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§9–1605.2. IN EFFECT

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

(2) It is the intent of the General Assembly that the Bay Restoration Fund be:

(i) Used, in part, to provide the funding necessary to upgrade any of the wastewater treatment facilities that are located in the State or used by citizens of the State in order to achieve enhanced nutrient removal where it is cost–effective to do so; and

(ii) Available for treatment facilities discharging into the Atlantic Coastal Bays or other waters of the State, but that priority be given to treatment facilities discharging into the Chesapeake Bay.

(3) The Bay Restoration Fund shall be maintained and administered by the Administration in accordance with the provisions of this section and any rules or program directives as the Secretary or the Board may prescribe.

(4) There is established a Bay Restoration Fee to be paid by any user of a wastewater facility, an on–site sewage disposal system, or a holding tank that:

(i) Is located in the State; or

(ii) Serves a Maryland user and is eligible for funding under this subtitle.

(b) (1) (i) Beginning on July 1, 2012, the Bay Restoration Fee is:

1. For each residential dwelling that receives an individual sewer bill and each user of an on–site sewage disposal system or a holding tank that receives a water bill:

A. $2.50 per month if the wastewater generated by a residential dwelling is treated at a wastewater facility that does not discharge into the Chesapeake Bay Watershed or the Coastal Bays Watershed;

B. $2.50 per month if the on–site sewage disposal system or holding tank is not located within the Chesapeake Bay Watershed or the Coastal Bays Watershed;

C. $5.00 per month if the wastewater generated by a residential dwelling is treated at a wastewater facility that does discharge into the Chesapeake Bay Watershed or the Coastal Bays Watershed; and

D. $5.00 per month if the wastewater on–site sewage disposal system or holding tank is located within the Chesapeake Bay Watershed or the Coastal Bays Watershed;

2. For each user of an on–site sewage disposal system that does not receive a water bill:

A. $30 per year if the on–site sewage disposal system is not located within the Chesapeake Bay Watershed or the Coastal Bays Watershed; or

B. $60 per year if the on–site sewage disposal system is located within the Chesapeake Bay Watershed or the Coastal Bays Watershed;

3. For each user of a sewage holding tank that does not receive a water bill:

A. $30 per year if the sewage holding tank is not located within the Chesapeake Bay Watershed or the Coastal Bays Watershed; and

B. $60 per year if the sewage holding tank is located within the Chesapeake Bay Watershed or the Coastal Bays Watershed; and

4. For a building or group of buildings under single ownership or management that receives a sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill or for a nonresidential user:

A. For each equivalent dwelling unit not exceeding 2,000 equivalent dwelling units, $2.50 per month if the wastewater generated by a building or group of buildings containing multiple residential dwellings is treated at a wastewater facility that does not discharge into the Chesapeake Bay Watershed or the Coastal Bays Watershed;

B. For each equivalent dwelling unit not exceeding 2,000 equivalent dwelling units, $5.00 per month if the wastewater generated by a

building or group of buildings containing multiple residential dwellings is treated at a wastewater facility that does discharge into the Chesapeake Bay Watershed or the Coastal Bays Watershed; and

C. For each equivalent dwelling unit exceeding 2,000 equivalent dwelling units, zero.

(ii) For a nonresidential user, the Bay Restoration Fee may be calculated based on an estimate of equivalent dwelling units of wastewater effluent generated, if the nonresidential user's wastewater bill is based on wastewater generated and not on water usage.

(2) (i) For a residential dwelling that receives an individual sewer bill, a user of an on–site sewage disposal system or a holding tank that receives a water bill, a building or group of buildings under single ownership or management that receives a water and sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill, and a nonresidential user, the restoration fee shall be:

1. Stated in a separate line on the sewer or water bill, as appropriate, that is labeled "Bay Restoration Fee"; and

2. Collected for each calendar quarter, unless a local government or billing authority for a water or wastewater facility established some other billing period on or before January 1, 2004.

(ii) 1. A. If the user does not receive a water bill, for users of an on–site sewage disposal system and for users of a sewage holding tank, the county in which the on–site sewage disposal system or holding tank is located shall be responsible for collecting the restoration fee.

B. A county may negotiate with a municipal corporation located within the county for the municipal corporation to collect the restoration fee from on–site sewage disposal systems and holding tanks located in the municipal corporation.

2. The governing body of each county, in consultation with the Bay Restoration Fund Advisory Committee, shall determine the method and frequency of collecting the restoration fee under subsubparagraph 1 of this subparagraph.

(3) The total fee imposed under paragraph (1) of this subsection may not exceed $120,000 annually for a single site.

(4) (i) For purposes of measuring average daily wastewater flow, the local government or billing authority for a wastewater facility shall use existing methods of measurement, which may include water usage or other estimation methods.

(ii) The averaging period is:

1. The billing period established by the local government or billing authority; or

2. If a billing period is not established by the local government or billing authority, a quarter of a calendar year.

(5) (i) The Bay Restoration Fee under this subsection may not be reduced as long as bonds are outstanding.

(ii) Any change in the manner of determining the Bay Restoration Fee may not reduce the amount of funds available for the payment of outstanding bonds.

(c) A user of a wastewater facility is exempt from paying the restoration fee if:

(1) (i) 1. The user's wastewater facility's average annual effluent nitrogen and phosphorus concentrations, as reported in the facility's State discharge monitoring reports for the previous calendar year, demonstrate that the facility is achieving enhanced nutrient removal, as defined under § 9–1601(n) of this subtitle; or

2. The Department has determined that the wastewater facility does not discharge nitrogen or phosphorus and is not required to monitor for nitrogen or phosphorus in its discharge permit; and

(ii) The user's wastewater facility has not received a State or federal grant for that facility;

(2) (i) The user's wastewater facility discharges to groundwater and the annual average nutrient concentrations in the wastewater prior to discharge to groundwater have not exceeded 3 milligrams per liter total nitrogen and 0.3 milligrams per liter total phosphorus, as demonstrated by analysis of the groundwater from monitoring wells located on the property and as reported in discharge monitoring reports for the previous calendar year; and

(ii) The user's wastewater facility has not received a federal or State grant for that facility; or

(3) The Department determines that:

(i) The user's wastewater facility discharges noncontact cooling water, water from dewatering operations, or reclaimed wastewater from a facility whose users pay in to the Fund; and

(ii) The discharge does not result in a net increase in loading of nutrients compared to the intake water.

(d) (1) Subject to the approval of the Administration, a local government or a billing authority for a water or wastewater facility shall establish a program to exempt from the requirements of this section a residential dwelling able to demonstrate substantial financial hardship as a result of the restoration fee.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the Bay Restoration Fee shall be collected by the local government or the billing authority for the water or wastewater facility, as appropriate, on behalf of the State.

(ii) For a wastewater facility without a billing authority, the Comptroller may collect the restoration fee from the facility owner.

(3) A local government, billing authority for a water or wastewater facility, or any other authorized collecting agency:

(i) May use all of its existing procedures and authority for collecting a water or sewer bill, an on–site sewage disposal system bill, or a holding tank bill in order to enforce the collection of the Bay Restoration Fee; and

(ii) Shall establish a segregated account for the deposit of funds collected under this section.

(4) (i) This paragraph applies only in Dorchester County.

(ii) An unpaid Bay Restoration Fee shall be a lien against the property served by a wastewater facility, on–site sewage disposal system, or holding tank.

(iii) A notice of lien shall be recorded in the land records of Dorchester County.

(iv) The County Council may collect the Bay Restoration Fee on behalf of the Dorchester County Sanitary District.

(5) (i) In Caroline County, an unpaid Bay Restoration Fee shall be a lien against the property served by a wastewater facility, on–site sewage disposal system, or holding tank.

(ii) A notice of lien shall be recorded in the land records of Caroline County.

(e) (1) A local government, the billing authority for a water or wastewater facility, or any other authorized collecting agency shall complete and submit, under oath, a return and remit the restoration fees collected to the Comptroller:

(i) On or before the 20th day of the month that follows the calendar quarter in which the restoration fee was collected; and

(ii) For other periods and on other dates that the Comptroller may specify by regulation, including periods in which no restoration fee has been collected.

(2) Except to the extent of any inconsistency with this subsection, the provisions of Title 13 of the Tax – General Article that are applicable to the sales and use tax shall govern the administration, collection, and enforcement of the restoration fee under this section.

(3) The Comptroller may adopt regulations necessary to administer, collect, and enforce the restoration fee.

(4) (i) From the restoration fee revenue, the Comptroller shall distribute to an administrative cost account the amount that is necessary to administer the fee, which may not exceed 0.5% of the fees collected by the Comptroller.

(ii) After making the distribution required under subparagraph (i) of this paragraph, the Comptroller shall deposit the restoration fee in the Bay Restoration Fund.

(5) The State Central Collection Unit may collect delinquent accounts under this section in accordance with § 3–302 of the State Finance and Procurement Article.

(f) (1) (i) The Bay Restoration Fund is a special, continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article and shall be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this section.

(ii) Money in the Fund may not revert or be transferred to the General Fund or a special fund of the State.

(2) The Bay Restoration Fund shall be available for the purpose of providing financial assistance in accordance with the provisions of this section for:

(i) Eligible costs of projects relating to planning, design, construction, and upgrades of wastewater facilities to achieve enhanced nutrient removal as required by the conditions of a grant agreement and a discharge permit; and

(ii) All projects identified in subsections (h) and (i) of this section.

(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Bay Restoration Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Bay Restoration Fund.

(4) Subject to the provisions of any applicable bond resolution governing the investment of amounts in the Bay Restoration Fund, the Bay Restoration 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 Bay Restoration Fund.

(6) The Bay Restoration 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 shall operate the Bay Restoration Fund in accordance with §§ 9–1616 through 9–1621 of this subtitle.

(g) There shall be deposited in the Bay Restoration Fund:

(1) Funds received from the restoration fee;

(2) Net proceeds of bonds issued by the Administration;

(3) Interest or other income earned on the investment of money in the Bay Restoration Fund; and

(4) Any additional money made available from any sources, public or private, for the purposes for which the Bay Restoration Fund has been established.

(h) (1) With regard to the funds collected under subsection (b)(1)(i)1 of this section from users of an on–site sewage disposal system or holding tank that receive a water bill and subsection (b)(1)(i)2 and 3 of this section, beginning in fiscal year 2006, the Comptroller shall:

(i) Establish a separate account within the Bay Restoration Fund; and

(ii) Disburse the funds as provided under paragraph (2) of this subsection.

(2) The Comptroller shall:

(i) Deposit 60% of the funds in the separate account to be used for:

1. Subject to paragraphs (3), (4), (5), and (6) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area and then to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

A. The costs attributable to upgrading an on–site sewage disposal system to the best available technology for the removal of nitrogen;

B. The cost difference between a conventional on–site sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen;

C. The cost of repairing or replacing a failing on–site sewage disposal system with a system that uses the best available technology for nitrogen removal;

D. The cost, up to the sum of the costs authorized under item B of this item for each individual system, of replacing multiple on–site sewage disposal systems located in the same community with a new community sewerage system that is owned by a local government and that meets enhanced nutrient removal standards; or

E. The cost, up to the sum of the costs authorized under item C of this item for each individual system, of connecting a property using an on–site sewage disposal system to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment, including payment of the principal, but not interest, of debt issued by a local government for such connection costs;

2. The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:

A. Implement an education, outreach, and upgrade program to advise owners of on–site sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;

B. Review and approve the design and construction of on–site sewage disposal system or holding tank upgrades;

C. Issue grants or loans as provided under item 1 of this item; and

D. Provide technical support for owners of upgraded on–site sewage disposal systems or holding tanks to operate and maintain the upgraded systems;

3. A portion of the reasonable costs of a local public entity that has been delegated by the Department under § 1–301(b) of this article to administer and enforce environmental laws, not to exceed 10% of the funds deposited into the separate account, to implement regulations adopted by the Department for on–site sewage disposal systems that utilize the best available technology for the removal of nitrogen;

4. Subject to paragraph (7) of this subsection, financial assistance to low–income homeowners, as defined by the Department, for up to 50% of the cost of an operation and maintenance contract of up to 5 years for an on–site sewage disposal system that utilizes nitrogen removal technology;

5. Subject to paragraph (8) of this subsection, a local jurisdiction to provide financial assistance to eligible homeowners for the reasonable cost of pumping out an on–site sewage disposal system, at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection, not to exceed 10% of the funds allocated to the local jurisdiction; and

6. In fiscal years 2020 and 2021, financial assistance to a local jurisdiction for the development of a septic stewardship plan that meets the requirements under paragraph (8)(iii)2 of this subsection; and

(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.

(3) Funding for the costs identified in paragraph (2)(i)1 of this subsection shall be provided in the following order of priority:

(i) For owners of all levels of income, the costs identified in paragraph (2)(i)1A and B of this subsection; and

(ii) For low–income owners, as defined by the Department, the costs identified in paragraph (2)(i)1C of this subsection:

1. First, for best available technologies for nitrogen removal; and

2. Second, for other wastewater treatment systems.

(4) Funding for the costs identified in paragraph (2)(i)1D of this subsection may be provided if:

(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on–site sewage disposal system with a new community sewerage system is more cost effective for nitrogen removal than upgrading each individual on–site sewage disposal system; or

2. The individual replacement of the on–site sewage disposal system is not feasible; and

(iii) The new community sewerage system will only serve lots that have received a certificate of occupancy, or equivalent certificate, on or before October 1, 2008.

(5) Funding for the costs identified in paragraph (2)(i)1E of this subsection may be provided only if all of the following conditions are met:

(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on–site sewage disposal system with service to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment is more cost–effective for nitrogen removal than upgrading the individual on–site sewage disposal system; or

2. The individual replacement of the on–site sewage disposal system is not feasible;

(iii) The project is consistent with the county's comprehensive plan and water and sewer master plan;

(iv) 1. The on–site sewage disposal system was installed as of October 1, 2008, and the property the system serves is located in a priority funding area, in accordance with § 5–7B–02 of the State Finance and Procurement Article; or

2. The on–site sewage disposal system was installed as of October 1, 2008, the property the system serves is not located in a priority funding area, and the project meets the requirements under § 5–7B–06 of the State Finance and Procurement Article and is consistent with a public health area of concern:

A. Identified in the county water and sewer plan; or

B. Certified by a county environmental health director with concurrence by the Department and, if funding is approved, subsequently added to the county water and sewer plan within a time frame jointly agreed on by the Department and the county that takes into consideration the county's water and sewer plan update and amendment process; and

(v) The funding agreement for a project that meets the conditions for funding under subparagraph (iv)2 of this paragraph includes provisions to ensure:

1. Denial of access for any future connections that are not included in the project's proposed service area; and

2. That the project will not unduly impede access to funding for upgrading individual on–site sewage disposal systems in the county with best available technology for nitrogen removal.

(6) The Comptroller, in consultation with the Administration, may establish any other accounts and subaccounts within the Bay Restoration Fund as necessary to:

(i) Effectuate the purposes of this subtitle;

(ii) Comply with the provisions of any bond resolution;

(iii) Meet the requirements of any federal or State law or of any grant or award to the Bay Restoration Fund; and

(iv) Meet any rules or program directives established by the Secretary or the Board.

(7) The Department or a local government shall determine:

(i) Whether an applicant is eligible for financial assistance under paragraph (2)(i)4 of this subsection; and

(ii) The amount of financial assistance to be provided for each applicant based on the average cost of an operation and maintenance contract of up to 5 years provided by vendors, as defined in § 9–1108.1 of this title, in the applicant's area.

(8) (i) The amount of financial assistance under paragraph (2)(i)5 of this subsection shall be based on homeowner income, with priority given to low–income homeowners.

(ii) Financial assistance under paragraph (2)(i)5 of this subsection may be provided through grants, rebates, or low– or no–interest loans.

(iii) Financial assistance under paragraph (2)(i)5 of this subsection may be provided only if:

1. The homeowner verifies the pump out has occurred; and

2. The homeowner resides in a local jurisdiction that has developed and implemented a septic stewardship plan that:

A. Has been adopted by the local governing body of the jurisdiction, after consultation with the jurisdiction's local health department;

B. States specific goals consistent with the nitrogen load reduction identified in the local jurisdiction's watershed implementation plan;

C. Specifies public education and outreach measures that will be taken, including education and outreach on best management practices, legal requirements, and existing support and financial assistance;

D. Provides technical guidance for the siting, design, evaluation, and construction of an on–site sewage disposal system;

E. Requires an on–site sewage disposal system located on residential property to be pumped out and inspected at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection;

F. Requires an on–site sewage disposal system located on commercial property to be pumped out and inspected at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection;

G. Specifies certification and licensing procedures for a person that pumps out and inspects on–site sewage disposal systems;

H. Specifies enforcement mechanisms, compliance incentives, and penalties;

I. Outlines funding mechanisms to support the plan and expand education, demonstration projects, and inspections;

J. Specifies requirements for record keeping; and

K. Establishes a process for periodically evaluating and revising the plan.

(9) On or before December 31 each year, the Department of the Environment shall submit a report, in accordance with § 2–1257 of the State Government Article, to the House Environmental Matters Committee and the Senate Education, Energy, and the Environment Committee on:

(i) Each project funded under paragraph (5)(iv)2 of this subsection; and

(ii) A summary of any impacts that the funding used for these projects had on overall funding for upgrading individual on–site sewage disposal systems with best available technology for nitrogen removal.

(i) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Eligible costs" means the additional costs that would be attributable to upgrading a wastewater facility to enhanced nutrient removal, as determined by the Department.

(iii) "Privately owned wastewater facility" means a wastewater facility that is owned by a private entity and provides wastewater treatment or disposal services to multiple residential dwelling units.

(iv) "Publicly owned wastewater facility" means a wastewater facility that is owned by this State or a political subdivision, municipal corporation, or other public entity.

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

(i) 1. To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a publicly owned 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; and

2. Subject to paragraph (12) of this subsection, to award grants for up to 50% of eligible costs of projects relating to planning, design, construction, and upgrade of a privately owned 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;

(xiii) After funding any eligible costs identified under item (iv)1 and 2 of this paragraph, for transfers to the Clean Water Commerce Account in accordance with paragraph (3) of this subsection; and

(xiv) After funding any eligible costs identified under item (iv)1 and 2 of this paragraph, for the transfers required under paragraph (11) of this subsection.

(3) 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 Account established under § 9–1605.4 of this subtitle, to be used for the purposes specified in § 9–1605.4 of this subtitle.

(4) The grant agreement and State discharge permit, if applicable, shall require an owner of a wastewater facility to operate the enhanced nutrient removal facility in a manner that optimizes the nutrient removal capability of the facility in order to achieve enhanced nutrient removal performance levels.

(5) The grant agreement shall require a grantee to demonstrate, to the satisfaction of the Department, that steps were taken to include small business enterprises, minority business enterprises, and women's business enterprises by:

(i) Placing qualified small business enterprises, minority business enterprises, and women's business enterprises on solicitation lists;

(ii) Assuring that small business enterprises, minority business enterprises, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small business enterprises, minority business enterprises, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, that encourage participation by small business enterprises, minority business enterprises, and women's business enterprises; and

(v) Using the services and assistance of the Maryland Department of Transportation and the Governor's Office of Small, Minority, and Women Business Affairs in identifying and soliciting small business enterprises, minority business enterprises, and women's business enterprises.

(6) If the steps required under paragraph (5) of this subsection are not demonstrated to the satisfaction of the Department, the Department may withhold financial assistance for the project.

(7) (i) All wastewater facilities serving Maryland users that have contributed to the Bay Restoration Fund are eligible for grants under this section, including the Blue Plains Wastewater Treatment Plant in the District of Columbia.

(ii) Grants issued under paragraph (2)(i) of this subsection for upgrades to the Blue Plains Wastewater Treatment Plant may be awarded only if each party to the Blue Plains Intermunicipal Agreement of 1985 contributes a proportional share of the upgrade costs in accordance with the Blue Plains Intermunicipal Agreement of 1985, as revised and updated.

(8) Priority for funding an upgrade of a wastewater facility shall be given to enhanced nutrient removal upgrades at wastewater facilities with a design capacity of 500,000 gallons or more per day.

(9) (i) The eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department, in accordance with subsection (l) of this section.

(ii) The criteria adopted by the Department shall include, as appropriate, consideration of:

1. The cost–effectiveness in providing water quality benefit;

2. The water quality benefit to a body of water identified by the Department as impaired under Section 303(d) of the Clean Water Act;

3. The readiness of a wastewater facility to proceed to construction; and

4. The nitrogen and phosphorus loads discharged by a wastewater facility.

(10) A wastewater facility that has not been offered or has not received funds from the Department under this section or from any other fund in the Department may not be required to upgrade to enhanced nutrient removal levels, except as otherwise required under federal or State law.

(11) (i) In fiscal year 2023 the Department shall transfer from the Bay Restoration Fund:

1. $10,000,000 to the Chesapeake Bay Trust for the Urban Trees Program established under § 8–1911 of the Natural Resources Article;

2. $2,500,000 to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund in the Department of Natural Resources, to be used, subject to the requirements of subparagraph (ii) of this paragraph, for tree planting on public and private land; and

3. $2,500,000 to the Maryland Department of Agriculture to fund tree plantings under the Conservation Reserve Enhancement Program in accordance with § 8–706 of the Agriculture Article and other tree–planting programs on agricultural land.

(ii) Funds transferred to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund under subparagraph (i)2 of this paragraph:

1. May be distributed in accordance with § 8–2A–04(c)(2) of the Natural Resources Article;

2. May be used to cover the costs of:

A. Site preparation, labor, and materials for tree–planting projects;

B. Maintaining trees following a tree–planting project; and

C. Landowner incentive payments or signing bonuses of up to $1,000 per acre of trees planted;

3. May not be used to plant trees intended for timber harvest; and

4. May be used only for tree plantings on private land if the landowner enters into a binding legal agreement to maintain the planted area in tree cover for at least 15 years.

(iii) Funds transferred from the Bay Restoration Fund under this paragraph are supplemental to and may not take the place of funding that otherwise would be appropriated for the programs and initiatives specified in subparagraph (i) of this paragraph.

(12) (i) Except as provided in subparagraph (ii) of this paragraph, the Department may not provide funding under this section to the owner of a privately owned wastewater facility if the Department or the U.S. Environmental Protection Agency has determined in the 2 years immediately preceding the date on which the owner applied for funding under this section that the facility did not comply with a discharge permit issued by the Department under this title.

(ii) The Department may provide funding under this section to the owner of a privately owned wastewater facility that would not be eligible for funding under subparagraph (i) of this paragraph if the Department determines, based on proof submitted by the owner of the facility when applying for funding under this section, that the owner of the facility lacks the financial capacity to purchase or upgrade a wastewater treatment system that would bring the facility into compliance with the discharge permit issued by the Department.

(iii) 1. The Department shall include with its annual operating budget proposal submitted to the Department of Budget and Management a list of each facility to which the Department provided funding under subparagraph (ii) of this paragraph in the immediately preceding 12 months and the reasons for providing the funding.

2. If the Department provides the list under subsubparagraph 1 of this subparagraph to the Department of Budget and Management, the Department shall immediately provide the list to the General Assembly in accordance with § 2–1257 of the State Government Article.

(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;

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

(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.

(3) The Governor shall appoint the chairman of the Committee from the designated members of the Committee.

(4) The Committee may consult with any stakeholder group as it deems necessary.

(5) (i) The term of a member is 4 years.

(ii) A member continues to serve until a successor is appointed.

(iii) The terms of the members appointed by the Governor are staggered as required by the terms provided for members of the Committee on October 1, 2004.

(iv) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(v) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(6) The Committee shall:

(i) Perform an analysis of the cost of nutrient removal from wastewater facilities;

(ii) Identify additional sources for funding the Bay Restoration Fund;

(iii) Make recommendations to improve the effectiveness of the Bay Restoration Fund in reducing nutrient loadings to the waters of the State;

(iv) Make recommendations regarding the appropriate increase in the restoration fee to be assessed in fiscal year 2008 and subsequent years as necessary to meet the financing needs of the Bay Restoration Fund;

(v) In consultation with the governing body of each county:

1. Identify users of on–site sewage disposal systems and holding tanks; and

2. Make recommendations to the governing body of each county on the best method of collecting the Bay Restoration Fee from the users of on–site sewage disposal systems and holding tanks that do not receive water bills;

(vi) Advise the Department on the components of an education, outreach, and upgrade program established within the Department under subsection (h)(2)(i)2 of this section;

(vii) Study the availability of money from the Fund for the supplemental assistance program within the Department to provide grants to smaller, economically disadvantaged communities in the State to upgrade their wastewater collection and treatment facilities;

(viii) Advise the Secretary concerning the adoption of regulations as described in subsection (l) of this section; and

(ix) On or before December 31 each year, report to the Governor and, subject to § 2–1257 of the State Government Article, the General Assembly on its findings and recommendations.

(7) Members of the Committee:

(i) May not receive compensation; but

(ii) Are entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(8) The Department of the Environment, Department of Agriculture, Department of Planning, Department of Natural Resources, and Department of Budget and Management shall provide staff support for the Committee.

(k) (1) On or before December 31 each year, the Department and the Department of Planning shall jointly report on:

(i) The impact that a wastewater treatment facility that was upgraded to enhanced nutrient removal during the calendar year before the previous calendar year with funds from the Bay Restoration Fund had on growth within the municipality or county in which the wastewater treatment facility is located; and

(ii) Each privately owned wastewater facility to which the Department provided funding under subsection (i)(12) of this section in the immediately preceding 12 months and the reasons for providing the funding.

(2) (i) In preparing the report required under paragraph (1) of this subsection, the Department of the Environment and the Department of Planning shall:

1. Include the number of permits issued for residential and commercial development to be served by the upgraded wastewater treatment facility; and

2. Determine what other appropriate information is to be included in the report.

(ii) In determining the information that should be included in the report under subparagraph (i) of this paragraph, the Department of the Environment and the Department of Planning shall act:

1. In consultation with the Bay Restoration Fund Advisory Committee; and

2. With the assistance of the municipality and county in which an upgraded wastewater treatment facility is located.

(3) The Department and the Department of Planning shall submit the report required under paragraph (1) of this subsection to the President of the Senate, the Speaker of the House, the Senate Budget and Taxation Committee, the Senate Education, Energy, and the Environment Committee, the House Appropriations Committee, the House Environment and Transportation Committee, and the Governor, in accordance with § 2–1257 of the State Government Article.

(l) The Department shall adopt regulations that are necessary or appropriate to carry out the provisions of this section.

§9–1605.2. ** TAKES EFFECT JULY 1, 2026 PER CHAPTER 461 OF 2025 **

// EFFECTIVE UNTIL JUNE 30, 2030 PER CHAPTERS 366 AND 367 OF 2017 AND CHAPTERS 694 AND 695 OF 2021 //

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

(2) It is the intent of the General Assembly that the Bay Restoration Fund be:

(i) Used, in part, to provide the funding necessary to upgrade any of the wastewater treatment facilities that are located in the State or used by citizens of the State in order to achieve enhanced nutrient removal where it is cost–effective to do so; and

(ii) Available for treatment facilities discharging into the Atlantic Coastal Bays or other waters of the State, but that priority be given to treatment facilities discharging into the Chesapeake Bay.

(3) The Bay Restoration Fund shall be maintained and administered by the Administration in accordance with the provisions of this section and any rules or program directives as the Secretary or the Board may prescribe.

(4) There is established a Bay Restoration Fee to be paid by any user of a wastewater facility, an on–site sewage disposal system, or a holding tank that:

(i) Is located in the State; or

(ii) Serves a Maryland user and is eligible for funding under this subtitle.

(b) (1) (i) Beginning on July 1, 2012, the Bay Restoration Fee is:

1. For each residential dwelling that receives an individual sewer bill and each user of an on–site sewage disposal system or a holding tank that receives a water bill:

A. $2.50 per month if the wastewater generated by a residential dwelling is treated at a wastewater facility that does not discharge into the Chesapeake Bay Watershed or the Coastal Bays Watershed;

B. $2.50 per month if the on–site sewage disposal system or holding tank is not located within the Chesapeake Bay Watershed or the Coastal Bays Watershed;

C. $5.00 per month if the wastewater generated by a residential dwelling is treated at a wastewater facility that does discharge into the Chesapeake Bay Watershed or the Coastal Bays Watershed; and

D. $5.00 per month if the wastewater on–site sewage disposal system or holding tank is located within the Chesapeake Bay Watershed or the Coastal Bays Watershed;

2. For each user of an on–site sewage disposal system that does not receive a water bill:

A. $30 per year if the on–site sewage disposal system is not located within the Chesapeake Bay Watershed or the Coastal Bays Watershed; or

B. $60 per year if the on–site sewage disposal system is located within the Chesapeake Bay Watershed or the Coastal Bays Watershed;

3. For each user of a sewage holding tank that does not receive a water bill:

A. $30 per year if the sewage holding tank is not located within the Chesapeake Bay Watershed or the Coastal Bays Watershed; and

B. $60 per year if the sewage holding tank is located within the Chesapeake Bay Watershed or the Coastal Bays Watershed; and

4. For a building or group of buildings under single ownership or management that receives a sewer bill and that contains multiple

residential dwellings that do not receive an individual sewer bill or for a nonresidential user:

A. For each equivalent dwelling unit not exceeding 2,000 equivalent dwelling units, $2.50 per month if the wastewater generated by a building or group of buildings containing multiple residential dwellings is treated at a wastewater facility that does not discharge into the Chesapeake Bay Watershed or the Coastal Bays Watershed;

B. For each equivalent dwelling unit not exceeding 2,000 equivalent dwelling units, $5.00 per month if the wastewater generated by a building or group of buildings containing multiple residential dwellings is treated at a wastewater facility that does discharge into the Chesapeake Bay Watershed or the Coastal Bays Watershed; and

C. For each equivalent dwelling unit exceeding 2,000 equivalent dwelling units, zero.

(ii) For a nonresidential user, the Bay Restoration Fee may be calculated based on an estimate of equivalent dwelling units of wastewater effluent generated, if the nonresidential user's wastewater bill is based on wastewater generated and not on water usage.

(2) (i) For a residential dwelling that receives an individual sewer bill, a user of an on–site sewage disposal system or a holding tank that receives a water bill, a building or group of buildings under single ownership or management that receives a water and sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill, and a nonresidential user, the restoration fee shall be:

1. Stated in a separate line on the sewer or water bill, as appropriate, that is labeled "Bay Restoration Fee"; and

2. Collected for each calendar quarter, unless a local government or billing authority for a water or wastewater facility established some other billing period on or before January 1, 2004.

(ii) 1. A. If the user does not receive a water bill, for users of an on–site sewage disposal system and for users of a sewage holding tank, the county in which the on–site sewage disposal system or holding tank is located shall be responsible for collecting the restoration fee.

B. A county may negotiate with a municipal corporation located within the county for the municipal corporation to collect the

restoration fee from on–site sewage disposal systems and holding tanks located in the municipal corporation.

2. The governing body of each county, in consultation with the Bay Restoration Fund Advisory Committee, shall determine the method and frequency of collecting the restoration fee under subsubparagraph 1 of this subparagraph.

(3) The total fee imposed under paragraph (1) of this subsection may not exceed $120,000 annually for a single site.

(4) (i) For purposes of measuring average daily wastewater flow, the local government or billing authority for a wastewater facility shall use existing methods of measurement, which may include water usage or other estimation methods.

(ii) The averaging period is:

1. The billing period established by the local government or billing authority; or

2. If a billing period is not established by the local government or billing authority, a quarter of a calendar year.

(5) (i) The Bay Restoration Fee under this subsection may not be reduced as long as bonds are outstanding.

(ii) Any change in the manner of determining the Bay Restoration Fee may not reduce the amount of funds available for the payment of outstanding bonds.

(c) A user of a wastewater facility is exempt from paying the restoration fee if:

(1) (i) 1. The user's wastewater facility's average annual effluent nitrogen and phosphorus concentrations, as reported in the facility's State discharge monitoring reports for the previous calendar year, demonstrate that the facility is achieving enhanced nutrient removal, as defined under § 9–1601(n) of this subtitle; or

2. The Department has determined that the wastewater facility does not discharge nitrogen or phosphorus and is not required to monitor for nitrogen or phosphorus in its discharge permit; and

(ii) The user's wastewater facility has not received a State or federal grant for that facility;

(2) (i) The user's wastewater facility discharges to groundwater and the annual average nutrient concentrations in the wastewater prior to discharge to groundwater have not exceeded 3 milligrams per liter total nitrogen and 0.3 milligrams per liter total phosphorus, as demonstrated by analysis of the groundwater from monitoring wells located on the property and as reported in discharge monitoring reports for the previous calendar year; and

(ii) The user's wastewater facility has not received a federal or State grant for that facility; or

(3) The Department determines that:

(i) The user's wastewater facility discharges noncontact cooling water, water from dewatering operations, or reclaimed wastewater from a facility whose users pay in to the Fund; and

(ii) The discharge does not result in a net increase in loading of nutrients compared to the intake water.

(d) (1) Subject to the approval of the Administration, a local government or a billing authority for a water or wastewater facility shall establish a program to exempt from the requirements of this section a residential dwelling able to demonstrate substantial financial hardship as a result of the restoration fee.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the Bay Restoration Fee shall be collected by the local government or the billing authority for the water or wastewater facility, as appropriate, on behalf of the State.

(ii) For a wastewater facility without a billing authority, the Comptroller may collect the restoration fee from the facility owner.

(3) A local government, billing authority for a water or wastewater facility, or any other authorized collecting agency:

(i) May use all of its existing procedures and authority for collecting a water or sewer bill, an on–site sewage disposal system bill, or a holding tank bill in order to enforce the collection of the Bay Restoration Fee; and

(ii) Shall establish a segregated account for the deposit of funds collected under this section.

(4) (i) This paragraph applies only in Dorchester County.

(ii) An unpaid Bay Restoration Fee shall be a lien against the property served by a wastewater facility, on–site sewage disposal system, or holding tank.

(iii) A notice of lien shall be recorded in the land records of Dorchester County.

(iv) The County Council may collect the Bay Restoration Fee on behalf of the Dorchester County Sanitary District.

(5) (i) In Caroline County, an unpaid Bay Restoration Fee shall be a lien against the property served by a wastewater facility, on–site sewage disposal system, or holding tank.

(ii) A notice of lien shall be recorded in the land records of Caroline County.

(e) (1) A local government, the billing authority for a water or wastewater facility, or any other authorized collecting agency shall complete and submit, under oath, a return and remit the restoration fees collected to the Comptroller:

(i) On or before the 20th day of the month that follows the calendar quarter in which the restoration fee was collected; and

(ii) For other periods and on other dates that the Comptroller may specify by regulation, including periods in which no restoration fee has been collected.

(2) Except to the extent of any inconsistency with this subsection, the provisions of Title 13 of the Tax – General Article that are applicable to the sales and use tax shall govern the administration, collection, and enforcement of the restoration fee under this section.

(3) The Comptroller may adopt regulations necessary to administer, collect, and enforce the restoration fee.

(4) (i) From the restoration fee revenue, the Comptroller shall distribute to an administrative cost account the amount that is necessary to administer the fee, which may not exceed 0.5% of the fees collected by the Comptroller.

(ii) After making the distribution required under subparagraph (i) of this paragraph, the Comptroller shall deposit the restoration fee in the Bay Restoration Fund.

(5) The State Central Collection Unit may collect delinquent accounts under this section in accordance with § 3–302 of the State Finance and Procurement Article.

(f) (1) (i) The Bay Restoration Fund is a special, continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article and shall be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this section.

(ii) Money in the Fund may not revert or be transferred to the General Fund or a special fund of the State.

(2) The Bay Restoration Fund shall be available for the purpose of providing financial assistance in accordance with the provisions of this section for:

(i) Eligible costs of projects relating to planning, design, construction, and upgrades of wastewater facilities to achieve enhanced nutrient removal as required by the conditions of a grant agreement and a discharge permit; and

(ii) All projects identified in subsections (h) and (i) of this section.

(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Bay Restoration Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Bay Restoration Fund.

(4) Subject to the provisions of any applicable bond resolution governing the investment of amounts in the Bay Restoration Fund, the Bay Restoration 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 Bay Restoration Fund.

(6) The Bay Restoration 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 shall operate the Bay Restoration Fund in accordance with §§ 9–1616 through 9–1621 of this subtitle.

(g) There shall be deposited in the Bay Restoration Fund:

(1) Funds received from the restoration fee;

(2) Net proceeds of bonds issued by the Administration;

(3) Interest or other income earned on the investment of money in the Bay Restoration Fund; and

(4) Any additional money made available from any sources, public or private, for the purposes for which the Bay Restoration Fund has been established.

(h) (1) With regard to the funds collected under subsection (b)(1)(i)1 of this section from users of an on–site sewage disposal system or holding tank that receive a water bill and subsection (b)(1)(i)2 and 3 of this section, beginning in fiscal year 2006, the Comptroller shall:

(i) Establish a separate account within the Bay Restoration Fund; and

(ii) Disburse the funds as provided under paragraph (2) of this subsection.

(2) The Comptroller shall:

(i) Deposit 60% of the funds in the separate account to be used for:

1. Subject to paragraphs (3), (4), (5), and (6) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area, second to failing systems that are located within a Maryland Chesapeake Bay 8–digit watershed that has a relative effectiveness for total nitrogen reduction of 9.24 or higher based on the Chesapeake Bay watershed model, third to failing systems that are located within the 500–year floodplain, and fourth to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

A. The costs attributable to upgrading an on–site sewage disposal system to the best available technology for the removal of nitrogen;

B. The cost difference between a conventional on–site sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen;

C. The cost of repairing or replacing a failing on–site sewage disposal system with a system that uses the best available technology for nitrogen removal;

D. The cost, up to the sum of the costs authorized under item B of this item for each individual system, of replacing multiple on–site sewage disposal systems located in the same community with a new community sewerage system that is owned by a local government and that meets enhanced nutrient removal standards; or

E. The cost, up to the sum of the costs authorized under item C of this item for each individual system, of connecting a property using an on–site sewage disposal system to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment, including payment of the principal, but not interest, of debt issued by a local government for such connection costs;

2. The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:

A. Implement an education, outreach, and upgrade program to advise owners of on–site sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;

B. Review and approve the design and construction of on–site sewage disposal system or holding tank upgrades;

C. Issue grants or loans as provided under item 1 of this item; and

D. Provide technical support for owners of upgraded on–site sewage disposal systems or holding tanks to operate and maintain the upgraded systems;

3. A portion of the reasonable costs of a local public entity that has been delegated by the Department under § 1–301(b) of this article to administer and enforce environmental laws, not to exceed 10% of the funds deposited into the separate account, to implement regulations adopted by the Department for

on–site sewage disposal systems that utilize the best available technology for the removal of nitrogen;

4. Subject to paragraph (7) of this subsection, financial assistance to low–income homeowners, as defined by the Department, for up to 50% of the cost of an operation and maintenance contract of up to 5 years for an on–site sewage disposal system that utilizes nitrogen removal technology;

5. Subject to paragraph (8) of this subsection, a local jurisdiction to provide financial assistance to eligible homeowners for the reasonable cost of pumping out an on–site sewage disposal system, at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection, not to exceed 10% of the funds allocated to the local jurisdiction; and

6. In fiscal years 2020 and 2021, financial assistance to a local jurisdiction for the development of a septic stewardship plan that meets the requirements under paragraph (8)(iii)2 of this subsection; and

(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.

(3) Funding for the costs identified in paragraph (2)(i)1 of this subsection shall be provided in the following order of priority:

(i) For owners of all levels of income, the costs identified in paragraph (2)(i)1A and B of this subsection; and

(ii) For low– and moderate–income owners, as defined by the Department, the costs identified in paragraph (2)(i)1C of this subsection:

1. First, for best available technologies for nitrogen removal; and

2. Second, for other wastewater treatment systems.

(4) Funding for the costs identified in paragraph (2)(i)1D of this subsection may be provided if:

(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on–site sewage disposal system with a new community sewerage system is more cost effective for nitrogen removal than upgrading each individual on–site sewage disposal system; or

2. The individual replacement of the on–site sewage disposal system is not feasible; and

(iii) The new community sewerage system will only serve lots that have received a certificate of occupancy, or equivalent certificate, at least 15 years before July 1 of the year in which the application for funding is made.

(5) Funding for the costs identified in paragraph (2)(i)1E of this subsection may be provided only if all of the following conditions are met:

(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on–site sewage disposal system with service to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment is more cost–effective for nitrogen removal than upgrading the individual on–site sewage disposal system; or

2. The individual replacement of the on–site sewage disposal system is not feasible;

(iii) The project is consistent with the county's comprehensive plan and water and sewer master plan;

(iv) 1. The on–site sewage disposal system was installed at least 15 years before July 1 of the year in which the application for funding is made, and the property the system serves is located in a priority funding area, in accordance with § 5–7B–02 of the State Finance and Procurement Article; or

2. The on–site sewage disposal system was installed at least 15 years before July 1 of the year in which the application for funding is made, the property the system serves is not located in a priority funding area, and the project meets the requirements under § 5–7B–06 of the State Finance and Procurement Article and is consistent with a public health area of concern:

A. Identified in the county water and sewer plan; or

B. Certified by a county environmental health director with concurrence by the Department and, if funding is approved, subsequently added to the county water and sewer plan within a time frame jointly agreed on by the Department and the county that takes into consideration the county's water and sewer plan update and amendment process; and

(v) The funding agreement for a project that meets the conditions for funding under subparagraph (iv)2 of this paragraph includes provisions to ensure:

1. Denial of access for any future connections that are not included in the project's proposed service area; and

2. That the project will not unduly impede access to funding for upgrading individual on–site sewage disposal systems in the county with best available technology for nitrogen removal.

(6) The Comptroller, in consultation with the Administration, may establish any other accounts and subaccounts within the Bay Restoration Fund as necessary to:

(i) Effectuate the purposes of this subtitle;

(ii) Comply with the provisions of any bond resolution;

(iii) Meet the requirements of any federal or State law or of any grant or award to the Bay Restoration Fund; and

(iv) Meet any rules or program directives established by the Secretary or the Board.

(7) The Department or a local government shall determine:

(i) Whether an applicant is eligible for financial assistance under paragraph (2)(i)4 of this subsection; and

(ii) The amount of financial assistance to be provided for each applicant based on the average cost of an operation and maintenance contract of up to 5 years provided by vendors, as defined in § 9–1108.1 of this title, in the applicant's area.

(8) (i) The amount of financial assistance under paragraph (2)(i)5 of this subsection shall be based on homeowner income, with priority given to low–income homeowners.

(ii) Financial assistance under paragraph (2)(i)5 of this subsection may be provided through grants, rebates, or low– or no–interest loans.

(iii) Financial assistance under paragraph (2)(i)5 of this subsection may be provided only if:

1. The homeowner verifies the pump out has occurred; and

2. The homeowner resides in a local jurisdiction that has developed and implemented a septic stewardship plan that:

A. Has been adopted by the local governing body of the jurisdiction, after consultation with the jurisdiction's local health department;

B. States specific goals consistent with the nitrogen load reduction identified in the local jurisdiction's watershed implementation plan;

C. Specifies public education and outreach measures that will be taken, including education and outreach on best management practices, legal requirements, and existing support and financial assistance;

D. Provides technical guidance for the siting, design, evaluation, and construction of an on–site sewage disposal system;

E. Requires an on–site sewage disposal system located on residential property to be pumped out and inspected at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection;

F. Requires an on–site sewage disposal system located on commercial property to be pumped out and inspected at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection;

G. Specifies certification and licensing procedures for a person that pumps out and inspects on–site sewage disposal systems;

H. Specifies enforcement mechanisms, compliance incentives, and penalties;

I. Outlines funding mechanisms to support the plan and expand education, demonstration projects, and inspections;

J. Specifies requirements for record keeping; and

K. Establishes a process for periodically evaluating and revising the plan.

(9) On or before December 31 each year, the Department of the Environment shall submit a report, in accordance with § 2–1257 of the State Government Article, to the House Environmental Matters Committee and the Senate Education, Energy, and the Environment Committee on:

(i) Each project funded under paragraph (5)(iv)2 of this subsection; and

(ii) A summary of any impacts that the funding used for these projects had on overall funding for upgrading individual on–site sewage disposal systems with best available technology for nitrogen removal.

(i) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Eligible costs" means the additional costs that would be attributable to upgrading a wastewater facility to enhanced nutrient removal, as determined by the Department.

(iii) "Privately owned wastewater facility" means a wastewater facility that is owned by a private entity and provides wastewater treatment or disposal services to multiple residential dwelling units.

(iv) "Publicly owned wastewater facility" means a wastewater facility that is owned by this State or a political subdivision, municipal corporation, or other public entity.

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

(i) 1. To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a publicly owned 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; and

2. Subject to paragraph (12) of this subsection, to award grants for up to 50% of eligible costs of projects relating to planning, design, construction, and upgrade of a privately owned 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;

(xiii) After funding any eligible costs identified under item (iv)1 and 2 of this paragraph, for transfers to the Clean Water Commerce Account in accordance with paragraph (3) of this subsection; and

(xiv) After funding any eligible costs identified under item (iv)1 and 2 of this paragraph, for the transfers required under paragraph (11) of this subsection.

(3) 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 Account established under § 9–1605.4 of this subtitle, to be used for the purposes specified in § 9–1605.4 of this subtitle.

(4) The grant agreement and State discharge permit, if applicable, shall require an owner of a wastewater facility to operate the enhanced nutrient removal facility in a manner that optimizes the nutrient removal capability of the facility in order to achieve enhanced nutrient removal performance levels.

(5) The grant agreement shall require a grantee to demonstrate, to the satisfaction of the Department, that steps were taken to include small business enterprises, minority business enterprises, and women's business enterprises by:

(i) Placing qualified small business enterprises, minority business enterprises, and women's business enterprises on solicitation lists;

(ii) Assuring that small business enterprises, minority business enterprises, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small business enterprises, minority business enterprises, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, that encourage participation by small business enterprises, minority business enterprises, and women's business enterprises; and

(v) Using the services and assistance of the Maryland Department of Transportation and the Governor's Office of Small, Minority, and Women Business Affairs in identifying and soliciting small business enterprises, minority business enterprises, and women's business enterprises.

(6) If the steps required under paragraph (5) of this subsection are not demonstrated to the satisfaction of the Department, the Department may withhold financial assistance for the project.

(7) (i) All wastewater facilities serving Maryland users that have contributed to the Bay Restoration Fund are eligible for grants under this section, including the Blue Plains Wastewater Treatment Plant in the District of Columbia.

(ii) Grants issued under paragraph (2)(i) of this subsection for upgrades to the Blue Plains Wastewater Treatment Plant may be awarded only if each party to the Blue Plains Intermunicipal Agreement of 1985 contributes a proportional share of the upgrade costs in accordance with the Blue Plains Intermunicipal Agreement of 1985, as revised and updated.

(8) Priority for funding an upgrade of a wastewater facility shall be given to enhanced nutrient removal upgrades at wastewater facilities with a design capacity of 500,000 gallons or more per day.

(9) (i) The eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department, in accordance with subsection (l) of this section.

(ii) The criteria adopted by the Department shall include, as appropriate, consideration of:

1. The cost–effectiveness in providing water quality benefit;

2. The water quality benefit to a body of water identified by the Department as impaired under Section 303(d) of the Clean Water Act;

3. The readiness of a wastewater facility to proceed to construction; and

4. The nitrogen and phosphorus loads discharged by a wastewater facility.

(10) A wastewater facility that has not been offered or has not received funds from the Department under this section or from any other fund in the Department may not be required to upgrade to enhanced nutrient removal levels, except as otherwise required under federal or State law.

(11) (i) In fiscal year 2023 the Department shall transfer from the Bay Restoration Fund:

1. $10,000,000 to the Chesapeake Bay Trust for the Urban Trees Program established under § 8–1911 of the Natural Resources Article;

2. $2,500,000 to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund in the Department of Natural Resources, to be used, subject to the requirements of subparagraph (ii) of this paragraph, for tree planting on public and private land; and

3. $2,500,000 to the Maryland Department of Agriculture to fund tree plantings under the Conservation Reserve Enhancement Program in accordance with § 8–706 of the Agriculture Article and other tree–planting programs on agricultural land.

(ii) Funds transferred to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund under subparagraph (i)2 of this paragraph:

1. May be distributed in accordance with § 8–2A–04(c)(2) of the Natural Resources Article;

2. May be used to cover the costs of:

A. Site preparation, labor, and materials for tree–planting projects;

B. Maintaining trees following a tree–planting project; and

C. Landowner incentive payments or signing bonuses of up to $1,000 per acre of trees planted;

3. May not be used to plant trees intended for timber harvest; and

4. May be used only for tree plantings on private land if the landowner enters into a binding legal agreement to maintain the planted area in tree cover for at least 15 years.

(iii) Funds transferred from the Bay Restoration Fund under this paragraph are supplemental to and may not take the place of funding that otherwise would be appropriated for the programs and initiatives specified in subparagraph (i) of this paragraph.

(12) (i) Except as provided in subparagraph (ii) of this paragraph, the Department may not provide funding under this section to the owner of a privately owned wastewater facility if the Department or the U.S. Environmental Protection Agency has determined in the 2 years immediately preceding the date on which the owner applied for funding under this section that the facility did not comply with a discharge permit issued by the Department under this title.

(ii) The Department may provide funding under this section to the owner of a privately owned wastewater facility that would not be eligible for funding under subparagraph (i) of this paragraph if the Department determines, based on proof submitted by the owner of the facility when applying for funding under this section, that the owner of the facility lacks the financial capacity to purchase or upgrade a wastewater treatment system that would bring the facility into compliance with the discharge permit issued by the Department.

(iii) 1. The Department shall include with its annual operating budget proposal submitted to the Department of Budget and Management a list of each facility to which the Department provided funding under subparagraph

(ii) of this paragraph in the immediately preceding 12 months and the reasons for providing the funding.

2. If the Department provides the list under subsubparagraph 1 of this subparagraph to the Department of Budget and Management, the Department shall immediately provide the list to the General Assembly in accordance with § 2–1257 of the State Government Article.

(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;

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

(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.

(3) The Governor shall appoint the chairman of the Committee from the designated members of the Committee.

(4) The Committee may consult with any stakeholder group as it deems necessary.

(5) (i) The term of a member is 4 years.

(ii) A member continues to serve until a successor is appointed.

(iii) The terms of the members appointed by the Governor are staggered as required by the terms provided for members of the Committee on October 1, 2004.

(iv) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(v) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(6) The Committee shall:

(i) Perform an analysis of the cost of nutrient removal from wastewater facilities;

(ii) Identify additional sources for funding the Bay Restoration Fund;

(iii) Make recommendations to improve the effectiveness of the Bay Restoration Fund in reducing nutrient loadings to the waters of the State;

(iv) Make recommendations regarding the appropriate increase in the restoration fee to be assessed in fiscal year 2008 and subsequent years as necessary to meet the financing needs of the Bay Restoration Fund;

(v) In consultation with the governing body of each county:

1. Identify users of on–site sewage disposal systems and holding tanks; and

2. Make recommendations to the governing body of each county on the best method of collecting the Bay Restoration Fee from the users of on–site sewage disposal systems and holding tanks that do not receive water bills;

(vi) Advise the Department on the components of an education, outreach, and upgrade program established within the Department under subsection (h)(2)(i)2 of this section;

(vii) Study the availability of money from the Fund for the supplemental assistance program within the Department to provide grants to smaller, economically disadvantaged communities in the State to upgrade their wastewater collection and treatment facilities;

(viii) Advise the Secretary concerning the adoption of regulations as described in subsection (l) of this section; and

(ix) On or before December 31 each year, report to the Governor and, subject to § 2–1257 of the State Government Article, the General Assembly on its findings and recommendations.

(7) Members of the Committee:

(i) May not receive compensation; but

(ii) Are entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(8) The Department of the Environment, Department of Agriculture, Department of Planning, Department of Natural Resources, and Department of Budget and Management shall provide staff support for the Committee.

(k) (1) On or before December 31 each year, the Department and the Department of Planning shall jointly report on:

(i) The impact that a wastewater treatment facility that was upgraded to enhanced nutrient removal during the calendar year before the previous calendar year with funds from the Bay Restoration Fund had on growth within the municipality or county in which the wastewater treatment facility is located; and

(ii) Each privately owned wastewater facility to which the Department provided funding under subsection (i)(12) of this section in the immediately preceding 12 months and the reasons for providing the funding.

(2) (i) In preparing the report required under paragraph (1) of this subsection, the Department of the Environment and the Department of Planning shall:

1. Include the number of permits issued for residential and commercial development to be served by the upgraded wastewater treatment facility; and

2. Determine what other appropriate information is to be included in the report.

(ii) In determining the information that should be included in the report under subparagraph (i) of this paragraph, the Department of the Environment and the Department of Planning shall act:

1. In consultation with the Bay Restoration Fund Advisory Committee; and

2. With the assistance of the municipality and county in which an upgraded wastewater treatment facility is located.

(3) The Department and the Department of Planning shall submit the report required under paragraph (1) of this subsection to the President of the Senate, the Speaker of the House, the Senate Budget and Taxation Committee, the Senate Education, Energy, and the Environment Committee, the House Appropriations Committee, the House Environment and Transportation Committee, and the Governor, in accordance with § 2–1257 of the State Government Article.

(l) The Department shall adopt regulations that are necessary or appropriate to carry out the provisions of this section.

§9–1605.2. // EFFECTIVE JUNE 30, 2030 PER CHAPTER 150 OF 2012, CHAPTERS 366 AND 367 OF 2017, AND CHAPTERS 694 AND 695 OF 2021 //

// EFFECTIVE UNTIL JUNE 30, 2031 PER CHAPTER 645 OF 2021 //

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

(2) It is the intent of the General Assembly that the Bay Restoration Fund be:

(i) Used, in part, to provide the funding necessary to upgrade any of the wastewater treatment facilities that are located in the State or used by

citizens of the State in order to achieve enhanced nutrient removal where it is cost–effective to do so; and

(ii) Available for treatment facilities discharging into the Atlantic Coastal Bays or other waters of the State, but that priority be given to treatment facilities discharging into the Chesapeake Bay.

(3) The Bay Restoration Fund shall be maintained and administered by the Administration in accordance with the provisions of this section and any rules or program directives as the Secretary or the Board may prescribe.

(4) There is established a Bay Restoration Fee to be paid by any user of a wastewater facility, an on–site sewage disposal system, or a holding tank that:

(i) Is located in the State; or

(ii) Serves a Maryland user and is eligible for funding under this subtitle.

(b) (1) (i) Beginning on July 1, 2030, the Bay Restoration Fee is:

1. For each residential dwelling that receives an individual sewer bill and each user of an on–site sewage disposal system or a holding tank that receives a water bill, $2.50 per month;

2. For each user of an on–site sewage disposal system that does not receive a water bill, $30 per year;

3. For each user of a sewage holding tank that does not receive a water bill, $30 per year; and

4. For a building or group of buildings under single ownership or management that receives a sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill or for a nonresidential user:

A. For each equivalent dwelling unit not exceeding 3,000 equivalent dwelling units, $2.50 per month;

B. For each equivalent dwelling unit exceeding 3,000 equivalent dwelling units and not exceeding 5,000 equivalent dwelling units, $1.25 per month; and

C. For each equivalent dwelling unit exceeding 5,000 equivalent dwelling units, zero.

(ii) For a nonresidential user, the Bay Restoration Fee may be calculated based on an estimate of equivalent dwelling units of wastewater effluent generated, if the nonresidential user's wastewater bill is based on wastewater generated and not on water usage.

(2) (i) For a residential dwelling that receives an individual sewer bill, a user of an on–site sewage disposal system or a holding tank that receives a water bill, a building or group of buildings under single ownership or management that receives a water and sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill, and a nonresidential user, the restoration fee shall be:

1. Stated in a separate line on the sewer or water bill, as appropriate, that is labeled "Bay Restoration Fee"; and

2. Collected for each calendar quarter, unless a local government or billing authority for a water or wastewater facility established some other billing period on or before January 1, 2004.

(ii) 1. A. If the user does not receive a water bill, for users of an on–site sewage disposal system and for users of a sewage holding tank, the county in which the on–site sewage disposal system or holding tank is located shall be responsible for collecting the restoration fee.

B. A county may negotiate with a municipal corporation located within the county for the municipal corporation to collect the restoration fee from on–site sewage disposal systems and holding tanks located in the municipal corporation.

2. The governing body of each county, in consultation with the Bay Restoration Fund Advisory Committee, shall determine the method and frequency of collecting the restoration fee under subsubparagraph 1 of this subparagraph.

(3) The total fee imposed under paragraph (1) of this subsection may not exceed $120,000 annually for a single site.

(4) (i) For purposes of measuring average daily wastewater flow, the local government or billing authority for a wastewater facility shall use existing methods of measurement, which may include water usage or other estimation methods.

(ii) The averaging period is:

1. The billing period established by the local government or billing authority; or

2. If a billing period is not established by the local government or billing authority, a quarter of a calendar year.

(5) (i) The Bay Restoration Fee under this subsection may not be reduced as long as bonds are outstanding.

(ii) Any change in the manner of determining the Bay Restoration Fee may not reduce the amount of funds available for the payment of outstanding bonds.

(c) A user of a wastewater facility is exempt from paying the restoration fee if:

(1) (i) 1. The user's wastewater facility's average annual effluent nitrogen and phosphorus concentrations, as reported in the facility's State discharge monitoring reports for the previous calendar year, demonstrate that the facility is achieving enhanced nutrient removal, as defined under § 9–1601(n) of this subtitle; or

2. The Department has determined that the wastewater facility does not discharge nitrogen or phosphorus and is not required to monitor for nitrogen or phosphorus in its discharge permit; and

(ii) The user's wastewater facility has not received a State or federal grant for that facility;

(2) (i) The user's wastewater facility discharges to groundwater and the annual average nutrient concentrations in the wastewater prior to discharge to groundwater have not exceeded 3 milligrams per liter total nitrogen and 0.3 milligrams per liter total phosphorus, as demonstrated by analysis of the groundwater from monitoring wells located on the property and as reported in discharge monitoring reports for the previous calendar year; and

(ii) The user's wastewater facility has not received a federal or State grant for that facility; or

(3) The Department determines that:

(i) The user's wastewater facility discharges noncontact cooling water, water from dewatering operations, or reclaimed wastewater from a facility whose users pay in to the Fund; and

(ii) The discharge does not result in a net increase in loading of nutrients compared to the intake water.

(d) (1) Subject to the approval of the Administration, a local government or a billing authority for a water or wastewater facility shall establish a program to exempt from the requirements of this section a residential dwelling able to demonstrate substantial financial hardship as a result of the restoration fee.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the Bay Restoration Fee shall be collected by the local government or the billing authority for the water or wastewater facility, as appropriate, on behalf of the State.

(ii) For a wastewater facility without a billing authority, the Comptroller may collect the restoration fee from the facility owner.

(3) A local government, billing authority for a water or wastewater facility, or any other authorized collecting agency:

(i) May use all of its existing procedures and authority for collecting a water or sewer bill, an on–site sewage disposal system bill, or a holding tank bill in order to enforce the collection of the Bay Restoration Fee; and

(ii) Shall establish a segregated account for the deposit of funds collected under this section.

(4) (i) This paragraph applies only in Dorchester County.

(ii) An unpaid Bay Restoration Fee shall be a lien against the property served by a wastewater facility, on–site sewage disposal system, or holding tank.

(iii) A notice of lien shall be recorded in the land records of Dorchester County.

(iv) The County Council may collect the Bay Restoration Fee on behalf of the Dorchester County Sanitary District.

(5) (i) In Caroline County, an unpaid Bay Restoration Fee shall be a lien against the property served by a wastewater facility, on–site sewage disposal system, or holding tank.

(ii) A notice of lien shall be recorded in the land records of Caroline County.

(e) (1) A local government, the billing authority for a water or wastewater facility, or any other authorized collecting agency shall complete and submit, under oath, a return and remit the restoration fees collected to the Comptroller:

(i) On or before the 20th day of the month that follows the calendar quarter in which the restoration fee was collected; and

(ii) For other periods and on other dates that the Comptroller may specify by regulation, including periods in which no restoration fee has been collected.

(2) Except to the extent of any inconsistency with this subsection, the provisions of Title 13 of the Tax – General Article that are applicable to the sales and use tax shall govern the administration, collection, and enforcement of the restoration fee under this section.

(3) The Comptroller may adopt regulations necessary to administer, collect, and enforce the restoration fee.

(4) (i) From the restoration fee revenue, the Comptroller shall distribute to an administrative cost account the amount that is necessary to administer the fee, which may not exceed 0.5% of the fees collected by the Comptroller.

(ii) After making the distribution required under subparagraph (i) of this paragraph, the Comptroller shall deposit the restoration fee in the Bay Restoration Fund.

(5) The State Central Collection Unit may collect delinquent accounts under this section in accordance with § 3–302 of the State Finance and Procurement Article.

(f) (1) (i) The Bay Restoration Fund is a special, continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article and shall be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this section.

(ii) Money in the Fund may not revert or be transferred to the General Fund or a special fund of the State.

(2) The Bay Restoration Fund shall be available for the purpose of providing financial assistance in accordance with the provisions of this section for:

(i) Eligible costs of projects relating to planning, design, construction, and upgrades of wastewater facilities to achieve enhanced nutrient removal as required by the conditions of a grant agreement and a discharge permit; and

(ii) All projects identified in subsections (h) and (i) of this section.

(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Bay Restoration Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Bay Restoration Fund.

(4) Subject to the provisions of any applicable bond resolution governing the investment of amounts in the Bay Restoration Fund, the Bay Restoration 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 Bay Restoration Fund.

(6) The Bay Restoration 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 shall operate the Bay Restoration Fund in accordance with §§ 9–1616 through 9–1621 of this subtitle.

(g) There shall be deposited in the Bay Restoration Fund:

(1) Funds received from the restoration fee;

(2) Net proceeds of bonds issued by the Administration;

(3) Interest or other income earned on the investment of money in the Bay Restoration Fund; and

(4) Any additional money made available from any sources, public or private, for the purposes for which the Bay Restoration Fund has been established.

(h) (1) With regard to the funds collected under subsection (b)(1)(i)1 of this section from users of an on–site sewage disposal system or holding tank that receive a water bill and subsection (b)(1)(i)2 and 3 of this section, beginning in fiscal year 2006, the Comptroller shall:

(i) Establish a separate account within the Bay Restoration Fund; and

(ii) Disburse the funds as provided under paragraph (2) of this subsection.

(2) The Comptroller shall:

(i) Deposit 60% of the funds in the separate account to be used for:

1. Subject to paragraphs (3), (4), (5), and (6) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area, second to failing systems that are located within a Maryland Chesapeake Bay 8–digit watershed that has a relative effectiveness for total nitrogen reduction of 9.24 or higher based on the Chesapeake Bay watershed model, third to failing systems that are located within the 500–year floodplain, and fourth to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

A. The costs attributable to upgrading an on–site sewage disposal system to the best available technology for the removal of nitrogen;

B. The cost difference between a conventional on–site sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen;

C. The cost of repairing or replacing a failing on–site sewage disposal system with a system that uses the best available technology for nitrogen removal;

D. The cost, up to the sum of the costs authorized under item B of this item for each individual system, of replacing multiple on–site sewage disposal systems located in the same community with a new community sewerage system that is owned by a local government and that meets enhanced nutrient removal standards; or

E. The cost, up to the sum of the costs authorized under item C of this item for each individual system, of connecting a property using an on–site sewage disposal system to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment, including payment of the principal, but not interest, of debt issued by a local government for such connection costs;

2. The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:

A. Implement an education, outreach, and upgrade program to advise owners of on–site sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;

B. Review and approve the design and construction of on–site sewage disposal system or holding tank upgrades;

C. Issue grants or loans as provided under item 1 of this item; and

D. Provide technical support for owners of upgraded on–site sewage disposal systems or holding tanks to operate and maintain the upgraded systems;

3. A portion of the reasonable costs of a local public entity that has been delegated by the Department under § 1–301(b) of this article to administer and enforce environmental laws, not to exceed 10% of the funds deposited into the separate account, to implement regulations adopted by the Department for on–site sewage disposal systems that utilize the best available technology for the removal of nitrogen;

4. Subject to paragraph (7) of this subsection, financial assistance to low–income homeowners, as defined by the Department, for up to 50% of the cost of an operation and maintenance contract of up to 5 years for an on–site sewage disposal system that utilizes nitrogen removal technology;

5. Subject to paragraph (8) of this subsection, a local jurisdiction to provide financial assistance to eligible homeowners for the reasonable cost of pumping out an on–site sewage disposal system, at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection, not to exceed 10% of the funds allocated to the local jurisdiction; and

6. In fiscal years 2020 and 2021, financial assistance to a local jurisdiction for the development of a septic stewardship plan that meets the requirements under paragraph (8)(iii)2 of this subsection; and

(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.

(3) Funding for the costs identified in paragraph (2)(i)1 of this subsection shall be provided in the following order of priority:

(i) For owners of all levels of income, the costs identified in paragraph (2)(i)1A and B of this subsection; and

(ii) For low– and moderate–income owners, as defined by the Department, the costs identified in paragraph (2)(i)1C of this subsection:

1. First, for best available technologies for nitrogen removal; and

2. Second, for other wastewater treatment systems.

(4) Funding for the costs identified in paragraph (2)(i)1D of this subsection may be provided if:

(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on–site sewage disposal system with a new community sewerage system is more cost effective for nitrogen removal than upgrading each individual on–site sewage disposal system; or

2. The individual replacement of the on–site sewage disposal system is not feasible; and

(iii) The new community sewerage system will only serve lots that have received a certificate of occupancy, or equivalent certificate, at least 15 years before July 1 of the year in which the application for funding is made.

(5) Funding for the costs identified in paragraph (2)(i)1E of this subsection may be provided only if all of the following conditions are met:

(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on–site sewage disposal system with service to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment is more cost–effective for nitrogen removal than upgrading the individual on–site sewage disposal system; or

2. The individual replacement of the on–site sewage disposal system is not feasible;

(iii) The project is consistent with the county's comprehensive plan and water and sewer master plan;

(iv) 1. The on–site sewage disposal system was installed at least 15 years before July 1 of the year in which the application for funding is made, and the property the system serves is located in a priority funding area, in accordance with § 5–7B–02 of the State Finance and Procurement Article; or

2. The on–site sewage disposal system was installed at least 15 years before July 1 of the year in which the application for funding is made, the property the system serves is not located in a priority funding area, and the project meets the requirements under § 5–7B–06 of the State Finance and Procurement Article and is consistent with a public health area of concern:

A. Identified in the county water and sewer plan; or

B. Certified by a county environmental health director with concurrence by the Department and, if funding is approved, subsequently added to the county water and sewer plan within a time frame jointly agreed on by the Department and the county that takes into consideration the county's water and sewer plan update and amendment process; and

(v) The funding agreement for a project that meets the conditions for funding under subparagraph (iv)2 of this paragraph includes provisions to ensure:

1. Denial of access for any future connections that are not included in the project's proposed service area; and

2. That the project will not unduly impede access to funding for upgrading individual on–site sewage disposal systems in the county with best available technology for nitrogen removal.

(6) The Comptroller, in consultation with the Administration, may establish any other accounts and subaccounts within the Bay Restoration Fund as necessary to:

(i) Effectuate the purposes of this subtitle;

(ii) Comply with the provisions of any bond resolution;

(iii) Meet the requirements of any federal or State law or of any grant or award to the Bay Restoration Fund; and

(iv) Meet any rules or program directives established by the Secretary or the Board.

(7) The Department or a local government shall determine:

(i) Whether an applicant is eligible for financial assistance under paragraph (2)(i)4 of this subsection; and

(ii) The amount of financial assistance to be provided for each applicant based on the average cost of an operation and maintenance contract of up to 5 years provided by vendors, as defined in § 9–1108.1 of this title, in the applicant's area.

(8) (i) The amount of financial assistance under paragraph (2)(i)5 of this subsection shall be based on homeowner income, with priority given to low–income homeowners.

(ii) Financial assistance under paragraph (2)(i)5 of this subsection may be provided through grants, rebates, or low– or no–interest loans.

(iii) Financial assistance under paragraph (2)(i)5 of this subsection may be provided only if:

1. The homeowner verifies the pump out has occurred; and

2. The homeowner resides in a local jurisdiction that has developed and implemented a septic stewardship plan that:

A. Has been adopted by the local governing body of the jurisdiction, after consultation with the jurisdiction's local health department;

B. States specific goals consistent with the nitrogen load reduction identified in the local jurisdiction's watershed implementation plan;

C. Specifies public education and outreach measures that will be taken, including education and outreach on best management practices, legal requirements, and existing support and financial assistance;

D. Provides technical guidance for the siting, design, evaluation, and construction of an on–site sewage disposal system;

E. Requires an on–site sewage disposal system located on residential property to be pumped out and inspected at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection;

F. Requires an on–site sewage disposal system located on commercial property to be pumped out and inspected at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection;

G. Specifies certification and licensing procedures for a person that pumps out and inspects on–site sewage disposal systems;

H. Specifies enforcement mechanisms, compliance incentives, and penalties;

I. Outlines funding mechanisms to support the plan and expand education, demonstration projects, and inspections;

J. Specifies requirements for record keeping; and

K. Establishes a process for periodically evaluating and revising the plan.

(9) On or before December 31 each year, the Department of the Environment shall submit a report, in accordance with § 2–1257 of the State Government Article, to the House Environmental Matters Committee and the Senate Education, Energy, and the Environment Committee on:

(i) Each project funded under paragraph (5)(iv)2 of this subsection; and

(ii) A summary of any impacts that the funding used for these projects had on overall funding for upgrading individual on–site sewage disposal systems with best available technology for nitrogen removal.

(i) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Eligible costs" means the additional costs that would be attributable to upgrading a wastewater facility to enhanced nutrient removal, as determined by the Department.

(iii) "Privately owned wastewater facility" means a wastewater facility that is owned by a private entity and provides wastewater treatment or disposal services to multiple residential dwelling units.

(iv) "Publicly owned wastewater facility" means a wastewater facility that is owned by this State or a political subdivision, municipal corporation, or other public entity.

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

(i) 1. To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a publicly owned 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 (4) of this subsection; and

2. Subject to paragraph (11) of this subsection, to award grants for up to 50% of eligible costs of projects relating to planning, design, construction, and upgrade of a privately owned 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 (4) 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 the transfers required under paragraph (10) of this subsection.

(3) The grant agreement and State discharge permit, if applicable, shall require an owner of a wastewater facility to operate the enhanced nutrient removal facility in a manner that optimizes the nutrient removal capability of the facility in order to achieve enhanced nutrient removal performance levels.

(4) The grant agreement shall require a grantee to demonstrate, to the satisfaction of the Department, that steps were taken to include small business enterprises, minority business enterprises, and women's business enterprises by:

(i) Placing qualified small business enterprises, minority business enterprises, and women's business enterprises on solicitation lists;

(ii) Assuring that small business enterprises, minority business enterprises, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small business enterprises, minority business enterprises, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, that encourage participation by small business enterprises, minority business enterprises, and women's business enterprises; and

(v) Using the services and assistance of the Maryland Department of Transportation and the Governor's Office of Small, Minority, and

Women Business Affairs in identifying and soliciting small business enterprises, minority business enterprises, and women's business enterprises.

(5) If the steps required under paragraph (4) of this subsection are not demonstrated to the satisfaction of the Department, the Department may withhold financial assistance for the project.

(6) (i) All wastewater facilities serving Maryland users that have contributed to the Bay Restoration Fund are eligible for grants under this section, including the Blue Plains Wastewater Treatment Plant in the District of Columbia.

(ii) Grants issued under paragraph (2)(i) of this subsection for upgrades to the Blue Plains Wastewater Treatment Plant may be awarded only if each party to the Blue Plains Intermunicipal Agreement of 1985 contributes a proportional share of the upgrade costs in accordance with the Blue Plains Intermunicipal Agreement of 1985, as revised and updated.

(7) Priority for funding an upgrade of a wastewater facility shall be given to enhanced nutrient removal upgrades at wastewater facilities with a design capacity of 500,000 gallons or more per day.

(8) (i) The eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department, in accordance with subsection (l) of this section.

(ii) The criteria adopted by the Department shall include, as appropriate, consideration of:

1. The cost–effectiveness in providing water quality benefit;

2. The water quality benefit to a body of water identified by the Department as impaired under Section 303(d) of the Clean Water Act;

3. The readiness of a wastewater facility to proceed to construction; and

4. The nitrogen and phosphorus loads discharged by a wastewater facility.

(9) A wastewater facility that has not been offered or has not received funds from the Department under this section or from any other fund in the

Department may not be required to upgrade to enhanced nutrient removal levels, except as otherwise required under federal or State law.

(10) (i) In fiscal year 2023 the Department shall transfer from the Bay Restoration Fund:

1. $10,000,000 to the Chesapeake Bay Trust for the Urban Trees Program established under § 8–1911 of the Natural Resources Article;

2. $2,500,000 to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund in the Department of Natural Resources, to be used, subject to the requirements of subparagraph (ii) of this paragraph, for tree planting on public and private land; and

3. $2,500,000 to the Maryland Department of Agriculture to fund tree plantings under the Conservation Reserve Enhancement Program in accordance with § 8–706 of the Agriculture Article and other tree–planting programs on agricultural land.

(ii) Funds transferred to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund under subparagraph (i)2 of this paragraph:

1. May be distributed in accordance with § 8–2A–04(c)(2) of the Natural Resources Article;

2. May be used to cover the costs of:

A. Site preparation, labor, and materials for tree–planting projects;

B. Maintaining trees following a planting project; and

C. Landowner incentive payments or signing bonuses of up to $1,000 per acre of trees planted;

3. May not be used to plant trees intended for timber harvest; and

4. May be used only for tree plantings on private land if the landowner enters into a binding legal agreement to maintain the planted area in tree cover for at least 15 years.

(iii) Funds transferred from the Bay Restoration Fund under this paragraph are supplemental to and may not take the place of funding that

otherwise would be appropriated for the programs and initiatives specified in subparagraph (i) of this paragraph.

(11) (i) Except as provided in subparagraph (ii) of this paragraph, the Department may not provide funding under this section to the owner of a privately owned wastewater facility if the Department or the U.S. Environmental Protection Agency has determined in the 2 years immediately preceding the date on which the owner applied for funding under this section that the facility did not comply with a discharge permit issued by the Department under this title.

(ii) The Department may provide funding under this section to the owner of a privately owned wastewater facility that would not be eligible for funding under subparagraph (i) of this paragraph if the Department determines, based on proof submitted by the owner of the facility when applying for funding under this section, that the owner of the facility lacks the financial capacity to purchase or upgrade a wastewater treatment system that would bring the facility into compliance with the discharge permit issued by the Department.

(iii) 1. The Department shall include with its annual operating budget proposal submitted to the Department of Budget and Management a list of each facility to which the Department provided funding under subparagraph (ii) of this paragraph in the immediately preceding 12 months and the reasons for providing the funding.

2. If the Department provides the list under subsubparagraph 1 of this subparagraph to the Department of Budget and Management, the Department shall immediately provide the list to the General Assembly in accordance with § 2–1257 of the State Government Article.

(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.

(3) The Governor shall appoint the chairman of the Committee from the designated members of the Committee.

(4) The Committee may consult with any stakeholder group as it deems necessary.

(5) (i) The term of a member is 4 years.

(ii) A member continues to serve until a successor is appointed.

(iii) The terms of the members appointed by the Governor are staggered as required by the terms provided for members of the Committee on October 1, 2004.

(iv) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(v) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(6) The Committee shall:

(i) Perform an analysis of the cost of nutrient removal from wastewater facilities;

(ii) Identify additional sources for funding the Bay Restoration Fund;

(iii) Make recommendations to improve the effectiveness of the Bay Restoration Fund in reducing nutrient loadings to the waters of the State;

(iv) Make recommendations regarding the appropriate increase in the restoration fee to be assessed in fiscal year 2008 and subsequent years as necessary to meet the financing needs of the Bay Restoration Fund;

(v) In consultation with the governing body of each county:

1. Identify users of on–site sewage disposal systems and holding tanks; and

2. Make recommendations to the governing body of each county on the best method of collecting the Bay Restoration Fee from the users of on–site sewage disposal systems and holding tanks that do not receive water bills;

(vi) Advise the Department on the components of an education, outreach, and upgrade program established within the Department under subsection (h)(2)(i)2 of this section;

(vii) Study the availability of money from the Fund for the supplemental assistance program within the Department to provide grants to smaller, economically disadvantaged communities in the State to upgrade their wastewater collection and treatment facilities;

(viii) Advise the Secretary concerning the adoption of regulations as described in subsection (l) of this section; and

(ix) On or before December 31 each year, report to the Governor and, subject to § 2–1257 of the State Government Article, the General Assembly on its findings and recommendations.

(7) Members of the Committee:

(i) May not receive compensation; but

(ii) Are entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(8) The Department of the Environment, Department of Agriculture, Department of Planning, Department of Natural Resources, and Department of Budget and Management shall provide staff support for the Committee.

(k) (1) On or before December 31 each year, the Department and the Department of Planning shall jointly report on:

(i) The impact that a wastewater treatment facility that was upgraded to enhanced nutrient removal during the calendar year before the previous calendar year with funds from the Bay Restoration Fund had on growth within the municipality or county in which the wastewater treatment facility is located; and

(ii) Each privately owned wastewater facility to which the Department provided funding under subsection (i)(11) of this section in the immediately preceding 12 months and the reasons for providing the funding.

(2) (i) In preparing the report required under paragraph (1) of this subsection, the Department of the Environment and the Department of Planning shall:

1. Include the number of permits issued for residential and commercial development to be served by the upgraded wastewater treatment facility; and

2. Determine what other appropriate information is to be included in the report.

(ii) In determining the information that should be included in the report under subparagraph (i) of this paragraph, the Department of the Environment and the Department of Planning shall act:

1. In consultation with the Bay Restoration Fund Advisory Committee; and

2. With the assistance of the municipality and county in which an upgraded wastewater treatment facility is located.

(3) The Department and the Department of Planning shall submit the report required under paragraph (1) of this subsection to the President of the Senate, the Speaker of the House, the Senate Budget and Taxation Committee, the Senate Education, Energy, and the Environment Committee, the House Appropriations Committee, the House Environment and Transportation Committee, and the Governor, in accordance with § 2–1257 of the State Government Article.

(l) The Department shall adopt regulations that are necessary or appropriate to carry out the provisions of this section.

§9–1605.2. // EFFECTIVE JUNE 30, 2031 PER CHAPTER 645 OF 2021 //

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

(2) It is the intent of the General Assembly that the Bay Restoration Fund be:

(i) Used, in part, to provide the funding necessary to upgrade any of the wastewater treatment facilities that are located in the State or used by citizens of the State in order to achieve enhanced nutrient removal where it is cost–effective to do so; and

(ii) Available for treatment facilities discharging into the Atlantic Coastal Bays or other waters of the State, but that priority be given to treatment facilities discharging into the Chesapeake Bay.

(3) The Bay Restoration Fund shall be maintained and administered by the Administration in accordance with the provisions of this section and any rules or program directives as the Secretary or the Board may prescribe.

(4) There is established a Bay Restoration Fee to be paid by any user of a wastewater facility, an on–site sewage disposal system, or a holding tank that:

(i) Is located in the State; or

(ii) Serves a Maryland user and is eligible for funding under this subtitle.

(b) (1) (i) Beginning on July 1, 2030, the Bay Restoration Fee is:

1. For each residential dwelling that receives an individual sewer bill and each user of an on–site sewage disposal system or a holding tank that receives a water bill, $2.50 per month;

2. For each user of an on–site sewage disposal system that does not receive a water bill, $30 per year;

3. For each user of a sewage holding tank that does not receive a water bill, $30 per year; and

4. For a building or group of buildings under single ownership or management that receives a sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill or for a nonresidential user:

A. For each equivalent dwelling unit not exceeding 3,000 equivalent dwelling units, $2.50 per month;

B. For each equivalent dwelling unit exceeding 3,000 equivalent dwelling units and not exceeding 5,000 equivalent dwelling units, $1.25 per month; and

C. For each equivalent dwelling unit exceeding 5,000 equivalent dwelling units, zero.

(ii) For a nonresidential user, the Bay Restoration Fee may be calculated based on an estimate of equivalent dwelling units of wastewater effluent generated, if the nonresidential user's wastewater bill is based on wastewater generated and not on water usage.

(2) (i) For a residential dwelling that receives an individual sewer bill, a user of an on–site sewage disposal system or a holding tank that receives a water bill, a building or group of buildings under single ownership or management that receives a water and sewer bill and that contains multiple residential dwellings that do not receive an individual sewer bill, and a nonresidential user, the restoration fee shall be:

1. Stated in a separate line on the sewer or water bill, as appropriate, that is labeled "Bay Restoration Fee"; and

2. Collected for each calendar quarter, unless a local government or billing authority for a water or wastewater facility established some other billing period on or before January 1, 2004.

(ii) 1. A. If the user does not receive a water bill, for users of an on–site sewage disposal system and for users of a sewage holding tank, the county in which the on–site sewage disposal system or holding tank is located shall be responsible for collecting the restoration fee.

B. A county may negotiate with a municipal corporation located within the county for the municipal corporation to collect the restoration fee from on–site sewage disposal systems and holding tanks located in the municipal corporation.

2. The governing body of each county, in consultation with the Bay Restoration Fund Advisory Committee, shall determine the method and frequency of collecting the restoration fee under subsubparagraph 1 of this subparagraph.

(3) The total fee imposed under paragraph (1) of this subsection may not exceed $120,000 annually for a single site.

(4) (i) For purposes of measuring average daily wastewater flow, the local government or billing authority for a wastewater facility shall use existing methods of measurement, which may include water usage or other estimation methods.

(ii) The averaging period is:

1. The billing period established by the local government or billing authority; or

2. If a billing period is not established by the local government or billing authority, a quarter of a calendar year.

(5) (i) The Bay Restoration Fee under this subsection may not be reduced as long as bonds are outstanding.

(ii) Any change in the manner of determining the Bay Restoration Fee may not reduce the amount of funds available for the payment of outstanding bonds.

(c) A user of a wastewater facility is exempt from paying the restoration fee if:

(1) (i) 1. The user's wastewater facility's average annual effluent nitrogen and phosphorus concentrations, as reported in the facility's State discharge monitoring reports for the previous calendar year, demonstrate that the facility is achieving enhanced nutrient removal, as defined under § 9–1601(n) of this subtitle; or

2. The Department has determined that the wastewater facility does not discharge nitrogen or phosphorus and is not required to monitor for nitrogen or phosphorus in its discharge permit; and

(ii) The user's wastewater facility has not received a State or federal grant for that facility;

(2) (i) The user's wastewater facility discharges to groundwater and the annual average nutrient concentrations in the wastewater prior to discharge to groundwater have not exceeded 3 milligrams per liter total nitrogen and 0.3 milligrams per liter total phosphorus, as demonstrated by analysis of the

groundwater from monitoring wells located on the property and as reported in discharge monitoring reports for the previous calendar year; and

(ii) The user's wastewater facility has not received a federal or State grant for that facility; or

(3) The Department determines that:

(i) The user's wastewater facility discharges noncontact cooling water, water from dewatering operations, or reclaimed wastewater from a facility whose users pay in to the Fund; and

(ii) The discharge does not result in a net increase in loading of nutrients compared to the intake water.

(d) (1) Subject to the approval of the Administration, a local government or a billing authority for a water or wastewater facility shall establish a program to exempt from the requirements of this section a residential dwelling able to demonstrate substantial financial hardship as a result of the restoration fee.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the Bay Restoration Fee shall be collected by the local government or the billing authority for the water or wastewater facility, as appropriate, on behalf of the State.

(ii) For a wastewater facility without a billing authority, the Comptroller may collect the restoration fee from the facility owner.

(3) A local government, billing authority for a water or wastewater facility, or any other authorized collecting agency:

(i) May use all of its existing procedures and authority for collecting a water or sewer bill, an on–site sewage disposal system bill, or a holding tank bill in order to enforce the collection of the Bay Restoration Fee; and

(ii) Shall establish a segregated account for the deposit of funds collected under this section.

(4) (i) This paragraph applies only in Dorchester County.

(ii) An unpaid Bay Restoration Fee shall be a lien against the property served by a wastewater facility, on–site sewage disposal system, or holding tank.

(iii) A notice of lien shall be recorded in the land records of Dorchester County.

(iv) The County Council may collect the Bay Restoration Fee on behalf of the Dorchester County Sanitary District.

(5) (i) In Caroline County, an unpaid Bay Restoration Fee shall be a lien against the property served by a wastewater facility, on–site sewage disposal system, or holding tank.

(ii) A notice of lien shall be recorded in the land records of Caroline County.

(e) (1) A local government, the billing authority for a water or wastewater facility, or any other authorized collecting agency shall complete and submit, under oath, a return and remit the restoration fees collected to the Comptroller:

(i) On or before the 20th day of the month that follows the calendar quarter in which the restoration fee was collected; and

(ii) For other periods and on other dates that the Comptroller may specify by regulation, including periods in which no restoration fee has been collected.

(2) Except to the extent of any inconsistency with this subsection, the provisions of Title 13 of the Tax – General Article that are applicable to the sales and use tax shall govern the administration, collection, and enforcement of the restoration fee under this section.

(3) The Comptroller may adopt regulations necessary to administer, collect, and enforce the restoration fee.

(4) (i) From the restoration fee revenue, the Comptroller shall distribute to an administrative cost account the amount that is necessary to administer the fee, which may not exceed 0.5% of the fees collected by the Comptroller.

(ii) After making the distribution required under subparagraph (i) of this paragraph, the Comptroller shall deposit the restoration fee in the Bay Restoration Fund.

(5) The State Central Collection Unit may collect delinquent accounts under this section in accordance with § 3–302 of the State Finance and Procurement Article.

(f) (1) (i) The Bay Restoration Fund is a special, continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article and shall be available in perpetuity for the purpose of providing financial assistance in accordance with the provisions of this section.

(ii) Money in the Fund may not revert or be transferred to the General Fund or a special fund of the State.

(2) The Bay Restoration Fund shall be available for the purpose of providing financial assistance in accordance with the provisions of this section for:

(i) Eligible costs of projects relating to planning, design, construction, and upgrades of wastewater facilities to achieve enhanced nutrient removal as required by the conditions of a grant agreement and a discharge permit; and

(ii) All projects identified in subsections (h) and (i) of this section.

(3) Subject to the provisions of any applicable bond resolution regarding the holding or application of amounts in the Bay Restoration Fund, the Treasurer shall separately hold, and the Comptroller shall account for, the Bay Restoration Fund.

(4) Subject to the provisions of any applicable bond resolution governing the investment of amounts in the Bay Restoration Fund, the Bay Restoration 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 Bay Restoration Fund.

(6) The Bay Restoration 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 shall operate the Bay Restoration Fund in accordance with §§ 9–1616 through 9–1621 of this subtitle.

(g) There shall be deposited in the Bay Restoration Fund:

(1) Funds received from the restoration fee;

(2) Net proceeds of bonds issued by the Administration;

(3) Interest or other income earned on the investment of money in the Bay Restoration Fund; and

(4) Any additional money made available from any sources, public or private, for the purposes for which the Bay Restoration Fund has been established.

(h) (1) With regard to the funds collected under subsection (b)(1)(i)1 of this section from users of an on–site sewage disposal system or holding tank that receive a water bill and subsection (b)(1)(i)2 and 3 of this section, beginning in fiscal year 2006, the Comptroller shall:

(i) Establish a separate account within the Bay Restoration Fund; and

(ii) Disburse the funds as provided under paragraph (2) of this subsection.

(2) The Comptroller shall:

(i) Deposit 60% of the funds in the separate account to be used for:

1. Subject to paragraphs (3), (4), (5), and (6) of this subsection, with priority first given to failing systems and holding tanks located in the Chesapeake and Atlantic Coastal Bays Critical Area, second to failing systems that are located within a Maryland Chesapeake Bay 8–digit watershed that has a relative effectiveness for total nitrogen reduction of 9.24 or higher based on the Chesapeake Bay watershed model, third to failing systems that are located within the 500–year floodplain, and fourth to failing systems that the Department determines are a threat to public health or water quality, grants or loans for up to 100% of:

A. The costs attributable to upgrading an on–site sewage disposal system to the best available technology for the removal of nitrogen;

B. The cost difference between a conventional on–site sewage disposal system and a system that utilizes the best available technology for the removal of nitrogen;

C. The cost of repairing or replacing a failing on–site sewage disposal system with a system that uses the best available technology for nitrogen removal;

D. The cost, up to the sum of the costs authorized under item B of this item for each individual system, of replacing multiple on–site sewage disposal systems located in the same community with a new community sewerage system that is owned by a local government and that meets enhanced nutrient removal standards; or

E. The cost, up to the sum of the costs authorized under item C of this item for each individual system, of connecting a property using an on–site sewage disposal system to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment, including payment of the principal, but not interest, of debt issued by a local government for such connection costs;

2. The reasonable costs of the Department, not to exceed 8% of the funds deposited into the separate account, to:

A. Implement an education, outreach, and upgrade program to advise owners of on–site sewage disposal systems and holding tanks on the proper maintenance of the systems and tanks and the availability of grants and loans under item 1 of this item;

B. Review and approve the design and construction of on–site sewage disposal system or holding tank upgrades;

C. Issue grants or loans as provided under item 1 of this item; and

D. Provide technical support for owners of upgraded on–site sewage disposal systems or holding tanks to operate and maintain the upgraded systems;

3. A portion of the reasonable costs of a local public entity that has been delegated by the Department under § 1–301(b) of this article to administer and enforce environmental laws, not to exceed 10% of the funds deposited into the separate account, to implement regulations adopted by the Department for on–site sewage disposal systems that utilize the best available technology for the removal of nitrogen;

4. Subject to paragraph (7) of this subsection, financial assistance to low–income homeowners, as defined by the Department, for up to 50%

of the cost of an operation and maintenance contract of up to 5 years for an on–site sewage disposal system that utilizes nitrogen removal technology;

5. Subject to paragraph (8) of this subsection, a local jurisdiction to provide financial assistance to eligible homeowners for the reasonable cost of pumping out an on–site sewage disposal system, at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection, not to exceed 10% of the funds allocated to the local jurisdiction; and

6. In fiscal years 2020 and 2021, financial assistance to a local jurisdiction for the development of a septic stewardship plan that meets the requirements under paragraph (8)(iii)2 of this subsection; and

(ii) Transfer 40% of the funds to the Maryland Agriculture Water Quality Cost Share Program in the Department of Agriculture in order to fund cover crop activities.

(3) Funding for the costs identified in paragraph (2)(i)1 of this subsection shall be provided in the following order of priority:

(i) For owners of all levels of income, the costs identified in paragraph (2)(i)1A and B of this subsection; and

(ii) For low– and moderate–income owners, as defined by the Department, the costs identified in paragraph (2)(i)1C of this subsection:

1. First, for best available technologies for nitrogen removal; and

2. Second, for other wastewater treatment systems.

(4) Funding for the costs identified in paragraph (2)(i)1D of this subsection may be provided if:

(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on–site sewage disposal system with a new community sewerage system is more cost effective for nitrogen removal than upgrading each individual on–site sewage disposal system; or

2. The individual replacement of the on–site sewage disposal system is not feasible; and

(iii) The new community sewerage system will only serve lots that have received a certificate of occupancy, or equivalent certificate, at least 15 years before July 1 of the year in which the application for funding is made.

(5) Funding for the costs identified in paragraph (2)(i)1E of this subsection may be provided only if all of the following conditions are met:

(i) The environmental impact of the on–site sewage disposal system is documented by the local government and confirmed by the Department;

(ii) It can be demonstrated that:

1. The replacement of the on–site sewage disposal system with service to an existing municipal wastewater facility that is achieving enhanced nutrient removal or biological nutrient removal level treatment is more cost–effective for nitrogen removal than upgrading the individual on–site sewage disposal system; or

2. The individual replacement of the on–site sewage disposal system is not feasible;

(iii) The project is consistent with the county's comprehensive plan and water and sewer master plan;

(iv) 1. The on–site sewage disposal system was installed at least 15 years before July 1 of the year in which the application for funding is made, and the property the system serves is located in a priority funding area, in accordance with § 5–7B–02 of the State Finance and Procurement Article; or

2. The on–site sewage disposal system was installed at least 15 years before July 1 of the year in which the application for funding is made, the property the system serves is not located in a priority funding area, and the project meets the requirements under § 5–7B–06 of the State Finance and Procurement Article and is consistent with a public health area of concern:

A. Identified in the county water and sewer plan; or

B. Certified by a county environmental health director with concurrence by the Department and, if funding is approved, subsequently added to the county water and sewer plan within a time frame jointly agreed on by the

Department and the county that takes into consideration the county's water and sewer plan update and amendment process; and

(v) The funding agreement for a project that meets the conditions for funding under subparagraph (iv)2 of this paragraph includes provisions to ensure:

1. Denial of access for any future connections that are not included in the project's proposed service area; and

2. That the project will not unduly impede access to funding for upgrading individual on–site sewage disposal systems in the county with best available technology for nitrogen removal.

(6) The Comptroller, in consultation with the Administration, may establish any other accounts and subaccounts within the Bay Restoration Fund as necessary to:

(i) Effectuate the purposes of this subtitle;

(ii) Comply with the provisions of any bond resolution;

(iii) Meet the requirements of any federal or State law or of any grant or award to the Bay Restoration Fund; and

(iv) Meet any rules or program directives established by the Secretary or the Board.

(7) The Department or a local government shall determine:

(i) Whether an applicant is eligible for financial assistance under paragraph (2)(i)4 of this subsection; and

(ii) The amount of financial assistance to be provided for each applicant based on the average cost of an operation and maintenance contract of up to 5 years provided by vendors, as defined in § 9–1108.1 of this title, in the applicant's area.

(8) (i) The amount of financial assistance under paragraph (2)(i)5 of this subsection shall be based on homeowner income, with priority given to low–income homeowners.

(ii) Financial assistance under paragraph (2)(i)5 of this subsection may be provided through grants, rebates, or low– or no–interest loans.

(iii) Financial assistance under paragraph (2)(i)5 of this subsection may be provided only if:

1. The homeowner verifies the pump out has occurred; and

2. The homeowner resides in a local jurisdiction that has developed and implemented a septic stewardship plan that:

A. Has been adopted by the local governing body of the jurisdiction, after consultation with the jurisdiction's local health department;

B. States specific goals consistent with the nitrogen load reduction identified in the local jurisdiction's watershed implementation plan;

C. Specifies public education and outreach measures that will be taken, including education and outreach on best management practices, legal requirements, and existing support and financial assistance;

D. Provides technical guidance for the siting, design, evaluation, and construction of an on–site sewage disposal system;

E. Requires an on–site sewage disposal system located on residential property to be pumped out and inspected at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection;

F. Requires an on–site sewage disposal system located on commercial property to be pumped out and inspected at least once every 5 years, unless a more frequent pump out schedule is recommended during an inspection;

G. Specifies certification and licensing procedures for a person that pumps out and inspects on–site sewage disposal systems;

H. Specifies enforcement mechanisms, compliance incentives, and penalties;

I. Outlines funding mechanisms to support the plan and expand education, demonstration projects, and inspections;

J. Specifies requirements for record keeping; and

K. Establishes a process for periodically evaluating and revising the plan.

(9) On or before December 31 each year, the Department of the Environment shall submit a report, in accordance with § 2–1257 of the State Government Article, to the House Environmental Matters Committee and the Senate Education, Energy, and the Environment Committee on:

(i) Each project funded under paragraph (5)(iv)2 of this subsection; and

(ii) A summary of any impacts that the funding used for these projects had on overall funding for upgrading individual on–site sewage disposal systems with best available technology for nitrogen removal.

(i) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Eligible costs" means the additional costs that would be attributable to upgrading a wastewater facility to enhanced nutrient removal, as determined by the Department.

(iii) "Privately owned wastewater facility" means a wastewater facility that is owned by a private entity and provides wastewater treatment or disposal services to multiple residential dwelling units.

(iv) "Publicly owned wastewater facility" means a wastewater facility that is owned by this State or a political subdivision, municipal corporation, or other public entity.

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

(i) 1. To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a publicly owned 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 (4) of this subsection; and

2. Subject to paragraph (10) of this subsection, to award grants for up to 50% of eligible costs of projects relating to planning, design, construction, and upgrade of a privately owned 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 (4) 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; and

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

(3) The grant agreement and State discharge permit, if applicable, shall require an owner of a wastewater facility to operate the enhanced nutrient removal facility in a manner that optimizes the nutrient removal capability of the facility in order to achieve enhanced nutrient removal performance levels.

(4) The grant agreement shall require a grantee to demonstrate, to the satisfaction of the Department, that steps were taken to include small business enterprises, minority business enterprises, and women's business enterprises by:

(i) Placing qualified small business enterprises, minority business enterprises, and women's business enterprises on solicitation lists;

(ii) Assuring that small business enterprises, minority business enterprises, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small business enterprises, minority business enterprises, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, that encourage participation by small business enterprises, minority business enterprises, and women's business enterprises; and

(v) Using the services and assistance of the Maryland Department of Transportation and the Governor's Office of Small, Minority, and Women Business Affairs in identifying and soliciting small business enterprises, minority business enterprises, and women's business enterprises.

(5) If the steps required under paragraph (4) of this subsection are not demonstrated to the satisfaction of the Department, the Department may withhold financial assistance for the project.

(6) (i) All wastewater facilities serving Maryland users that have contributed to the Bay Restoration Fund are eligible for grants under this section, including the Blue Plains Wastewater Treatment Plant in the District of Columbia.

(ii) Grants issued under paragraph (2)(i) of this subsection for upgrades to the Blue Plains Wastewater Treatment Plant may be awarded only if each party to the Blue Plains Intermunicipal Agreement of 1985 contributes a proportional share of the upgrade costs in accordance with the Blue Plains Intermunicipal Agreement of 1985, as revised and updated.

(7) Priority for funding an upgrade of a wastewater facility shall be given to enhanced nutrient removal upgrades at wastewater facilities with a design capacity of 500,000 gallons or more per day.

(8) (i) The eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department, in accordance with subsection (l) of this section.

(ii) The criteria adopted by the Department shall include, as appropriate, consideration of:

1. The cost–effectiveness in providing water quality benefit;

2. The water quality benefit to a body of water identified by the Department as impaired under Section 303(d) of the Clean Water Act;

3. The readiness of a wastewater facility to proceed to construction; and

4. The nitrogen and phosphorus loads discharged by a wastewater facility.

(9) A wastewater facility that has not been offered or has not received funds from the Department under this section or from any other fund in the Department may not be required to upgrade to enhanced nutrient removal levels, except as otherwise required under federal or State law.

(10) (i) Except as provided in subparagraph (ii) of this paragraph, the Department may not provide funding under this section to the owner of a privately owned wastewater facility if the Department or the U.S. Environmental Protection Agency has determined in the 2 years immediately preceding the date on which the owner applied for funding under this section that the facility did not comply with a discharge permit issued by the Department under this title.

(ii) The Department may provide funding under this section to the owner of a privately owned wastewater facility that would not be eligible for funding under subparagraph (i) of this paragraph if the Department determines, based on proof submitted by the owner of the facility when applying for funding under this section, that the owner of the facility lacks the financial capacity to purchase or upgrade a wastewater treatment system that would bring the facility into compliance with the discharge permit issued by the Department.

(iii) 1. The Department shall include with its annual operating budget proposal submitted to the Department of Budget and Management a list of each facility to which the Department provided funding under subparagraph (ii) of this paragraph in the immediately preceding 12 months and the reasons for providing the funding.

2. If the Department provides the list under subsubparagraph 1 of this subparagraph to the Department of Budget and Management, the Department shall immediately provide the list to the General Assembly in accordance with § 2–1257 of the State Government Article.

(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.

(3) The Governor shall appoint the chairman of the Committee from the designated members of the Committee.

(4) The Committee may consult with any stakeholder group as it deems necessary.

(5) (i) The term of a member is 4 years.

(ii) A member continues to serve until a successor is appointed.

(iii) The terms of the members appointed by the Governor are staggered as required by the terms provided for members of the Committee on October 1, 2004.

(iv) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(v) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(6) The Committee shall:

(i) Perform an analysis of the cost of nutrient removal from wastewater facilities;

(ii) Identify additional sources for funding the Bay Restoration Fund;

(iii) Make recommendations to improve the effectiveness of the Bay Restoration Fund in reducing nutrient loadings to the waters of the State;

(iv) Make recommendations regarding the appropriate increase in the restoration fee to be assessed in fiscal year 2008 and subsequent years as necessary to meet the financing needs of the Bay Restoration Fund;

(v) In consultation with the governing body of each county:

1. Identify users of on–site sewage disposal systems and holding tanks; and

2. Make recommendations to the governing body of each county on the best method of collecting the Bay Restoration Fee from the users of on–site sewage disposal systems and holding tanks that do not receive water bills;

(vi) Advise the Department on the components of an education, outreach, and upgrade program established within the Department under subsection (h)(2)(i)2 of this section;

(vii) Study the availability of money from the Fund for the supplemental assistance program within the Department to provide grants to smaller, economically disadvantaged communities in the State to upgrade their wastewater collection and treatment facilities;

(viii) Advise the Secretary concerning the adoption of regulations as described in subsection (l) of this section; and

(ix) On or before December 31 each year, report to the Governor and, subject to § 2–1257 of the State Government Article, the General Assembly on its findings and recommendations.

(7) Members of the Committee:

(i) May not receive compensation; but

(ii) Are entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(8) The Department of the Environment, Department of Agriculture, Department of Planning, Department of Natural Resources, and Department of Budget and Management shall provide staff support for the Committee.

(k) (1) On or before December 31 each year, the Department and the Department of Planning shall jointly report on:

(i) The impact that a wastewater treatment facility that was upgraded to enhanced nutrient removal during the calendar year before the previous calendar year with funds from the Bay Restoration Fund had on growth within the municipality or county in which the wastewater treatment facility is located; and

(ii) Each privately owned wastewater facility to which the Department provided funding under subsection (i)(10) of this section in the immediately preceding 12 months and the reasons for providing the funding.

(2) (i) In preparing the report required under paragraph (1) of this subsection, the Department of the Environment and the Department of Planning shall:

1. Include the number of permits issued for residential and commercial development to be served by the upgraded wastewater treatment facility; and

2. Determine what other appropriate information is to be included in the report.

(ii) In determining the information that should be included in the report under subparagraph (i) of this paragraph, the Department of the Environment and the Department of Planning shall act:

1. In consultation with the Bay Restoration Fund Advisory Committee; and

2. With the assistance of the municipality and county in which an upgraded wastewater treatment facility is located.

(3) The Department and the Department of Planning shall submit the report required under paragraph (1) of this subsection to the President of the Senate, the Speaker of the House, the Senate Budget and Taxation Committee, the Senate Education, Energy, and the Environment Committee, the House Appropriations Committee, the House Environment and Transportation Committee, and the Governor, in accordance with § 2–1257 of the State Government Article.

(l) The Department shall adopt regulations that are necessary or appropriate to carry out the provisions of this section.

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