



**Title 26**  
**DEPARTMENT OF THE**  
**ENVIRONMENT**

**Subtitle 03 WATER SUPPLY,**  
**SEWERAGE, SOLID WASTE, AND**  
**POLLUTION CONTROL PLANNING**  
**AND FUNDING**

**26.03.13 Bay Restoration Fund Implementation**

Authority: Environment Article, §9-1605.2, Annotated Code of Maryland

**Notice of Proposed Action**

[14-080-P]

The Secretary of the Environment proposes to amend Regulations **.01, .03, and .04** under COMAR **26.03.13 Bay Restoration Fund Implementation.**

**Statement of Purpose**

The purpose of this action is to amend COMAR 26.03.13, adopted in 41:2 Md. R. 92 (January 24, 2014), after consideration of comments received from the Maryland Association of Municipal Wastewater Agencies, Inc., Washington County Division of Environmental Management, Chesapeake Bay Foundation, and Committee Counsel for the Joint Committee on Administrative, Executive and Legislative Review.

**Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

**Estimate of Economic Impact**

The proposed action has no economic impact.

**Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Jag Khuman, Director, Maryland Department of the Environment, 1800 Washington Boulevard, or call 410-537-3119, or email to jag.khuman@maryland.gov. Comments will be accepted through May 5, 2014. A public hearing has not been scheduled.

**.01 Scope.**

This chapter specifies the procedures for implementing the Bay Restoration Fund authorized under Environment Article, §9-1605.2, Annotated Code of Maryland. The Bay Restoration Fund is administered by the Maryland Water Quality Financing Administration, a unit of the Department, and is comprised of two sub-funds:

A. Wastewater Fund: Bay Restoration Fund fees collected from customers or users of wastewater treatment [facilities] *plants* are deposited by the Comptroller into this fund and are used to provide grants for the upgrade of wastewater treatment plants with enhanced nutrient removal technology, a portion of the operation and maintenance costs related to ENR, and other authorized uses.

B. (text unchanged)

**.03 Wastewater Fund.**

A. Bay Restoration Fund fees deposited into the Wastewater Fund shall be used:

(1) (text unchanged)

[(2)] To provide grant awards to wastewater facilities whose users have contributed to the Bay Restoration Fund:

(a) For up to 100 percent of the eligible cost to upgrade wastewater treatment facilities from biological nutrient removal treatment levels to enhanced nutrient removal treatment levels at the design capacity approved by the Department;

(b) For a portion of the operation and maintenance costs, starting in FY 2010, of wastewater treatment facilities that operate at the enhanced nutrient removal treatment levels, not to exceed 10 percent of the amount deposited into the Wastewater Fund annually;

(c) For the following categories in priority order, effective FY 2018:

(i) For up to 100 percent of the eligible cost to upgrade wastewater treatment facilities with design capacity of 500,000 gallons or more per day, from biological nutrient removal treatment levels to enhanced nutrient removal treatment levels;

(ii) For up to 100 percent of the eligible cost to upgrade wastewater treatment facilities with design capacity of less than 500,000 gallons per day, from biological nutrient removal treatment levels to achieve enhanced nutrient removal treatment levels;]

(2) *To provide grant awards to wastewater treatment plants whose users have contributed to the Bay Restoration Fund for up to 100 percent of the eligible cost to upgrade wastewater treatment plants from biological nutrient removal treatment levels to enhanced nutrient removal treatment levels at the design capacity approved by the Department;*

(3) *For a portion of the operation and maintenance costs, starting in FY 2010, of wastewater treatment plants that operate at the enhanced nutrient removal treatment levels, not to exceed 10 percent of the amount deposited into the Wastewater Fund annually;*

[(iii)] (4) [For] *Starting in FY 2018, for an annual fund transfer to the Onsite Sewage Disposal System Fund to be used in accordance with Regulation .04 of this chapter for the upgrade of onsite sewage disposal systems and other eligible uses under Environment Article, §9-1605.2(h)(2)(i)1, Annotated Code of Maryland. [These funds to be utilized under the Onsite Sewage Disposal System Fund regulations];*

[(iv)] (5) [For] *Starting in FY 2018, for up to 50 percent of the eligible cost of cost-effective and efficient stormwater projects undertaken by local governments who have implemented a system of charges under Environment Article, §4-204, Annotated Code of Maryland. [The] To be eligible for funding, the local governments shall have funds available to cover the balance of project costs;*

[(3)] (6) To provide for *the Department's* reasonable operating expenses to administer the Bay Restoration Wastewater Fund not to exceed 1.5 percent of the fees deposited into the Wastewater Fund annually;

[(4)] (7) To provide for future upgrades of wastewater [facilities] *treatment plants* to achieve additional nutrient removal or water quality improvements at ENR treatment levels or better;

[(5)] (8) To earn interest.

**B. Project Prioritization.**

(1) Before FY 2018, priority for funding ENR upgrades shall be:

(a) (text unchanged)

(b) Second for *the most cost-effective* ENR upgrades at wastewater treatment plants with a design capacity of less than 500,000 gallons per day that discharge to the Chesapeake Bay;

(c) (text unchanged)

(d) Fourth for future upgrades of wastewater [facilities] *treatment plants* to achieve additional nutrient removal or water quality improvements at ENR treatment levels or better.

(2) Starting in FY 2018, priority for funding shall be:

(a) (text unchanged)

(b) Second for *the most cost-effective* ENR upgrades at wastewater treatment plants with a design capacity of less than 500,000 gallons per day that discharge to the Chesapeake Bay;

(c) — (d) (text unchanged)

(e) Fifth for *nitrogen reduction* [upgrades] of onsite sewage disposal [system] *systems in accordance with Regulation .04 of this chapter* [with best available technology for nitrogen reduction] by transferring funds annually from the Wastewater Fund to the Onsite Sewage Disposal System Fund [to meet the excess demand during the fiscal year];

(f) (text unchanged)

C. [Priority] *Ranking System*. The Department shall [seek] *request for and accept* applications for financial assistance annually and prepare a project priority list that ranks individual projects based on the following factors:

(1) —(4) (text unchanged)

(5) Readiness to proceed to construction[;].

[(6) Other factors established by the Department.]

D. *Funding Allocation*. Each fiscal year, the total available grant funds, net of revenue needed for payment of debt service on outstanding bonds, operation and maintenance grants, and allowed operating expenses shall be allocated in priority order to *construction ready projects in accordance with §§B and C of this regulation, and as follows* [within each subcategory below. Once the eligible cost for all construction ready projects for the fiscal year in subcategory (1) are fully funded, any remaining grant funds shall be allocated next to subcategory (2), and so on, until the all of the available funds for the budget fiscal year are fully allocated in the priority order below]:

(1) Major wastewater [facilities] *treatment plants* for ENR upgrade that discharge to the Chesapeake Bay;

(2) Minor wastewater [facilities] *treatment plants* for ENR upgrade that discharge to the Chesapeake Bay;

(3) Other wastewater [facilities] *treatment plants* for ENR upgrade that discharge to the Atlantic Coastal Bay or other waters of the State;

(4) Other wastewater [facilities] *treatment plants* for future upgrades to achieve additional nutrient removal or water quality improvements at ENR treatment levels or better;

(5) [OSDS] *Onsite Sewage Disposal System Fund* for [Nitrogen Reduction] *nitrogen reduction*, starting in fiscal year 2018;

(6) (text unchanged)

E. *Enhanced Nutrient Removal Operation and Maintenance Grants*.

(1) In fiscal year 2010 and thereafter, up to 10 percent of the fees collected annually in the Wastewater Fund shall be given to owners of wastewater treatment [facilities] *plants* that are operating at the enhanced nutrient removal treatment level as grant awards to partially offset the cost of operation and maintenance.

(2) [Subject to annual budget appropriations, the] *The operation and maintenance grant for wastewater treatment [facilities] plants* operating at the enhanced nutrient removal treatment levels shall be at the base rate of [\$25,000] *\$30,000* per year for every one million gallons per day design flow, not to exceed [\$250,000] *\$300,000 per facility* per year. Facilities with less than one million gallons per day design flow shall receive the base rate of [\$25,000] *\$30,000* per year. This formula may be [increased or decreased] *adjusted* [if the Bay Restoration Fund fee amount is increased or decreased,] if there is a change in the Bay Restoration Fund statute, *or* if the amount appropriated in the budget is reduced [, or in the sole discretion of the Department].

(3) The Department may[, in its sole discretion,] offer a prorated amount of an operations and maintenance grant to correspond with the number of months that a wastewater treatment [facility] *plant* operated at the enhanced nutrient removal treatment level in the first year of project completion.

(4) To qualify for the annual operation and maintenance grant, the following criteria shall be met:

(a) The users of the wastewater treatment [facility] *plant* pay the Bay Restoration Fund fee;

(b) (text unchanged)

(c) The owner shall demonstrate, by submitting performance data for the prior calendar year, that the [facility] *plant* was operated in a manner that optimized enhanced nutrient removal and used its best efforts to achieve equal to or less than 3 mg/l total nitrogen and equal to or less than 0.3 mg/l total phosphorus in wastewater effluent concentration;

(d) The owner shall [assist] *provide data requested by the Department about the impact that a wastewater treatment plant that was upgraded to ENR has had on growth within the municipality or county that such a wastewater treatment plant is located* [by providing requested data in reporting the impact of the Bay Restoration Fund on growth] as required by Environment Article, §9-1605.2, Annotated Code of Maryland.

**.04 Onsite Sewage Disposal System Fund.**

A. Bay Restoration Fund fees deposited into the Onsite Sewage Disposal System Fund shall be used:

(1) To provide grants or loans up to 100 percent for:

(a) (text unchanged)

(b) The cost difference between [an existing] *a* conventional onsite sewage disposal system and [a new] *an* onsite sewage disposal system that utilizes the best available technology for the removal of nitrogen;

(c) The cost of replacing multiple onsite 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[. Cost], *and the cost* may not exceed the sum of the cost difference between conventional onsite sewage disposal systems and new onsite sewage disposal systems that use the best available technology for removing nitrogen

(d) The cost of connecting *a property using an* onsite sewage disposal systems to an existing wastewater treatment[facility] *plant* that meets enhanced nutrient removal standards[. Costs], *and the cost* may not exceed the sum of the cost of onsite sewage disposal systems that include best available technology for removing nitrogen.

(2) To provide grants or loans up to 100 percent for the cost of repairing or replacing failing onsite sewage disposal systems with a system that uses the best available technology for the removal of nitrogen. This option is available only to low-income homeowners. The cost is the total cost of repair, replacement and upgrade including wastewater disposal drainfields, provided that funds are available after addressing the priorities listed in [§04A(1)(a) — (d)] *Regulation .04A(1)(a) and (b) of this chapter* [regulation].

(3) The *Department's* [cost of] operating expenses, including technical assistance, to administer the Bay Restoration Onsite Sewage Disposal System Fund not to exceed 8 percent of fees deposited into the Onsite Sewage Disposal System Fund.

B. (text unchanged)

C. *Grant Awards*. The Department shall [seek] *request and accept* applications for financial assistance annually[, subject to annual budget appropriation,] and shall award grants based on the following factors:

(1) —(2) (text unchanged)

(3) Grant funding requested by the county or [the county's] its authorized agent.

D. (text unchanged)

ROBERT M. SUMMERS, Ph.D.  
Secretary of the Environment

Benefit Cost (-)	(+) Magnitude
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D. On regulated industries or trade groups:	(+)	Minimal
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E. On other industries or trade groups:	(-)	Minimal
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F. Direct and indirect effects on public:	NONE	
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## Subtitle 08 WATER POLLUTION

### 26.08.05 Certification of State Water Quality Laboratories

Authority: Environment Article, Title 9, Subtitle 10, Annotated Code of Maryland

#### Notice of Proposed Action

[14-081-P-I]

The Secretary of the Environment proposes to repeal existing Regulations .01 — .16 and adopt new Regulations .01 — .18 under COMAR 26.08.05 Certification of State Water Quality Laboratories.

#### Statement of Purpose

The purpose of this action is to correct technical references and agency designation, to modify the timeline for the submission of annual renewal applications for certification, to assess a penalty for late renewal applications, and to clarify the education and experience requirements for laboratory personnel who are employed at laboratories that analyze drinking water pursuant to the Safe Drinking Water Act. The proposed regulations include language to clarify requirements, and provide a more technically correct standard.

#### Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

#### Estimate of Economic Impact

**I. Summary of Economic Impact.** The proposed amendments to the Certification of State Water Quality Laboratories regulations have one area where an economic impact can be determined. The proposed changes will require water quality laboratories to enhance education and training of laboratory staff.

New standards for laboratory staff education and training will be required based on the criteria listed in the Manual for the Certification of Laboratories Analyzing Drinking Water. Laboratories may need to pay higher salaries to compensate a higher level of education, experience, and training and incur costs providing additional education and training for their staff. Water quality laboratories may be able to obtain a waiver from the certification officer for minimum education requirements on a case-by-case basis for highly experienced analysts or water quality laboratory supervisors.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	

A. On issuing agency:	(E-)	Minimal
B. On other State agencies:	(E-)	Minimal
C. On local governments:	(E-)	Minimal

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

A. — C. Assumes a negative revenue to the issuing agency, State and local agencies. The assumed expense for the issuing agency, and State and local agencies is based on a higher cost of doing business due to workload.

D. Assumes a negative revenue to industry trade groups based on the need for water quality laboratories to educate and train current staff or to acquire new staff that meet the minimum requirements for qualified water quality personnel as stated in this chapter.

E. Assumes positive revenue to industry trade groups based on the additional services that would be performed for compliance with the proposed regulations. Industries that offer the training or education that is required for qualified water quality personnel may benefit if the water quality laboratory personnel utilize their services.

F. Assumes that the public will ultimately bear the costs related to directly complying with the proposed regulatory changes. The public may be affected if the water quality laboratories raise their rates for sampling and/or analysis due to the expenses of maintaining qualified staff.

#### Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

#### Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

#### Opportunity for Public Comment

Comments may be sent to Nancy Reilman, Division Chief, Maryland Department of the Environment, Water Supply Program, 1800 Washington Boulevard, Baltimore, MD 21230, or call 410-537-3729, or email to Nancy.Reilman@maryland.gov, or fax to 410-537-3157. Comments will be accepted through May 5, 2014. The Department of the Environment will hold a hearing concerning the adoption of these regulations on April 15, 2014, from 10 a.m. to 12 p.m., in the Maryland Department of the Environment, Gunpowder Falls Conference Room, 1800 Washington Boulevard, Baltimore, Maryland 21230.

All interested persons are invited to attend and give their views. Any hearing impaired person may request an interpreter to be present at the hearing by giving 5 working days notice to Nancy Reilman, 410-537-3729.