HEALTH OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS;**

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

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

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

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

(I) **THE HEALTH OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS TRIBUTARY BASIN;**

(II) **THE HEALTH OF THE ATLANTIC COASTAL BAYS AND THEIR TRIBUTARIES;**

~~(III)~~ (III) **THE STATUS OF LOCAL, STATE, AND FEDERAL PROGRAMS TO RESTORE THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS; AND**

~~(IV)~~ (IV) **ESTIMATED NUTRIENT REDUCTIONS ACHIEVED THROUGH PROJECTS FINANCED BY THE TRUST FUND; AND**

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

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

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

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

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

8-2A-04.

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

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

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

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

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

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

1. COUNTIES;

2. BICOUNTY AGENCIES;
3. MUNICIPALITIES;
4. FOREST CONSERVANCY DISTRICT BOARDS;
5. SOIL CONSERVATION DISTRICTS;
6. ACADEMIC INSTITUTIONS; AND
7. NONPROFIT ORGANIZATIONS HAVING A DEMONSTRATED ABILITY TO IMPLEMENT NONPOINT SOURCE POLLUTION CONTROL PROJECTS; ~~AND~~

(II) TO THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND ESTABLISHED UNDER § 9-1605.3 OF THE ENVIRONMENT ARTICLE; ~~AND~~

(III) TO THE MARYLAND AGRICULTURAL COST-SHARE PROGRAM ESTABLISHED UNDER TITLE 8, SUBTITLE 7 OF THE AGRICULTURE ARTICLE FOR NONPOINT SOURCE POLLUTION CONTROL PROJECTS; ~~AND~~

(IV) TO THE WOODLAND INCENTIVE FUND ESTABLISHED UNDER § 5-307 OF THIS ARTICLE.

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

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

~~(4) THE BAYSTAT SUBCABINET AGENCIES MAY DISTRIBUTE TO AN ADMINISTRATIVE COST ACCOUNT THE AMOUNT THAT IS NECESSARY TO ADMINISTER GRANT PROGRAMS, NOT TO EXCEED 1.5% OF THE ALLOCATIONS TO THE BAYSTAT SUBCABINET AGENCIES.~~

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

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

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

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

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

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

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

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

(I) FOR AGENCIES RECEIVING MONEYS FROM THE TRUST FUND:

1. A DESCRIPTION OF HOW THE FUNDS WERE ALLOCATED, INCLUDING:

A. THE NUMBER AND AMOUNTS OF GRANTS AWARDS;
AND

B. DIRECT EXPENDITURES BY THE AGENCY;

2. HOW FUNDING WAS LEVERAGED; AND

3. ESTIMATED OR CALCULATED NUTRIENT REDUCTIONS ASSOCIATED WITH TRUST FUND EXPENDITURES.

(II) FOR RECIPIENTS OF COMPETITIVE GRANTS FROM THE TRUST FUND, A DESCRIPTION OF FUNDED PROJECTS, INCLUDING:

1. PROJECT LOCATION;
2. DESCRIPTION OF PRACTICES IMPLEMENTED;
3. TIMEFRAMES FOR PROJECT COMPLETION;
4. ESTIMATED OR CALCULATED NUTRIENT REDUCTIONS; AND
5. PROVISIONS FOR LONG-TERM MAINTENANCE OF PRACTICES.

(F) FUNDS FROM THE TRUST FUND MAY NOT BE USED TO ~~PAY FOR PRIVATE PROJECTS THAT ARE REQUIRED FOR REGULATORY COMPLIANCE PURPOSES~~ ENABLE AN INDIVIDUAL CITED FOR NONCOMPLIANCE WITH A NONPOINT SOURCE POLLUTION CONTROL LAW OR REGULATION TO ACHIEVE COMPLIANCE.

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

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

(3) THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL SHALL INCLUDE SCIENTISTS AND OTHER TECHNICAL EXPERTS WITH DEMONSTRATED EXPERTISE IN THE DISCIPLINES RELATED TO PROTECTION AND RESTORATION OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS.

(4) THE BAYSTAT PROGRAM SCIENTIFIC ADVISORY PANEL SHALL:

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

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

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

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

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

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

~~(H) A STATE AGENCY THAT ADMINISTERS A TRUST FUND GRANT MAY RECEIVE FROM THE FUND AN AMOUNT EQUIVALENT TO ITS REASONABLE DIRECT COSTS OF GRANT ADMINISTRATION~~ THE BAYSTAT SUBCABINET AGENCIES MAY DISTRIBUTE TO AN ADMINISTRATIVE COST ACCOUNT THE AMOUNT THAT IS NECESSARY TO ADMINISTER GRANT PROGRAMS, NOT TO EXCEED 1.5% OF THE ALLOCATIONS TO THE BAYSTAT SUBCABINET AGENCIES.

Article – Environment

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~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND” MEANS THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS 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 than 0.3 milligrams per liter total phosphorus, as calculated on an annually averaged basis; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) An onsite sewage disposal system; or

(iii) A sewage holding tank.

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

[(gg)] (HH) “Wastewater facility” means any equipment, plant, treatment works, structure, machinery, apparatus, interest in land, or any combination of these, which is acquired, used, constructed, or operated for the storage, collection, treatment, neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal

of wastewater, or for the final disposal of residues resulting from the treatment of wastewater, including: treatment or disposal plants; outfall sewers, interceptor sewers, and collector sewers; pumping and ventilating stations, facilities, and works; programs and projects for controlling nonpoint sources of water pollution and for estuarine conservation and management; and other real or personal property and appurtenances incident to their development, use, or operation.

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

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

9–1605.3.

(A) (1) **THERE IS A CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND.**

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

(B) **THE PURPOSE OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND IS TO PROVIDE FINANCIAL ASSISTANCE FOR THE IMPLEMENTATION OF URBAN AND SUBURBAN STORMWATER MANAGEMENT PRACTICES, AND STREAM AND WETLAND RESTORATION.**

(C) **THERE SHALL BE DEPOSITED IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND:**

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

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

(3) **INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF MONEYS IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND; AND**

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

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

(2) MONEY IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND MAY NOT REVERT OR BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.

(3) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND RESOLUTION REGARDING THE HOLDING OR APPLICATION OF AMOUNTS IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND, THE TREASURER SHALL SEPARATELY HOLD, AND THE COMPTROLLER SHALL ACCOUNT FOR, THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND.

(4) SUBJECT TO THE PROVISION OF ANY APPLICABLE BOND RESOLUTION GOVERNING THE INVESTMENT OF AMOUNTS IN THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND, THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

(5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT OF THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND.

(6) THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND SHALL BE SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

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

(8) THE ADMINISTRATION SHALL OPERATE THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND IN ACCORDANCE WITH §§ 9-1607 THROUGH 9-1622 OF THIS SUBTITLE.

(E) THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND SHALL BE USED:

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

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

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

(4) TO EARN INTEREST ON THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND ACCOUNTS; AND

(5) FOR THE REASONABLE COSTS OF ADMINISTERING THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND.

9-1611.

(a) Bonds may be secured by a trust agreement by and between the Administration and a corporate trustee, which may be any trust company or bank having trust powers, within or without the State. Such trust agreement may pledge or assign all or any part of the revenues or corpus of the Water Quality Fund, Drinking Water Loan Fund, [or] THE Bay Restoration Fund, **OR THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND**, or any account within these funds, and may pledge or assign or grant a lien on or security interest in any loan agreement or loan obligation. Any such trust agreement or resolution authorizing the issuance of bonds may contain such provisions for the protection and enforcement of the rights and remedies of the bondholders as may be deemed reasonable and proper, including covenants setting forth the duties of the Administration in relation to the making, administration and enforcement of loans and the custody, safeguarding and application of moneys. Such trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, such trust agreement may contain such other provisions as the Director may deem reasonable and proper for the security of the bondholders, including, without limitation, covenants pertaining to the issuance of

additional parity bonds upon conditions stated therein consistent with the requirements of this subtitle.

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

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

- (i) The interest upon such bonds as such interest falls due;
- (ii) The principal of such bonds as it falls due;
- (iii) The necessary charges of the trustee, bond registrar, and paying agents; and
- (iv) The redemption price or purchase price of bonds retired by call or purchase as provided in the bond resolution or trust agreement.

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

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

9-1616.

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

9-1617.1.

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

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

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

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

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

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

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

(5) (I) THE AUDITORS SHALL REPORT TO THE SECRETARY THE RESULTS OF THEIR EXAMINATION, INCLUDING THEIR UNQUALIFIED OPINION ON THE PRESENTATION OF THE FINANCIAL POSITIONS OF THE WATER QUALITY FUND, THE DRINKING WATER LOAN FUND, THE BAY RESTORATION FUND, AND THE CHESAPEAKE ~~BAY~~ AND ATLANTIC COASTAL BAYS NONPOINT SOURCE FUND AND THE RESULTS OF THE ADMINISTRATION'S FINANCIAL OPERATIONS.

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

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

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

Approved by the Governor, April 24, 2008.