

Chapter 695

(House Bill 507)

AN ACT concerning

Clean Water Commerce Act of 2021

FOR the purpose of establishing the Clean Water Commerce ~~Fund as a special, nonlapsing fund~~ Account within the Bay Restoration Fund; requiring the Department of the Environment to transfer a certain amount from the ~~Bay Restoration Fund~~ to the ~~Clean Water Commerce Fund~~ Account for certain purposes in certain fiscal years; altering the authorized uses of the ~~Bay Restoration Fund~~ to include certain transfers to the ~~Clean Water Commerce Fund~~ Account; repealing a certain authorization to use funds in the ~~Bay Restoration Fund~~ for costs associated with certain nutrient or sediment load reductions; altering the membership of the Bay Restoration Fund Advisory Committee; specifying the purpose of the ~~Clean Water Commerce Fund~~ Account; requiring the Secretary of the Environment to administer the ~~Clean Water Commerce Fund~~ Account; ~~requiring the State Treasurer to hold the Clean Water Commerce Fund and the Comptroller to account for the Clean Water Commerce Fund~~; specifying the contents of the ~~Clean Water Commerce Fund~~ Account; specifying the purpose for which the ~~Clean Water Commerce Fund~~ Account may be used; limiting the use of the Account to the purchase of certain cost-effective environmental outcomes; requiring that a certain percentage of the Account be used for certain purposes in each fiscal year; specifying that a certain project may include certain environmental outcomes; providing for the disposition of certain unencumbered money in the Clean Water Commerce Fund Account; authorizing the Department to establish certain accounts and subaccounts within the Clean Water Commerce Fund Account; providing for the investment of money in and expenditures from the Clean Water Commerce Fund; requiring interest earnings of the Clean Water Commerce Fund to be credited to the Clean Water Commerce Fund; exempting the Clean Water Commerce Fund from a certain provision of law requiring interest earnings on State money to accrue to the General Fund of the State; prohibiting certain environmental outcomes from being resold or transferred to a certain person separately from the property on which the environmental outcome is located; requiring credit for certain reductions to be attributed to certain sectors; requiring the Department to use a certain process to invite certain funding proposals, develop and use a certain scoring system, provide each person that submits a proposal with certain information, and to publicly announce a request for proposals or otherwise initiate a certain process at least once a year; requiring the Department to require certain information to be included in a certain funding proposal; requiring the Department to announce the criteria that will be used to evaluate certain funding proposals when initiating a certain process; requiring the Department to prioritize certain factors when evaluating certain funding proposals; requiring the Department to ~~establish and implement~~ approve a certain verification process and use certain standards and processes for verifying certain environmental outcomes; establishing requirements for environmental outcomes purchased under

certain provisions of this Act; authorizing a certain contract to be funded for a certain period of time; establishing requirements for ~~payment under a certain contract entered into by the Department under this Act~~; requiring the Department to ~~establish~~ maintain a certain registry and make the registry available to the public on the Department's website; authorizing a certain project ~~or~~, practice, and environmental outcome to be partially funded under this Act subject to certain conditions; requiring the ~~Department~~ Bay Restoration Fund Advisory Committee to make a certain annual report to ~~the Bay Restoration Fund Advisory Committee and, in accordance with a certain provision of law,~~ certain committees of the General Assembly; making certain conforming changes; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; defining certain terms; and generally relating to the Bay Restoration Fund and the Clean Water Commerce ~~Fund~~ Account.

BY repealing and reenacting, without amendments,
 Article – Environment
 Section 9–1605.2(a)(1) and (j)(1)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
 Article – Environment
 Section 9–1605.2(i)(2) and (3), (j)(2), and (l)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2020 Supplement)

BY adding to
 Article – Environment
 Section 9–1605.4
 Annotated Code of Maryland
 (2014 Replacement Volume and 2020 Supplement)

~~BY repealing and reenacting, without amendments,
 Article – State Finance and Procurement
 Section 6–226(a)(2)(i)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)~~

~~BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 6–226(a)(2)(ii) 122 and 123.
 Annotated Code of Maryland
 (2015 Replacement Volume and 2020 Supplement)~~

~~BY adding to
 Article – State Finance and Procurement~~

~~Section 6-226(a)(2)(ii)124
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)~~

BY repealing
Chapter 366 of the Acts of the General Assembly of 2017
Section 2 through 4

BY repealing and reenacting, with amendments,
Chapter 366 of the Acts of the General Assembly of 2017
Section 5

BY repealing
Chapter 367 of the Acts of the General Assembly of 2017
Section 2 through 4

BY repealing and reenacting, with amendments,
Chapter 367 of the Acts of the General Assembly of 2017
Section 5

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

Article – Environment

9-1605.2.

(a) (1) There is a Bay Restoration Fund.

(i) (2) Funds in the Bay Restoration Fund shall be used only:

(i) To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a wastewater facility for flows up to the design capacity of the wastewater facility, as approved by the Department, to achieve enhanced nutrient removal in accordance with paragraph (3) of this subsection;

(ii) In fiscal years 2016 and thereafter, for up to 87.5% of the total cost of projects, as approved by the Department, relating to combined sewer overflows abatement, rehabilitation of existing sewers, and upgrading conveyance systems, including pumping stations;

(iii) In fiscal years 2010 and thereafter, for a portion of the operation and maintenance costs related to the enhanced nutrient removal technology, which may not exceed 10% of the total restoration fee collected from users of wastewater facilities under this section by the Comptroller annually;

(iv) In fiscal years 2018 and thereafter, after payment of outstanding bonds and the allocation of funds to other required uses of the Bay Restoration Fund for funding in the following order of priority:

1. For funding the eligible costs to upgrade a wastewater facility to enhanced nutrient removal at wastewater facilities with a design capacity of 500,000 gallons or more per day;

2. For funding the eligible costs of the most cost-effective enhanced nutrient removal upgrades at wastewater facilities with a design capacity of less than 500,000 gallons per day; and

3. As determined by the Department and based on water quality, climate resiliency, flood control, and public health benefits, for the following:

A. For costs identified under item (ii) of this paragraph;

B. For costs identified under subsection (h)(2)(i)1 of this section; and

C. With respect to a local government that has enacted and implemented a system of charges to fully fund the implementation of a stormwater management program, for grants to the local government for a portion of the costs of the most cost-effective and efficient stormwater control measures, including stormwater measures relating to water quality, climate resiliency, or flood control, as determined and approved by the Department, from the restoration fees collected annually by the Comptroller from users of wastewater facilities under this section;

(v) 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 the bonds will be deposited in the Bay Restoration Fund;

(vi) To earn interest on Bay Restoration Fund accounts;

(vii) For the reasonable costs of administering the Bay Restoration Fund, which may not exceed 1.5% of the total restoration fees imposed on users of wastewater facilities that are collected by the Comptroller annually;

(viii) For the reasonable administrative costs incurred by a local government or a billing authority for a water or wastewater facility collecting the restoration fees, in an amount not to exceed 5% of the total restoration fees collected by that local government or billing authority;

(ix) For future upgrades of wastewater facilities to achieve additional nutrient removal or water quality improvement, in accordance with paragraphs (6) and (7) of this subsection;

(x) For costs associated with the issuance of bonds;

(xi) Subject to the allocation of funds and the conditions under subsection (h) of this section, for projects related to the removal of nitrogen from on-site sewage disposal systems and cover crop activities;

(xii) For costs associated with the implementation of alternate compliance plans authorized in § 4-202.1(k)(3) of this article; and

(xiii) After funding any eligible costs identified under item (iv)1 and 2 of this paragraph, for [costs associated with the purchase of cost-effective nitrogen, phosphorus, or sediment load reductions in support of the State's efforts to restore the health of the Chesapeake Bay, not to exceed \$4,000,000 in fiscal year 2018, \$6,000,000 in fiscal year 2019, and \$10,000,000 per year in fiscal years 2020 and 2021] **TRANSFERS TO THE CLEAN WATER COMMERCE ~~FUND~~ ACCOUNT IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.**

(3) [The nitrogen, phosphorus, and sediment load reductions purchased under paragraph (2)(xiii) of this subsection:

(i) Cannot be from the agricultural sector; and

(ii) **Must be created on or after July 1, 2017.] IN FISCAL YEAR 2022 AND EACH FISCAL YEAR THEREAFTER, THE DEPARTMENT SHALL TRANSFER \$20,000,000 FROM THE BAY RESTORATION FUND TO THE CLEAN WATER COMMERCE ~~FUND~~ ACCOUNT ESTABLISHED UNDER § 9-1605.4 OF THIS SUBTITLE, TO BE USED FOR THE PURPOSES SPECIFIED IN § 9-1605.4 OF THIS SUBTITLE.**

(j) (1) There is a Bay Restoration Fund Advisory Committee.

(2) The Committee consists of the following members:

(i) The Secretaries of the Environment, Agriculture, Planning, Natural Resources, and Budget and Management, or their designees;

(ii) One member of the Senate, appointed by the President of the Senate;

(iii) One member of the House of Delegates, appointed by the Speaker of the House of Delegates;

(iv) Two individuals representing publicly owned wastewater facilities, appointed by the Governor;

(v) Two individuals representing environmental organizations, appointed by the Governor;

(vi) One individual each from the Maryland Association of Counties and the Maryland Municipal League, appointed by the Governor;

(vii) Two individuals representing the business community, appointed by the Governor;

(viii) Two individuals representing local health departments who have expertise in on-site sewage disposal systems, appointed by the Governor; [and]

(ix) One individual representing a university or research institute who has expertise in nutrient pollution, appointed by the Governor; ~~AND~~

(X) ONE INDIVIDUAL REPRESENTING THE CHESAPEAKE BAY COMMISSION, APPOINTED BY THE CHAIR OF THE MARYLAND DELEGATION TO THE COMMISSION; AND

(XI) ONE INDIVIDUAL REPRESENTING COMMUNITIES DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED BY THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES.

(l) [(1) Subject to paragraph (2) of this subsection, the] **THE** Department shall adopt regulations that are necessary or appropriate to carry out the provisions of this section.

[(2) Regulations adopted to carry out subsection (i)(2)(xiii) of this section shall:

(i) Be adopted before the purchase of any load reductions;

(ii) Specify that a load reduction purchased should provide the lowest cost per pound in reduction and be purchased in accordance with a competitive process; and

(iii) Be adopted in consultation with the Secretary of Transportation, the Secretary of Natural Resources, the Secretary of Commerce, the Secretary of Agriculture, and public and private sector stakeholders.]

9-1605.4.

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

(2) “ACCOUNT” MEANS THE CLEAN WATER COMMERCE ACCOUNT.

(3) “AGGREGATOR” MEANS A PERSON THAT FACILITATES OR COORDINATES THE ESTABLISHMENT OF PRACTICES OR PROJECTS THAT:

(I) ARE IMPLEMENTED BY THE PERSON OR BY OTHERS;

(II) PRODUCE A QUANTIFIABLE ENVIRONMENTAL OUTCOME;

(III) ARE REGISTERED BY THE PERSON; AND

(IV) ARE MADE AVAILABLE FOR PURCHASE BY THE DEPARTMENT UNDER THIS SECTION.

~~(3)~~ (4) (I) “AGRICULTURAL PRACTICE” MEANS A BEST MANAGEMENT PRACTICE THAT IS:

1. APPROVED BY THE CHESAPEAKE BAY PROGRAM PARTNERSHIP; AND

2. IMPLEMENTED ON LAND OR WATER THAT IS USED FOR THE PRODUCTION OR PROCESSING OF AN AGRICULTURAL CROP.

(II) “AGRICULTURAL PRACTICE” INCLUDES AGRICULTURAL, HORTICULTURAL, SILVICULTURAL, AND AQUACULTURAL OPERATIONS.

(5) “CHESAPEAKE BAY TMDL” MEANS THE TOTAL MAXIMUM DAILY LOAD ~~ADOPTED~~ APPROVED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY UNDER THE CLEAN WATER ACT FOR THE CHESAPEAKE BAY.

~~(4)~~ (6) “ENVIRONMENTAL OUTCOME” MEANS ~~ANY OF THE FOLLOWING QUANTITATIVE OUTCOMES~~ NITROGEN LOAD REDUCTIONS THAT CAN BE DIRECTLY MEASURED OR MODELED AT THE ~~EDGE OF TIDE~~ USING THE CHESAPEAKE BAY PROGRAM ~~WATERSHED MODEL~~ MODELS OR ANY OTHER METHOD OR MODEL IN A QUANTIFICATION PLAN:

~~(I)~~ NITROGEN LOAD REDUCTION;

~~(II)~~ PHOSPHORUS LOAD REDUCTION; OR

~~(III)~~ SEDIMENT LOAD REDUCTION.

(5) “FUND” MEANS THE CLEAN WATER COMMERCE FUND.

~~(6)~~ (7) (I) “NONAGRICULTURAL LANDSCAPE RESTORATION PROJECT” MEANS A PROJECT THAT:

- ~~(I)~~ 1. IS INSTALLED ON NONAGRICULTURAL LANDS;
- ~~(II)~~ 2. HAS AN INTENDED LIFESPAN OF AT LEAST ~~15~~ 10 YEARS; AND
- ~~(III)~~ 3. ~~IS ESTIMATED BY THE CHESAPEAKE BAY PROGRAM CHESAPEAKE ASSESSMENT TOOL TO PROVIDE~~ PROVIDES ENVIRONMENTAL OUTCOMES.

(II) “NONAGRICULTURAL LANDSCAPE RESTORATION PROJECT” INCLUDES A PROJECT THAT RETURNS LAND TO NATIVE OR NATURAL LAND COVER, SUCH AS AFFORESTATION OR REFORESTATION PROJECTS.

~~(7)~~ (8) “QUANTIFICATION PLAN” MEANS A PLAN APPROVED BY THE DEPARTMENT THAT DESCRIBES:

- (I) THE METHOD THAT WILL BE USED TO MEASURE OR MODEL ENVIRONMENTAL OUTCOMES;
- (II) THE REQUIRED COMPLIANCE MONITORING THAT WILL OCCUR TO ENSURE THAT THE PROPOSED ACTIONS WERE TAKEN;
- (III) ANY VERIFICATION STEPS THAT MAY BE CARRIED OUT BY THE DEPARTMENT OR THE OWNER OF A PROJECT OR PRACTICE TO CONFIRM ~~THE MODEL RESULTS OR THE ACCURATE MEASUREMENT OF~~ ENVIRONMENTAL OUTCOMES; AND
- (IV) THE TIMELINE FOR PROPOSED PAYMENTS UNDER A CONTRACT WITH THE DEPARTMENT.

(B) THERE IS A CLEAN WATER COMMERCE ~~FUND~~ ACCOUNT.

(C) THE PURPOSE OF THE ~~FUND~~ ACCOUNT IS TO PURCHASE ENVIRONMENTAL OUTCOMES IN SUPPORT OF THE STATE’S EFFORTS TO ACHIEVE THE CHESAPEAKE BAY TMDL.

(D) THE SECRETARY SHALL ADMINISTER THE ~~FUND~~ ACCOUNT.

(E) ~~(1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.~~

~~(F)~~ THE ~~FUND~~ ACCOUNT CONSISTS OF:

(1) REVENUE ~~DISTRIBUTED~~ TRANSFERRED TO THE FUND ACCOUNT UNDER § 9-1605.2(I)(2)(XIII) OF THIS SUBTITLE; AND

~~(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;~~

~~(3) ANY INVESTMENT EARNINGS OF THE FUND; AND~~

~~(4)~~ ANY OTHER MONEY FROM ANY OTHER SOURCES ACCEPTED FOR THE BENEFIT OF THE ~~FUND~~ ACCOUNT.

~~(G)~~ ~~(F)~~ (1) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE ~~FUND~~ ACCOUNT MAY BE USED ONLY FOR THE PURCHASE OF COST-EFFECTIVE ENVIRONMENTAL OUTCOMES ~~IN SUPPORT OF THAT:~~

(I) SUPPORT THE STATE’S EFFORTS TO ACHIEVE THE CHESAPEAKE BAY TMDL; AND

(II) HAVE AN EXPECTED LIFE OF AT LEAST 10 YEARS.

(2) ~~IN~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, IN EACH FISCAL YEAR:

(I) AT LEAST 35% SHALL BE USED TO PROCURE ENVIRONMENTAL OUTCOMES FROM ~~PROJECTS ON AGRICULTURAL LANDS PRACTICES,~~ WITH PRIORITY GIVEN TO PROJECTS THAT ARE:

1. A FIXED NATURAL FILTER PRACTICE, AS DEFINED IN § 8-701 OF THE AGRICULTURE ARTICLE; OR

2. AN AGRICULTURAL DITCH MANAGEMENT PRACTICE, AS DEFINED BY THE CHESAPEAKE BAY PROGRAM;

(II) AT LEAST 20% SHALL BE USED TO PROCURE ENVIRONMENTAL OUTCOMES FROM PROJECTS, INCLUDING STORMWATER MANAGEMENT AND GREEN INFRASTRUCTURE PROJECTS, ESTABLISHED IN DISADVANTAGED COMMUNITIES IMPACTED BY ENVIRONMENTAL JUSTICE CONCERNS, DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED BY THE DEPARTMENT IN CONSULTATION WITH THE

COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES;
AND

(III) AT LEAST 10% SHALL BE USED TO PROCURE ENVIRONMENTAL OUTCOMES FROM NONAGRICULTURAL LANDSCAPE RESTORATION PROJECTS THAT TAKE INTO CONSIDERATION THE PROJECT'S ECOLOGICAL SUITABILITY, INCLUDING THE HYDROLOGICAL CONDITIONS AND OTHER PHYSICAL CHARACTERISTICS OF THE LOCATION AT WHICH THE PROJECT WILL BE IMPLEMENTED.

(3) ANY UNENCUMBERED FUNDS NOT USED TO PURCHASE ENVIRONMENTAL OUTCOMES AS SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION ARE:

(I) NO LONGER SUBJECT TO THE ALLOCATION REQUIREMENTS SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION; AND

(II) AVAILABLE FOR USE CONSISTENT WITH THIS SECTION IN SUBSEQUENT FISCAL YEARS.

(4) A PROJECT MAY INCLUDE ENVIRONMENTAL OUTCOMES FROM ONE OR MORE OF THE PROJECT TYPES SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

~~(H) (1) THE STATE 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 CREDITED TO THE FUND.~~

~~(G)~~ (G) EXPENDITURES FROM THE ~~FUND~~ FUND ACCOUNT MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.

~~(J) IF THE UNENCUMBERED BALANCE OF THE FUND EXCEEDS \$20,000,000 AT THE END OF A FISCAL YEAR, ANY MONEY IN EXCESS OF THAT \$20,000,000 SHALL REVERT TO THE BAY RESTORATION FUND.~~

~~(K)~~ (H) THE DEPARTMENT MAY ESTABLISH ~~ACCOUNTS~~ AND SUBACCOUNTS WITHIN THE ~~FUND~~ FUND ACCOUNT TO CARRY OUT THE PURPOSES OF THIS SECTION.

~~(I)~~ (I) AN ENVIRONMENTAL OUTCOME PURCHASED UNDER THIS SECTION MAY NOT BE RESOLD OR TRANSFERRED TO ANY OTHER PERSON

SEPARATELY FROM THE PROPERTY ON WHICH THE ENVIRONMENTAL OUTCOME IS LOCATED.

~~(M)~~ (J) IN CALCULATING POLLUTION REDUCTIONS UNDER THE CHESAPEAKE BAY TMDL BY VARIOUS MAJOR SOURCE SECTORS RECOGNIZED IN THE WATERSHED IMPLEMENTATION PLAN, CREDIT FOR ANY REDUCTIONS FUNDED UNDER THIS SECTION SHALL BE ATTRIBUTED TO THE SECTOR OF THE SOURCE THAT MAKES THE REDUCTIONS.

~~(N)~~ (K) (1) THE DEPARTMENT SHALL:

(I) USE A COMPETITIVE PROCESS TO INVITE FUNDING PROPOSALS FROM AGGREGATORS AND OTHER PERSONS FOR THE PROVISION OF ENVIRONMENTAL OUTCOMES THAT WILL CONTRIBUTE TOWARD THE ACHIEVEMENT OF THE CHESAPEAKE BAY TMDL;

(II) DEVELOP AND USE A SCORING SYSTEM TO EVALUATE A SUBMITTED FUNDING PROPOSAL;

(III) PROVIDE EACH PERSON THAT SUBMITS A FUNDING PROPOSAL WITH A COPY OF THE SCORING SYSTEM, INCLUDING THE WEIGHT GIVEN TO THE CO-BENEFITS SPECIFIED UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION;
AND

~~(H)~~ (IV) AT LEAST ONCE A YEAR, PUBLICLY ANNOUNCE A REQUEST FOR PROPOSALS OR OTHERWISE INITIATE A PROCUREMENT PROCESS FOR ENVIRONMENTAL OUTCOMES TO BE FUNDED UNDER THIS SECTION.

(2) THE DEPARTMENT SHALL REQUIRE EACH FUNDING PROPOSAL SUBMITTED UNDER THIS SECTION TO INCLUDE:

(I) THE LEGAL NAME OF THE PERSON SUBMITTING THE PROPOSAL;

(II) A DESCRIPTION OF THE PROJECTS OR PRACTICES TO BE USED OR IMPLEMENTED TO ACHIEVE THE ENVIRONMENTAL OUTCOMES;

~~(H)~~ (III) THE LOCATION WHERE THE PROJECTS OR PRACTICES WILL BE USED OR IMPLEMENTED;

~~(H)~~ (IV) THE EXPECTED LIFE OF EACH ENVIRONMENTAL OUTCOME THAT WILL BE ACHIEVED UNDER THE PROJECTS OR PRACTICES;

(V) TO ENSURE THAT THE APPLICANT HAS THE LEGAL AUTHORITY TO IMPLEMENT THE PROJECTS OR PRACTICES, A DESCRIPTION OF THE OWNERSHIP OF EACH PARCEL OF LAND OR FACILITY THAT WILL BE USED IN THE PROJECTS OR PRACTICES;

(VI) A PROPOSED QUANTIFICATION PLAN AND VERIFICATION PROCEDURE;

~~(IV)~~ (VII) AN IMPLEMENTATION TIMETABLE FOR THE PROJECTS OR PRACTICES;

(VIII) A PROPOSED COST AND PAYMENT SCHEDULE;

~~(V)~~ (IX) AN EXPLANATION OF WHETHER THE PROPOSAL MEETS THE REQUIREMENTS FOR FUNDING SPECIFIED IN SUBSECTION (G) OF THIS SECTION;

(X) IF THE PROJECTS OR PRACTICES WILL ACHIEVE A CO-BENEFIT SPECIFIED UNDER PARAGRAPH (3)(II)2 OF THIS SUBSECTION, A DESCRIPTION OF THE CO-BENEFIT, INCLUDING AS MUCH INFORMATION AS IS REASONABLY POSSIBLE REGARDING THE NATURE, EXTENT, DURATION, AND MEANS OF VERIFYING THE CO-BENEFIT;

(XI) A STATEMENT ON WHETHER ANY PORTION OF THE PROJECTS OR PRACTICES ARE BEING FUNDED OR WILL BE FUNDED, IN WHOLE OR IN PART, WITH FEDERAL FUNDS, LOCAL FUNDS, OR STATE FUNDS OTHER THAN FUNDS PROVIDED UNDER THIS SECTION, AND A DESCRIPTION OF ANY SUCH FUNDING, INCLUDING:

1. THE NAME OF THE DEPARTMENT OR AGENCY PROVIDING THE FUNDS;

2. THE AMOUNT OF FUNDING RECEIVED OR THAT WILL BE RECEIVED; AND

3. THE PORTION OF THE PROJECTS OR PRACTICES FOR WHICH THE FUNDS ARE BEING OR WILL BE PROVIDED; AND

~~(VI)~~ (XII) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

(3) (I) WHEN INITIATING A COMPETITIVE PROCESS UNDER THIS SUBSECTION, THE DEPARTMENT SHALL ANNOUNCE THE CRITERIA THAT WILL BE USED TO EVALUATE FUNDING PROPOSALS.

(II) WHEN EVALUATING FUNDING PROPOSALS, THE DEPARTMENT SHALL PRIORITIZE THE FOLLOWING FACTORS IN THE FOLLOWING ORDER:

1. THE DOLLAR COST PER UNIT OF ENVIRONMENTAL OUTCOME; AND

2. THE PROVISION OF EXPECTED CO-BENEFITS RELATED TO:

A. ENHANCING THE MITIGATION OF AND RESILIENCY TO THE ANTICIPATED ADVERSE EFFECTS OF CLIMATE CHANGES;

B. ADDRESSING DIVERSITY, EQUITY, OR ENVIRONMENTAL JUSTICE CONCERNS; OR ALLEVIATING THE ENVIRONMENTAL HARMS AND RISKS BORNE BY COMMUNITIES DISPROPORTIONATELY BURDENED BY ENVIRONMENTAL HARMS AND RISKS AS IDENTIFIED BY THE DEPARTMENT IN CONSULTATION WITH THE COMMISSION ON ENVIRONMENTAL JUSTICE AND SUSTAINABLE COMMUNITIES;

C. CONTRIBUTING TOWARD THE ATTAINMENT OF WATER QUALITY STANDARDS IN A LOCALLY IMPAIRED WATERSHED; OR

D. REDUCTIONS IN PHOSPHORUS OR SEDIMENT LOADS THAT ARE DIRECTLY MEASURED OR MODELED BY THE CHESAPEAKE BAY PROGRAM MODELS AND CAN BE COUNTED TOWARD THE STATE'S POLLUTION LOAD REDUCTIONS REQUIRED UNDER THE CHESAPEAKE BAY TMDL.

(L) THE DEPARTMENT SHALL:

(1) ESTABLISH AND IMPLEMENT APPROVE A PROCESS TO VERIFY ENVIRONMENTAL OUTCOMES FOR WHICH FUNDING IS PROVIDED UNDER THIS SECTION; AND

(2) USE CONSISTENT STANDARDS AND PROCESSES FOR VERIFYING ENVIRONMENTAL OUTCOMES THROUGH THE CONFIRMATION OF MODELING RESULTS, THE CONFIRMATION OF INSTALLATIONS, AND OR, WHERE APPROPRIATE, THE MEASUREMENT OF OUTCOMES DURING OR AFTER THE INITIATION OF A PROJECT OR PRACTICE.

~~(P)~~ (M) AN ENVIRONMENTAL OUTCOME PURCHASED UNDER THIS SECTION SHALL:

(1) RESULT FROM A NEW PROJECT OR PRACTICE DESIGNED AND ESTABLISHED FOLLOWING THE SELECTION OF A PROPOSAL AND THE EXECUTION OF A CONTRACT IN ACCORDANCE WITH THIS SECTION;

(2) BE IN ADDITION TO ANY LOAD REDUCTION REQUIRED BY ANY FEDERAL, STATE, OR LOCAL LAW, REGULATION, POLICY, OR PERMIT, INCLUDING ANY APPLICABLE TOTAL MAXIMUM DAILY LOAD; AND

(3) BE CONSISTENT WITH THE CHESAPEAKE BAY ~~PARTNERSHIP ACCOUNTING PROCEDURES~~ PROGRAM MODELS SO AS TO ENSURE THE LOAD REDUCTIONS WILL COUNT TOWARD THE ACHIEVEMENT OF THE CHESAPEAKE BAY TMDL.

~~(Q)~~ (N) A CONTRACT ENTERED INTO BY THE DEPARTMENT UNDER THIS SECTION MAY BE FUNDED FOR THE EXPECTED LIFE OF THE PROJECT OR PRACTICE YIELDING THE ENVIRONMENTAL OUTCOME, NOT TO EXCEED ~~15~~ 20 YEARS.

~~(R)~~ (O) ~~(1) PROVISIONS FOR PAYMENT UNDER A CONTRACT FOR ENVIRONMENTAL OUTCOMES SHALL BE AS:~~

~~(i) ANNUAL OR LESS FREQUENT PAYMENTS OVER THE DURATION OF THE CONTRACT FOLLOWING VERIFICATION OF ENVIRONMENTAL OUTCOMES; OR~~

~~(ii) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, FULL OR SUBSTANTIAL PAYMENT AFTER CONSTRUCTION IS COMPLETED AND INCREMENTAL PAYMENTS AFTER LONG TERM ENVIRONMENTAL OUTCOMES ARE VERIFIED UNDER A PAY FOR SUCCESS CONTRACT.~~

~~(2) INITIAL AND INCREMENTAL PAYMENTS MAY BE MADE UNDER A PAY FOR SUCCESS CONTRACT AS WARRANTED BY THE FINANCIAL RESOURCES OF THE APPLICANT, THE NATURE OF THE PROJECT OR PRACTICE, AND OTHER RELEVANT CIRCUMSTANCES. A CONTRACT ENTERED INTO BY THE DEPARTMENT UNDER THIS SECTION SHALL:~~

(1) REQUIRE THE OWNER OF THE PROJECT OR PRACTICE TO PERIODICALLY SUBMIT STATUS UPDATES IN ACCORDANCE WITH THE QUANTIFICATION PLAN FOR THE ENVIRONMENTAL OUTCOMES OF THE PROJECT OR PRACTICE;

(2) REQUIRE THAT PAYMENT FOR ENVIRONMENTAL OUTCOMES BE CONDITIONED ON THE ACHIEVEMENT AND VERIFICATION OF THE ENVIRONMENTAL OUTCOMES IN ACCORDANCE WITH THE QUANTIFICATION PLAN;

(3) INCLUDE A SCHEDULE OF PAYMENTS THAT WILL BE MADE AS ENVIRONMENTAL OUTCOMES ARE ACHIEVED AND VERIFIED; AND

(4) REQUIRE REPORTING ON THE AMOUNT OF NITROGEN AND, TO THE EXTENT THAT IT CAN BE FEASIBLY DETERMINED WITHOUT SIGNIFICANT EXPENSE, PHOSPHORUS AND SEDIMENT THAT ARE REMOVED ANNUALLY BY THE PROJECT OR PRACTICE.

~~(S)~~ (P) THE DEPARTMENT SHALL:

(1) ESTABLISH MAINTAIN A PUBLIC REGISTRY, INCLUDING FOR THE ENVIRONMENTAL OUTCOMES OF EACH PROJECT OR PRACTICE THAT INCLUDES:

(I) A DESCRIPTION OF THE PROJECT OR PRACTICE AND THE ASSOCIATED SPATIAL INFORMATION, OF PROJECTS AND PRACTICES FUNDED UNDER THIS SECTION THAT SHALL INCLUDE INFORMATION SUFFICIENT TO TRACK THE OWNERSHIP OF THE PROJECT OR PRACTICE; AND

(II) TO ENSURE THAT THE ENVIRONMENTAL OUTCOMES ARE MAINTAINED FOR THE LIFE EXPECTANCY OF THE ENVIRONMENTAL OUTCOME, A SUMMARY OF THE CONTRACT PROVISIONS FOR THE PROJECT OR PRACTICE; AND

(2) MAKE THE REGISTRY AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEBSITE.

~~(T)~~ (Q) (1) (I) SUBJECT TO ~~PARAGRAPH (2)~~ SUBPARAGRAPH (II) OF THIS SUBSECTION PARAGRAPH, A PROJECT OR PRACTICE THAT IS PARTIALLY FINANCED WITH ANOTHER SOURCE OF STATE FUNDS MAY BE FUNDED UNDER THIS SECTION.

~~(2)~~ (II) FUNDING PROVIDED TO A PROJECT OR PRACTICE UNDER THIS SUBSECTION SHALL BE PRORATED TO COVER ONLY THE PORTION OF THE ENVIRONMENTAL BENEFIT NOT FUNDED BY ANOTHER STATE SOURCE.

(2) (I) AN ENVIRONMENTAL OUTCOME THAT IS FUNDED ENTIRELY WITH PUBLIC FUNDS IS NOT ELIGIBLE TO BE PURCHASED WITH FUNDS FROM THE ACCOUNT.

(II) IF AN ENVIRONMENTAL OUTCOME IS PARTIALLY FUNDED WITH PUBLIC FUNDS AND IS VERIFIED UNDER SUBSECTION (L) OF THIS SECTION,

FUNDS FROM THE ACCOUNT MAY BE USED TO PURCHASE THE REMAINING PORTION OF THE ENVIRONMENTAL OUTCOME THAT IS NOT FUNDED WITH PUBLIC FUNDS.

~~(U)~~ **(R)** ~~ON~~ **IN CONJUNCTION WITH THE REPORT REQUIRED UNDER § 9-1605.2(J)(6) OF THIS SUBTITLE, ON OR BEFORE DECEMBER 31 EACH YEAR, THE DEPARTMENT BAY RESTORATION FUND ADVISORY COMMITTEE SHALL REPORT TO THE BAY RESTORATION FUND ADVISORY COMMITTEE AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE ON:**

(1) THE TOTAL AMOUNT EXPENDED AND ENCUMBERED UNDER THIS SECTION:

- (i) DURING THE IMMEDIATELY PRECEDING FISCAL YEAR; AND**
- (ii) SINCE JULY 1, 2022;**

(2) THE AMOUNT AND TYPE OF ENVIRONMENTAL OUTCOMES PURCHASED UNDER THIS SECTION AND THE TYPES OF PROJECTS OR PRACTICES THAT PRODUCED THOSE OUTCOMES, INCLUDING INFORMATION ON:

- (i) THE COST PER UNIT OF NITROGEN, ~~PHOSPHORUS, OR SEDIMENT~~ REDUCED OR REMOVED; AND**
- (ii) THE RELATIVE CONTRIBUTION OF EACH ENVIRONMENTAL OUTCOME TOWARD CLOSING ANY GAPS IN ACHIEVING THE NUTRIENT AND SEDIMENT TARGETS OF THE CHESAPEAKE BAY TMDL;**

(3) THE TYPE AND VALUE OF ANY CO-BENEFITS PROVIDED BY PROJECTS OR PRACTICES FUNDED UNDER THIS SECTION;

(4) ~~INFORMATION ON THE~~ THE COST-EFFECTIVENESS OF ENVIRONMENTAL OUTCOMES PURCHASED UNDER THIS SECTION AS COMPARED WITH OTHER APPROACHES TO REDUCING NITROGEN, ~~PHOSPHORUS, AND SEDIMENT~~; AND

(5) FOR FISCAL YEAR 2025 ONLY, ~~RECOMMENDATIONS REGARDING~~ ANY AMENDMENTS TO THIS SECTION NECESSARY TO REFLECT HISTORIC AND PROJECTED DEMAND FOR FUNDING FROM THE ~~FUND~~ ACCOUNT AND THE BAY RESTORATION FUND, INCLUDING AN ASSESSMENT AND RECOMMENDATION ON POSSIBLE CHANGES TO THE PERCENTAGES SPECIFIED UNDER SUBSECTION (F) OF THIS SECTION.

~~(v)~~ (s) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

~~Article — State Finance and Procurement~~

~~6-226.~~

~~(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.~~

~~(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:~~

~~122. the Racing and Community Development Financing Fund;~~

~~[and]~~

~~123. the Racing and Community Development Facilities Fund;~~

~~AND~~

~~124. THE CLEAN WATER COMMERCE FUND.~~

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

Chapter 366 of the Acts of 2017

[SECTION 2. AND BE IT FURTHER ENACTED, That the nutrient load reductions purchased under § 9-1605.2(i)(2)(xiii) of the Environment Article, as enacted by Section 1 of this Act, must be consistent with the Chesapeake Bay Program Partnership Accounting Procedures.

SECTION 3. AND BE IT FURTHER ENACTED, That: (a) Beginning July 1, 2018, the Department of the Environment shall report each year to the Bay Restoration Fund Advisory Committee on the implementation of this Act. (b) On or before October 1, 2020, the Department of the Environment shall report, in accordance with § 2-1246 of the State Government Article, to the House Environment and Transportation Committee and the Senate Education, Health, and Environmental Affairs Committee on the implementation of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Department of the Environment may enter into any contracts for the purchase of nutrient load reductions under this Act until June 30, 2021.

(b) Any contract entered into by the Department of the Environment under this Act may be funded for the expected life of the best management practice resulting from a nutrient load reduction.]

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017. It shall remain effective for a period of [4] 13 years and, at the end of June 30, [2021] 2030, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Chapter 367 of the Acts of 2017

[SECTION 2. AND BE IT FURTHER ENACTED, That the nutrient load reductions purchased under § 9–1605.2(i)(2)(xiii) of the Environment Article, as enacted by Section 1 of this Act, must be consistent with the Chesapeake Bay Program Partnership Accounting Procedures.

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SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021. It shall remain effective for a period of 9 years and 1 month and, at the end of June 30, 2030, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.