

HOUSE BILL 245

M3

(PRE-FILED)

4lr0363
CF 4lr0364

By: **Chair, Environment and Transportation Committee (By Request –
Departmental – Environment)**

Requested: September 17, 2023

Introduced and read first time: January 10, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Department of the Environment – Fees, Penalties, Funding, and Regulation**

3 FOR the purpose of altering the authorized uses of the Maryland Clean Air Fund to include
4 certain activities relating to reducing air pollution in the State; specifying that
5 money deposited into the Maryland Clean Air Fund may not revert to the General
6 Fund of the State; altering the maximum amount of a certain air quality control
7 permit fee; authorizing the Department of the Environment to charge a fee for
8 processing and issuing on-site sewage disposal permits and individual well
9 construction permits under certain circumstances and requiring the Department to
10 establish the fees by regulation; authorizing the Department to establish a certain
11 fee for the Responsible Personnel Training Program Certification; requiring the
12 Department to deposit certain fees into the Maryland Clean Water Fund; requiring
13 a holder of a license to transfer oil into the State to pay a certain fee when oil owned
14 by the licensee is first transferred into the State; altering the basis for calculating a
15 certain fee credited to the Maryland Oil Disaster Containment, Clean-Up and
16 Contingency Fund; repealing the requirement that an applicant for a license to
17 transfer oil into the State provide certain information to the Department as a
18 condition precedent to the issuance or renewal of the license; altering certain
19 application fees under the wetlands and waterways program and requiring the
20 Department to issue a public notice of the adjusted fees in a certain manner;
21 establishing the Private Dam Repair Fund as a special, nonlapsing fund to provide
22 financial assistance for the repair, upgrade, or removal of private dams; authorizing
23 the Department to provide loans from the Private Dam Repair Fund to certain dam
24 owners for certain purposes; requiring the Maryland Water Infrastructure Financing
25 Administration to administer loans from the Private Dam Repair Fund in a certain
26 manner; requiring interest earnings of the Private Dam Repair Fund to be credited
27 to the Fund; requiring certain dam owners to register with the Department;
28 requiring the Department to establish and collect certain registration and permit
29 fees and deposit the fees into the Private Dam Repair Fund; altering certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



penalties and requiring penalties for certain dam safety violations to be deposited into the Private Dam Repair Fund; altering certain dam safety requirements; altering the fee required to be paid to the Department for certain affected property under certain provisions of law requiring the reduction of lead risk in housing; altering the processing fee required to be submitted to the Department with a report that a rental dwelling unit is lead free; authorizing the Department to establish a protocol to stagger registrations of affected property for certain purposes; altering the fee for the initial application to the Voluntary Cleanup Program; requiring an applicant to or a participant of the Voluntary Cleanup Program to pay to the Department certain additional costs under certain circumstances; altering the factors that the Department is required to consider in establishing a certain fee to be paid by a certain generator of coal combustion by-products; altering certain surface mining license and permit fees; and generally relating to fees and penalties assessed, funding provided, and regulation by the Department of the Environment.

BY repealing and reenacting, with amendments,

Article – Environment

Section 1–301, 2–107, 2–403, 4–104, 4–411(a), (b), (c)(2), (3), and (7), and (h), 5–203.1, 5–509, 5–514, 6–843, and 7–506(a)

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

BY repealing

Article – Environment

Section 4–411(d)

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

BY adding to

Article – Environment

Section 5–203.2, 5–509.1, and 5–509.2

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,

Article – Environment

Section 7–503 and 7–506(b)

Annotated Code of Maryland

(2013 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 9–283, 9–320(b), 9–1606, 15–807, 15–815, and 15–816

Annotated Code of Maryland

(2014 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement
Section 6–226(a)(2)(i)
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 6–226(a)(2)(ii) 189. and 190.
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY adding to
Article – State Finance and Procurement
Section 6–226(a)(2)(ii) 191.
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY renumbering
Article – Environment
Section 4–411(e) through (g)
to be Section 4–411(d) through (f), respectively
Annotated Code of Maryland
(2013 Replacement Volume and 2023 Supplement)

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

Article – Environment

2–107.

(a) There is a Maryland Clean Air Fund.

(b) Except as provided in § 2–1002(g) of this title, all application fees, permit fees, renewal fees, and funds collected by the Department under this title, Title 6, Subtitle 4 of this article, or received from the Maryland Strategic Energy Investment Fund under § 9–20B–05(g)(3)(iii) of the State Government Article, including any civil or administrative penalty or any fine imposed by a court under these provisions, shall be paid into the Maryland Clean Air Fund.

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

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

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

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

(3) At the end of the fiscal year, the Department shall:

(i) Prepare an annual report on:

1. The Maryland Clean Air Fund that includes an accounting of all financial receipts and expenditures to and from the Fund; and

2. Any relevant information regarding the federal approval process, the effectiveness of the permitting program, and any other issues related to the operation of the permitting program established under § 2–401 of this title;

(ii) Provide a copy of the report to the General Assembly, as provided under § 2–1257 of the State Government Article; and

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

(4) [When the Fund equals or exceeds a maximum limit of \$2,000,000, additional money received for the Fund by the Department shall be deposited to the General Fund] **MONEY DEPOSITED INTO THE FUND IS NOT SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND MAY NOT REVERT TO THE GENERAL FUND OF THE STATE.**

2–403.

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

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

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

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

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

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

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

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

(i) \$50] **\$200** per ton of regulated emissions[; and

(ii) \$500,000 for any single source in calendar years 2008 and 2009].

(2) For purposes of calculating fees under this section, carbon dioxide emissions shall be excluded.

(3) The fee established under this section may be adjusted to reflect changes in the Consumer Price Index[, as authorized by 40 C.F.R. Part 70 (Operating Permit Program)].

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

Article – Environment

1–301.

(a) The Secretary shall carry out and enforce the provisions of this article and the rules and regulations adopted under this article.

(b) The Secretary may delegate duties, powers, and functions as provided in this article to a health officer for a county or to another county official authorized to administer and enforce environmental laws.

(c) In those counties where a county official other than the health officer is authorized to administer and enforce State environmental laws under this section, the county shall establish minimum qualifications for that county official that include standards of education and experience related to environmental issues.

(D) (1) THE DEPARTMENT MAY CHARGE A FEE FOR PROCESSING AND ISSUING ON-SITE SEWAGE DISPOSAL PERMITS AND INDIVIDUAL WELL CONSTRUCTION PERMITS IF:

(I) A COUNTY OFFICIAL OR HEALTH OFFICER IS UNWILLING OR THE DEPARTMENT DETERMINES THAT THEY ARE UNABLE TO FULFILL THE DELEGATED DUTIES, POWERS, AND FUNCTIONS TO THE SATISFACTION OF THE SECRETARY; AND

(II) THE DEPARTMENT OVERSEES THE ISSUANCE OF THE PERMITS.

(2) THE FEES SHALL BE:

(I) ESTABLISHED BY THE DEPARTMENT IN REGULATION; AND

(II) SET AT A RATE THAT PRODUCES FUNDS APPROXIMATE TO THE COST OF ADMINISTERING THE PERMIT PROCESS.

(3) THE FEES COLLECTED BY THE DEPARTMENT UNDER THIS SUBSECTION SHALL BE DEPOSITED INTO THE MARYLAND CLEAN WATER FUND IN § 9-320 OF THIS ARTICLE.

~~[(d)]~~ (E) (1) (i) On or before October 1 of each year, the Secretary, in consultation with the Attorney General, shall submit to the Legislative Policy Committee, in accordance with § 2-1257 of the State Government Article, a report on enforcement activities conducted by the Department during the previous fiscal year.

(ii) The report shall:

1. Include the information required under this subsection and any additional information concerning environmental enforcement that the Secretary decides to provide;

2. Be available to the public as soon as it is forwarded to the Legislative Policy Committee;

3. Include information on the total number of permits and licenses issued by or filed with the Department at any time and still in effect as of the last date of the fiscal year immediately preceding the date on which the report is filed;

4. Include information concerning specific enforcement actions taken with respect to the permits and licenses during the immediately preceding fiscal year; and

5. Include information on the type and number of contacts or consultations with businesses concerning compliance with State environmental laws.

(iii) The information required in the report under paragraph (3) of this subsection shall be organized according to each program specified.

(2) The report shall state the total amount of money as a result of enforcement actions, as of the end of the immediately preceding fiscal year:

(i) Deposited in the Maryland Clean Air Fund;

(ii) Deposited in the Maryland Oil Disaster Containment, Clean-Up and Contingency Fund;

(iii) Deposited in the Nontidal Wetland Compensation Fund;

(iv) Deposited in the Maryland Hazardous Substance Control Fund;

(v) Recovered by the Department from responsible parties in accordance with § 7-221 of this article; and

(vi) Deposited in the Maryland Clean Water Fund.

(3) (i) The report shall include the information specified in subparagraphs (ii), (iii), (iv), and (v) of this paragraph for each of the following programs in the Department:

1. Ambient air quality control under Title 2, Subtitle 4 of this article;

2. Oil pollution under Title 4, Subtitle 4 of this article;

3. Nontidal wetlands under Title 5, Subtitle 9 of this article;

4. Asbestos under Title 6, Subtitle 4 of this article;

5. Lead paint under Title 6, Subtitle 8 of this article;

6. Controlled hazardous substances under Title 7, Subtitle 2 of this article;

7. Water supply, sewerage systems, and refuse disposal systems under Title 9, Subtitle 2 of this article;

8. Water discharges under Title 9, Subtitle 3 of this article;

9. Drinking water under Title 9, Subtitle 4 of this article; and

10. Wetlands under Title 16, Subtitle 2 of this article.

(ii) For each of the programs set forth in subparagraph (i) of this paragraph, the Department shall provide the total number or amount of:

1 1. Final permits or licenses issued to a person or facility, as
2 appropriate, and not surrendered, suspended, or revoked;

3 2. Inspections, audits, or spot checks performed at facilities
4 permitted;

5 3. Injunctions obtained;

6 4. Show cause, remedial, and corrective action orders issued;

7 5. Stop work orders;

8 6. Administrative or civil penalties obtained;

9 7. Criminal actions charged, convictions obtained,
10 imprisonment time ordered, and criminal fines received; and

11 8. Any other actions taken by the Department to enforce the
12 requirements of the applicable environmental program, including:

13 A. Notices of the removal or encapsulation of asbestos under
14 § 6–414.1 of this article; and

15 B. Actions enforcing user charges against industrial users
16 under § 9–341 of this article.

17 (iii) In addition to the information required in subparagraph (ii) of
18 this paragraph, for the Lead Paint Program under Title 6, Subtitle 8 of this article, the
19 report shall include the total number or amount of:

20 1. Affected properties registered; and

21 2. Inspectors or other persons accredited by the Department,
22 for whom accreditation has not been surrendered, suspended, or revoked.

23 (iv) In addition to the information required in subparagraph (ii) of
24 this paragraph, for the Controlled Hazardous Substances Program under Title 7, Subtitle
25 2 of this article, the report shall include the following lists, updated to reflect the most
26 recent information available for the immediately preceding fiscal year:

27 1. Possible controlled hazardous substance sites compiled in
28 accordance with § 7–223(a) of this article;

29 2. Proposed sites listed in accordance with § 7–223(c) of this
30 article at which the Department intends to conduct preliminary site assessments; and

3. Hazardous waste sites in the disposal site registry compiled in accordance with § 7–223(f) of this article.

(v) In addition to the information required in subparagraph (ii) of this paragraph, for the Drinking Water Program, the report shall include the total number of:

1. Actions to prevent public water system contamination or to respond to a Safe Drinking Water Act emergency under §§ 9–405 and 9–406 of this article; and

2. Notices given to the public by public water systems under § 9–410 of this article.

4–104.

(a) In this section, “responsible personnel” means any foreman, superintendent, or project engineer who is in charge of on–site clearing and grading operations or sediment control associated with a construction project.

(b) **(1)** After July 1, 1983, any applicant for sediment and erosion control plan approval shall certify to the appropriate jurisdiction that any responsible personnel involved in the construction project will have a certificate of attendance at a Department [of the Environment] approved training program for the control of sediment and erosion before beginning the project.

(2) A certificate shall be [valid]:

(I) **VALID** for a 3–year period[. A certificate shall be automatically];
AND

(II) **AUTOMATICALLY** renewed unless the Department [of the Environment] notifies the certificate holder that additional training is required.

(c) The appropriate governmental entity authorized to approve grading and sediment control plans may waive the requirement of this section for the responsible personnel on any project involving four or fewer residential units.

(d) Any person may develop and conduct a training program if the program content and instructor are approved by and meet the requirements set by the Department [of the Environment].

(E) (1) THE DEPARTMENT MAY ESTABLISH BY REGULATION A FEE FOR PROCESSING AND ISSUING THE CERTIFICATION.

(2) A FEE ESTABLISHED UNDER THIS SUBSECTION SHALL BE SET AT

1 A RATE THAT PRODUCES FUNDS APPROXIMATELY THE SAME AS THE COST OF
2 PROCESSING AND ISSUING THE CERTIFICATION.

3 (3) THE DEPARTMENT SHALL DEPOSIT ANY FEE COLLECTED UNDER
4 THIS SUBSECTION INTO THE MARYLAND CLEAN WATER FUND IN § 9-320 OF THIS
5 ARTICLE.

6 4-411.

7 (a) (1) In this section the following words have the meanings indicated.

8 (2) “Barrel” means any measure of petroleum products or its by-products
9 which consists of 42.0 U.S. gallons of liquid measure.

10 (3) “Fund” means the Maryland Oil Disaster Containment, Clean-Up and
11 Contingency Fund.

12 (4) “Transfer” means the offloading or onloading of oil [in] INTO the State
13 from or to any commercial vessel, barge, tank truck, tank car, pipeline, or any other means
14 used for transporting oil.

15 (b) A person other than a vessel or barge may not transfer oil [in] INTO the State
16 without a license.

17 (c) (2) The fee on any barrel TRANSFERRED INTO THE STATE UNDER A
18 LICENSE shall be [imposed]:

19 (I) PAID BY THE LICENSEE THAT OWNS THE OIL WHEN THE OIL
20 IS FIRST TRANSFERRED INTO THE STATE; AND

21 (II) IMPOSED only once, at the point of first transfer [in] INTO the
22 State.

23 (3) The [license] fee UNDER PARAGRAPH (2) OF THIS SUBSECTION shall
24 be:

25 (i) Credited to the Maryland Oil Disaster Containment, Clean-Up
26 and Contingency Fund and based on:

27 1. Before July 1, 2024, a 7.75 cents per barrel fee for oil
28 transferred [in] INTO the State; and

29 2. On or after July 1, 2024, [a 5] AN 8 cents per barrel fee for
30 oil transferred [in] INTO the State; and

(ii) Until July 1, 2024, based on an additional 0.25 cent per barrel fee for oil transferred [in] **INTO** the State and credited to the Oil Contaminated Site Environmental Cleanup Fund as described in Subtitle 7 of this title.

(7) The Department shall [promulgate rules and] **ADOPT** regulations, establish audit procedures for the audit of licensees, and prescribe and publish forms as may be necessary to effectuate the purposes of this section.

[(d) As a condition precedent to the issuance or renewal of a license, the Department shall require satisfactory evidence that the applicant has implemented or is in the process of implementing State and federal plans and regulations to control pollution related to oil, petroleum products, and their by-products and the abatement thereof when a discharge occurs.]

[(h)] **(G) (1)** The Department shall provide the standing committees of the Maryland General Assembly with primary jurisdiction over this section with a status report on the Fund on or before January 1 of each year in accordance with § 2–1257 of the State Government Article.

(2) The report shall include an accounting of all money expended for each of the purposes specified in subsection [(g)] **(F)** of this section.

5–203.1.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Commercial activity” means a project or activity undertaken for consideration, regardless of whether a profit is made.

(ii) “Commercial activity” includes:

1. A subdivision;
2. A development; and
3. Constructing or operating a marina.

(3) “Commercial building” means a building that is used primarily for commercial activity.

(4) “Development” means a project for the construction of:

- (i) Two or more residential dwelling units;
- (ii) A commercial structure; or

(iii) An industrial structure.

(5) “Dwelling unit” means a property that contains:

(i) One or more rooms used as a residence;

(ii) Kitchen facilities; and

(iii) Bathroom facilities.

(6) “Major project” means a project that:

(i) Proposes to permanently impact 5,000 square feet or more of wetlands or waterways, including the 100–year floodplain;

(ii) Is located in an area identified as potentially impacting a nontidal wetland of special State concern by a geographical information system database that:

1. Has been developed and maintained by the Department of Natural Resources; and

2. Is used by the Department to screen incoming applications; or

(iii) Requires the issuance of a public notice by the Department.

(7) “Marina” means a facility for the mooring, docking, or storing of more than 10 vessels on tidal navigable waters, including a commercial, noncommercial, or community facility.

(8) “Minor project” means a project that:

(i) Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100–year floodplain; and

(ii) Does not meet the definition of a major project.

(9) “Residential activity” means a noncommercial activity that is conducted on residential property.

(10) (i) “Residential property” means improved property that is used primarily as a residence or unimproved property that is zoned for use as a residence.

(ii) “Residential property” includes:

1. Property owned by a homeowners’ association; and

2. A condominium.

(iii) “Residential property” does not include:

1. A commercial building;

2. A marina; or

3. A residential apartment complex or building.

(11) (i) “Subdivision” means the division of a lot, tract, or parcel of land into two or more lots, plots, sites, tracts, parcels, or other divisions for the immediate or future purpose of selling or development.

(ii) “Subdivision” includes resubdivision.

(b) (1) Except as provided under paragraphs (2), (3), and (6) of this subsection, all applications for wetlands and waterways authorizations issued by the Department under §§ 5–503 and 5–906 of this title and §§ 16–202, 16–302, and 16–307 of this article or wetlands licenses issued by the Board of Public Works under § 16–202 of this article shall be accompanied by an application fee as follows:

(i) For an application for a minor project or general permit.....[\$750]

\$980;

(ii) For an application for a minor modification.....[\$250]

\$330;

(iii) For an application for a major project with a proposed permanent impact of:

1. Less than 1/4 acre.....[\$1,500]

\$1,950;

2. At least 1/4 acre, but less than 1/2 acre.....[\$3,000]

\$3,890;

3. At least 1/2 acre, but less than 3/4 acre.....[\$4,500]

\$5,830;

4. At least 3/4 acre, but less than 1 acre.....[\$6,000]

\$7,780; and

5. 1 acre or more.....the impact area in acres multiplied by

1 ~~[\$7,500]~~ **\$9,720**; and

2 (iv) For an application for a major modification.....~~[\$1,500]~~
3 **\$1,950**.

4 (2) The following are exempt from the application fees established under
5 paragraph (1) of this subsection:

6 (i) Regulated activities conducted by the State, a municipal
7 corporation, county, bicounty or multicounty agency under Division II of the Land Use
8 Article or Division II of the Public Utilities Article, or a unit of the State, a municipal
9 corporation, or a county;

10 (ii) Performance of agricultural best management practices
11 contained in a soil conservation and water quality plan approved by the appropriate soil
12 conservation district;

13 (iii) Performance of forestry best management practices contained in
14 an erosion and sediment control plan:

15 1. Prepared by a registered forester; and

16 2. Approved by the appropriate soil conservation district;

17 (iv) Stream restoration, vegetative shoreline stabilization, wetland
18 creation, or other project in which the primary effect is to enhance the State's wetland or
19 water resources; and

20 (v) Aquacultural activities for which the Department of Natural
21 Resources has issued a permit under Title 4, Subtitle 11A of the Natural Resources Article.

22 (3) Except as provided in paragraph (4) of this subsection, the following
23 shall be minor projects and subject to the appropriate application fee under paragraph (1)(i)
24 and (ii) of this subsection:

25 (i) A residential activity issued a permit under §§ 5–503 and 5–906
26 of this title and §§ 16–202, 16–302, and 16–307 of this article; and

27 (ii) A mining activity undertaken on affected land as identified in a
28 permit issued under Title 15 of this article.

29 (4) Subject to paragraph (5) of this subsection, an application for the
30 following minor projects shall be accompanied by the following application fees:

31 (i) Installation of:

32 1. One boat lift or hoist, not exceeding four boat lifts or hoists

1 per pier;

2 2. One personal watercraft lift or hoist, not exceeding six
3 personal watercraft lifts or hoists per pier; or

4 3. A combination of boat lifts or hoists and personal
5 watercraft lifts or hoists, not exceeding six lifts or hoists per pier, of which not more than
6 four lifts or hoists are boat lifts or hoists ~~[\$300]~~ **\$385**;

7 (ii) Installation of a maximum of six mooring pilings.....~~[\$300]~~
8 **\$390**;

9 (iii) In-kind repair and replacement of structures.....~~[\$300]~~
10 **\$390**;

11 (iv) Installation of a fixed or floating platform on an existing pier
12 where the total platform area does not exceed 200 square feet.....~~[\$300]~~
13 **\$390**;

14 (v) Construction of a nonhabitable structure that permanently
15 impacts less than 1,000 square feet, such as a driveway, deck, pool, shed, or fence.....~~[\$300]~~
16 **\$390**;

17 (vi) Replacement of an existing bulkhead where the replacement
18 bulkhead does not exceed more than 18 inches channelward of the existing
19 structure.....~~[\$500]~~
20 **\$650**; and

21 (vii) In-kind repair and replacement of existing
22 infrastructure.....~~[\$500]~~
23 **\$650**.

24 (5) The Department may not require an application fee for:

25 (i) The installation of a boat lift, hoist, or personal watercraft lift on
26 existing pilings; or

27 (ii) If the existing structure is functional and there is no increase in
28 the original length, width, height, or channelward encroachment authorized under §
29 16–202, § 16–302, or § 16–307 of this article, the routine maintenance, repair, or
30 replacement of:

31 1. A highway structure;

32 2. A pier;

3. A boathouse;
4. A structure on a pier;
5. A bulkhead;
6. A revetment;
7. A tidal impoundment dike;
8. A water control structure;
9. An aboveground transmission facility;
10. An agricultural drainage ditch; or
11. A highway drainage ditch.

(6) The application fee for a structural shoreline stabilization project located on or adjacent to a State-owned lake may not exceed ~~[\$250]~~ **\$290**.

(7) **[**The fees imposed under this subsection may not be modified without legislative enactment.

(8) (i) Subject to paragraph (7) of this subsection, the]

(I) THE Department may adjust the fees established under paragraphs (1), (4), and (6) of this subsection to reflect changes in the consumer price index for all “urban consumers” for the expenditure category “all items not seasonally adjusted”, and for all regions.

(ii) The Annual Consumer Price Index for the period ending each December, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, shall be used to adjust the fees established under paragraphs (1), (4), and (6) of this subsection.

(8) THE DEPARTMENT SHALL ISSUE A PUBLIC NOTICE OF THE ADJUSTED FEES AT LEAST 90 DAYS BEFORE THE NEW FEE RATES TAKE EFFECT.

(c) (1) There is a Wetlands and Waterways Program Fund.

(2) The Department shall administer the Fund.

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

1 (4) The Fund consists of all:

2 (i) Application fees collected by the Department under this section;

3 (ii) Monetary compensation paid to the State in conjunction with a
4 wetlands license other than that compensation specified in § 16–205(e)(2) of this article;

5 (iii) Money appropriated in the State budget to the Fund; and

6 (iv) Investment earnings, interest, and any other money from any
7 other source accepted for the benefit of the Fund.

8 (5) In accordance with subsection (e) of this section, the Department shall
9 use the Wetlands and Waterways Program Fund for activities related to:

10 (i) The issuance of authorizations by the Department under §§
11 5–503 and 5–906 of this title and §§ 16–202, 16–302, and 16–307 of this article or the
12 issuance of wetlands licenses by the Board of Public Works under § 16–202 of this article;

13 (ii) The management, conservation, protection, and preservation of
14 the State’s wetlands and waterways resources; and

15 (iii) Program development associated with this title and Title 16 of
16 this article, as provided by the State budget.

17 (d) On or before December 31 of each year, in accordance with § 2–1257 of the
18 State Government Article, the Department shall prepare and submit an annual report to
19 the House Environment and Transportation Committee, the House Appropriations
20 Committee, the Senate **COMMITTEE ON Education, [Health, and Environmental Affairs**
21 **Committee] ENERGY, AND THE ENVIRONMENT**, and the Senate Budget and Taxation
22 Committee on the Wetlands and Waterways Program Fund, including an accounting of
23 financial receipts deposited into the Fund and expenditures from the Fund.

24 (e) The Department shall:

25 (1) Prioritize the use of the Wetlands and Waterways Program Fund to
26 improve the level of service to the regulated community;

27 (2) Identify and implement measures that will reduce delays and
28 duplication in the administration of the wetlands and waterways permit process, including
29 the processing of applications for wetlands and waterways permits in accordance with §
30 1–607 of this article; and

31 (3) In conjunction with the Department of Natural Resources, identify up
32 to three types of structural shoreline stabilization practices that may be implemented on
33 or adjacent to a State-owned lake.

5-203.2.

(A) IN THIS SECTION, “DAM SAFETY PERMIT” MEANS A PERMIT ISSUED UNDER § 5-503 OF THIS TITLE FOR THE CONSTRUCTION, RECONSTRUCTION, REPAIR, REMOVAL, OR MODIFICATION OF A DAM.

(B) (1) BY REGULATION, THE DEPARTMENT SHALL ESTABLISH AND COLLECT A FEE TO BE PAID PRIOR TO ISSUANCE OF A DAM SAFETY PERMIT.

(2) THE DEPARTMENT SHALL BASE THE FEE ON:

(I) PROJECT COST; AND

(II) THE COST TO THE DEPARTMENT FOR ADMINISTERING THE DAM SAFETY PERMIT.

(C) THE APPLICATION FOR A NEW DAM, OR THE ENLARGEMENT, REPAIR, ALTERATION, OR REMOVAL OF AN EXISTING DAM, SHALL INCLUDE THE ESTIMATED PROJECT COST.

(D) PERIODICALLY, THE DEPARTMENT SHALL REVIEW THE FEES AND IF NEEDED ADJUST THE FEES TO ENSURE THE AMOUNT COLLECTED COVERS THE DEPARTMENT’S COSTS FOR ADMINISTERING THE DAM SAFETY PERMIT.

(E) FEES COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE PRIVATE DAM REPAIR FUND ESTABLISHED UNDER § 5-509.2 OF THIS TITLE.

5-509.

(a) (1) In this section the following words have the meanings indicated.

(2) [“Asset owner” means the owner or person having control of a water infrastructure asset.

(3)] “Association” means:

(i) A homeowners association, as defined in § 11B-101 of the Real Property Article;

(ii) A council of unit owners, as defined in § 11-101 of the Real Property Article; or

(iii) Any other entity owning or controlling a [water infrastructure

asset] **DAM**, the owners or members of which are owners of property adjacent to or benefited by the [water infrastructure asset] **DAM**.

[(4)] (3) “Association member” means an owner or a member of an association.

(4) “DAM OWNER” MEANS THE OWNER OR PERSON HAVING CONTROL OF THE NORMAL OPERATION OR MAINTENANCE OF A DAM.

(5) [“Water infrastructure asset” means a reservoir, a dam, or any other waterway construction.] “UNSAFE CONDITION” MEANS THE CONDITION OF A DAM DETERMINED BY THE DEPARTMENT TO BE UNSAFE DUE TO THE STRUCTURE:

(I) BEING IN POOR CONDITION;

(II) HAVING AN INADEQUATE SPILLWAY;

(III) POSING IMMINENT DANGER OF FAILURE; OR

(IV) HAVING ANOTHER CONDITION DETERMINED UNSAFE BY THE DEPARTMENT.

(b) (1) On complaint or the Department’s own initiative, the Department may investigate or examine any [water infrastructure asset] **DAM**.

(2) If the Department determines that the [water infrastructure asset] **DAM** is **IN AN** unsafe **CONDITION**, needs repair, or should be removed because the [water infrastructure asset] **DAM** is unsafe and not repairable, the Department shall notify the [asset] **DAM** owner in writing to repair or remove the [water infrastructure asset] **DAM**, as the situation warrants.

(3) The repair or removal work shall be completed within a reasonable time, which time shall be prescribed in the Department’s notice.

(4) (i) This paragraph applies to a [water infrastructure asset] **DAM** that the Department determines meets the criteria specified in paragraph (2) of this subsection.

(ii) If the Department determines that changes to the [water infrastructure asset] **DAM**, including removal of the [asset] **DAM**, are a priority for improving fish passage or for other environmental benefits, the Department **MAY**:

1. [May partner] **PARTNER** with the [asset] **DAM** owner and an organization that provides resources and expertise to plan, design, or finance changes to [water infrastructure assets] **DAMS** for the purpose of repairing, removing, or retrofitting

the [asset] DAM in a manner consistent with the Department's objectives; or

2. [Shall prioritize] **PRIORITIZE** the use of environmental outcomes, as defined in § 9-1601 of this article, arising from the repair, removal, or retrofit of the [water infrastructure asset] DAM in any environmental mitigation program identified by the Department.

(iii) For the purpose of seeking financial assistance under Title 5, Subtitle 4 of the Economic Development Article, if the Department determines that the [water infrastructure asset] DAM is not a priority under subparagraph (ii) of this paragraph but is a priority for installation of less than 30 megawatts of small hydroelectric power plant capacity, the Department shall provide notice to the Maryland Industrial Development Financing Authority of:

1. Any [water infrastructure asset] DAM identified as a priority for installation of less than 30 megawatts of small hydroelectric power plant capacity under this paragraph; and

2. The repair, retrofit, or removal measures identified for the [water infrastructure asset] DAM in the notice provided under paragraph (2) of this subsection.

(c) If the work is not completed in the time prescribed in the notice:

(1) The Department may have the work completed at the expense of the [asset] DAM owner;

(2) The Department shall charge the [asset] DAM owner for the costs to complete the work; and

(3) If repayment is not made within 30 days after written demand, the Department may bring an action in the proper court to recover the costs to complete the work.

(d) (1) The Department may take emergency actions necessary to protect life, property, or the environment if:

(i) 1. The Department determines that a [water infrastructure asset] DAM is in imminent danger of failure; and

2. The [asset] DAM owner has been issued a notice by the Department under subsection (b) of this section and has not completed the work in accordance with the time prescribed in the notice; or

(ii) The Department determines that:

1 1. A [water infrastructure asset] DAM is failing **OR IN**
2 **IMMINENT DANGER OF FAILING**; and

3 2. The [asset] DAM owner is not taking adequate actions to
4 protect life, property, or the environment.

5 (2) Emergency actions taken by the Department under this subsection may
6 include:

7 (i) Taking control of the [water infrastructure asset] DAM;

8 (ii) Lowering the level of water impounded by the [water
9 infrastructure asset] DAM by releasing the impounded water or by other means;

10 (iii) Completely releasing all water impounded by the [water
11 infrastructure asset] DAM;

12 (iv) Performing any necessary remedial or protective work at the site
13 of the [water infrastructure asset] DAM, including breaching the [water infrastructure
14 asset] DAM; and

15 (v) Taking any other steps the Department deems necessary to
16 safeguard life, property, or the environment.

17 (3) The Department or its agents may enter any property, without prior
18 notice to the owner of the property, if the entry is necessary to carry out emergency actions
19 under this subsection.

20 (4) If the Department takes control of a [water infrastructure asset] DAM
21 under paragraph (2)(i) of this subsection, the Department shall remain in charge and
22 control of the [water infrastructure asset] DAM until the Department has determined that
23 the [water infrastructure asset] DAM has been rendered safe or the circumstances
24 requiring the emergency actions have ceased.

25 (5) The Department may obtain equipment, personnel, and other resources
26 for emergency actions taken under this subsection through any appropriate means,
27 including emergency procurements under § 13–108 of the State Finance and Procurement
28 Article.

29 (e) (1) Costs incurred by the Department under this section shall:

30 (i) Constitute a debt owed to the State; and

31 (ii) Be reimbursed to the Department by the [asset] DAM owner.

32 (2) If any such cost remains unreimbursed 30 days after the Department

1 makes a demand for reimbursement from the [asset] DAM owner, the [water infrastructure
2 asset] DAM shall be subject to the establishment of a lien in accordance with this section
3 for the payment of the unreimbursed amount.

4 (f) (1) With respect to costs incurred by the Department under this section
5 relating to a [water infrastructure asset] DAM for which an association is the [asset] DAM
6 owner, if any such cost remains unreimbursed 30 days after the Department makes a
7 demand for reimbursement from the association, such costs shall be a debt to the State
8 owed, and shall be reimbursed to the Department, by the association members, jointly and
9 severally, notwithstanding any provision of law that would otherwise relieve the
10 association members of such liability.

11 (2) If any such cost remains unreimbursed 30 days after the Department
12 makes a demand for reimbursement from the association members, the lots, condominium
13 units, or other property owned by the association members that is adjacent to or benefited
14 by the [water infrastructure asset] DAM shall be subject to the establishment of a lien in
15 accordance with this section for the payment of the unreimbursed amount.

16 (g) (1) Any lien arising under subsections (e) and (f) of this section shall, to the
17 extent not otherwise expressly prohibited by law, have priority over all other liens and
18 encumbrances perfected after July 1, 2020, on the [water infrastructure asset] DAM, or the
19 lots, condominium units, or other property owned by the association members that is
20 adjacent to or benefited by the [water infrastructure asset] DAM.

21 (2) The establishment and enforcement of liens arising under subsections
22 (e) and (f) of this section shall be governed by the rules set forth in Title 12, Chapter 300 of
23 the Maryland Rules.

24 (h) No action may be brought against the State, the Department, or their
25 respective agents or employees for the recovery of damages caused by the partial or total
26 failure of any [water infrastructure asset] DAM, or the control or operation of any [water
27 infrastructure asset] DAM, on the ground that the State, the Department, or their
28 respective agents or employees are liable by virtue of any of the following:

29 (1) The approval or permitting of the [water infrastructure asset] DAM;

30 (2) The issuance or enforcement of orders relative to maintenance or
31 operation of the [water infrastructure asset] DAM;

32 (3) Control or regulation of the [water infrastructure asset] DAM;

33 (4) Actions taken to protect against failure during an emergency, including
34 any actions taken under this subsection;

35 (5) The use of design and construction criteria prepared, approved, or
36 promulgated by the Department; or

(6) The failure to issue or enforce orders, to control or regulate [water infrastructure assets] DAMS, to take measures to protect against any failure thereof, or to take any emergency actions contemplated by this subsection.

(i) Nothing in this section, and no act or omission of the Department under this section, shall be construed to relieve [an asset] A DAM owner of:

(1) The legal duties, obligations, or liabilities incident to the ownership or operation of a [water infrastructure asset] DAM; or

(2) Any liability for acts or omissions of the [asset] DAM owner that cause injury or death to any person, damage to any property or the environment, or violation of any law, regulation, or permit, even if acts or omissions of the Department under this section could be deemed an intervening cause of such injury, death, damage, or violation.

(j) This section does not apply to farm ponds used for agricultural purposes.

5-509.1.

(A) IN THIS SECTION, “DAM OWNER” HAS THE MEANING STATED IN § 5-509 OF THIS SUBTITLE.

(B) THIS SECTION DOES NOT APPLY TO A DAM OWNED BY THE FEDERAL GOVERNMENT.

(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, ALL DAM OWNERS SHALL REGISTER THEIR DAMS ANNUALLY WITH THE DEPARTMENT.

(D) TO REGISTER WITH THE DEPARTMENT, A DAM OWNER SHALL:

(1) SUBMIT AN APPLICATION TO THE DEPARTMENT ON THE FORM PROVIDED BY THE DEPARTMENT; AND

(2) PAY TO THE DEPARTMENT A REGISTRATION FEE.

(E) THE DEPARTMENT SHALL:

(1) ESTABLISH THE REGISTRATION FEE BY REGULATION; AND

(2) BASE THE REGISTRATION FEE ON THE DAM HAZARD CLASSIFICATION.

(F) REGISTRATION FEES COLLECTED UNDER THIS SECTION SHALL BE PAID

1 INTO THE PRIVATE DAM REPAIR FUND ESTABLISHED UNDER § 5-509.2 OF THIS
2 SUBTITLE.

3 **5-509.2.**

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

6 (2) "DAM OWNER" HAS THE MEANING STATED IN § 5-509 OF THIS
7 SUBTITLE.

8 (3) (I) "ELIGIBLE COST" MEANS ANY COST TO BE INCURRED BY A
9 DAM OWNER FOR THE REPAIR, EMERGENCY REPAIR, OR PERMANENT BREACH OF A
10 DAM.

11 (II) "ELIGIBLE COST" INCLUDES CONSTRUCTION ACTIVITIES,
12 ENGINEERING FEES, DEMOLITION, EXCAVATION, STABILIZATION, AND RELATED
13 COSTS.

14 (4) "FUND" MEANS THE PRIVATE DAM REPAIR FUND.

15 (5) "LOAN" MEANS A PRIVATE DAM REPAIR LOAN MADE IN
16 ACCORDANCE WITH THIS SECTION.

17 (6) "PRIVATE DAM" MEANS A DAM THAT IS NOT OWNED BY THE
18 FEDERAL GOVERNMENT, THE STATE GOVERNMENT, OR A COUNTY OR MUNICIPAL
19 GOVERNMENT.

20 (7) "UNSAFE CONDITION" HAS THE MEANING STATED IN § 5-509 OF
21 THIS SUBTITLE.

22 (B) (1) THERE IS A PRIVATE DAM REPAIR FUND.

23 (2) THE PURPOSE OF THE FUND IS TO PROVIDE FINANCIAL
24 ASSISTANCE FOR THE REPAIR, UPGRADE, OR REMOVAL OF PRIVATE DAMS IN
25 ACCORDANCE WITH THIS SUBTITLE.

26 (3) THE MARYLAND WATER INFRASTRUCTURE FINANCING
27 ADMINISTRATION WITHIN THE DEPARTMENT SHALL ADMINISTER THE FUND.

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

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

3 **(D) THE FUND CONSISTS OF:**

4 **(1) DAM SAFETY PERMIT FEES COLLECTED BY THE DEPARTMENT**
5 **UNDER § 5–203.2 OF THIS TITLE;**

6 **(2) DAM OWNER REGISTRATION FEES COLLECTED BY THE**
7 **DEPARTMENT UNDER § 5–509.1 OF THIS SUBTITLE;**

8 **(3) PAYMENTS RECEIVED FROM BORROWERS FOR DEPOSIT INTO THE**
9 **FUND IN REPAYMENT OF LOANS ISSUED UNDER SUBSECTION (H) OF THIS SECTION,**
10 **INCLUDING ANY LOAN ORIGATION FEES;**

11 **(4) PENALTIES DISTRIBUTED TO THE FUND UNDER § 5–514(c)(2) OF**
12 **THIS SUBTITLE;**

13 **(5) FUNDS APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

14 **(6) INTEREST EARNINGS; AND**

15 **(7) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
16 **THE BENEFIT OF THE FUND.**

17 **(E) THE FUND MAY BE USED ONLY FOR:**

18 **(1) PROVIDING FINANCIAL ASSISTANCE TO PRIVATE DAM OWNERS**
19 **FOR DEPARTMENT–DIRECTED UPGRADES, REPAIRS, OR REMOVALS;**

20 **(2) MAKING LOANS IN ACCORDANCE WITH THIS SECTION;**

21 **(3) FUNDING EMERGENCY REPAIRS AND REMOVALS OF PRIVATE**
22 **DAMS PERFORMED BY THE DEPARTMENT; AND**

23 **(4) REIMBURSING THE ADMINISTRATIVE COST TO THE DEPARTMENT**
24 **OF PROCESSING AND ISSUING DAM SAFETY PERMITS AND PERFORMING THE DUTIES**
25 **UNDER § 5–509 OF THIS SUBTITLE.**

26 **(F) (1) THE STATE TREASURER SHALL INVEST MONEY OF THE FUND IN**
27 **THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

28 **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**

1 THE FUND.

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

4 (H) (1) (I) BEGINNING JULY 1, 2027, THE DEPARTMENT MAY PROVIDE
5 LOANS FROM THE FUND TO OWNERS OF PRIVATE DAMS FOR THE PURPOSE OF
6 REPAIRING OR REMOVING PRIVATE DAMS DEEMED TO BE IN AN UNSAFE CONDITION
7 BY THE DEPARTMENT.

8 (II) LOANS MADE UNDER THIS SUBSECTION SHALL BE
9 ADMINISTERED BY THE MARYLAND WATER INFRASTRUCTURE FINANCING
10 ADMINISTRATION IN ACCORDANCE WITH §§ 9-1604 AND 9-1606 OF THIS ARTICLE.

11 (2) (I) THE DEPARTMENT MAY ESTABLISH CRITERIA FOR
12 AWARDED LOANS UNDER THE FUND.

13 (II) ELIGIBLE APPLICANTS MAY INCLUDE DAM OWNERS THAT:

14 1. HAVE AN APPROVED EMERGENCY ACTION PLAN IN
15 ACCORDANCE WITH § 5-503.1 OF THIS SUBTITLE;

16 2. HAVE HAD AN INSPECTION OF THE PRIVATE DAM
17 PERFORMED BY THE DEPARTMENT THAT DOCUMENTS DEFICIENCIES IN
18 ACCORDANCE WITH § 5-509 OF THIS SUBTITLE WITHIN THE PAST 24 MONTHS;

19 3. CAN DEMONSTRATE, WITH DOCUMENTATION,
20 ACTIONS TAKEN TO ADDRESS DEFICIENCIES INDICATED IN INSPECTION REPORTS
21 PREPARED BY THE DEPARTMENT; AND

22 4. HAVE DEMONSTRATED AN ABILITY TO REPAY A LOAN.

23 (3) EACH LOAN MAY BE IN AN AMOUNT THAT COVERS THE
24 REASONABLE AND NECESSARY ELIGIBLE COSTS OF A PROJECT, AS DETERMINED BY
25 THE DEPARTMENT, FOR WHICH FUNDS ARE SOUGHT BY THE APPLICANT AND THAT
26 ARE NOT PROVIDED BY OTHER AVAILABLE SOURCES.

27 (4) A DAM OWNER MAY USE MULTIPLE PROGRAMS OR SOURCES TO
28 FUND THE REPAIR OR REMOVAL COSTS FOR A DAM IN AN UNSAFE CONDITION UP TO
29 100% OF THE COSTS.

30 (5) A DAM OWNER SEEKING A LOAN SHALL SUBMIT A COMPLETE LOAN
31 APPLICATION TO THE DEPARTMENT ON A FORM PROVIDED BY THE DEPARTMENT.

1 **(6) THE REPAYMENT PERIOD FOR A LOAN MAY NOT EXCEED 20**
2 **YEARS.**

3 **(7) THE LOAN SHALL BE MADE AT OR BELOW MARKET INTEREST**
4 **RATES.**

5 **(8) THE DEPARTMENT MAY CHARGE A LOAN ORIGINATION FEE THAT**
6 **MAY BE USED FOR THE REASONABLE COST OF ADMINISTERING THE LOAN PROGRAM.**

7 **(9) IF THE DEPARTMENT DETERMINES THAT A DAM OWNER DOES**
8 **NOT HAVE THE FINANCIAL RESOURCES TO REPAY A LOAN GRANTED UNDER THIS**
9 **SUBSECTION, THE DEPARTMENT MAY, AT THE DEPARTMENT'S DISCRETION,**
10 **AUTHORIZE PARTIAL FORGIVENESS OF THE LOAN.**

11 **(10) FULL REPAYMENT OF THE LOAN SHALL BE REQUIRED ON SALE OR**
12 **TRANSFER OF THE PROPERTY.**

13 **(11) (i) THE DEPARTMENT MAY ESTABLISH REMEDIES FOR LOAN**
14 **RECIPIENTS WHO FAIL TO MEET REPAYMENT OBLIGATIONS UNDER THE LOAN**
15 **TERMS.**

16 **(ii) IN ADDITION TO ANY OTHER ACTION AUTHORIZED BY THIS**
17 **SUBTITLE, THE ATTORNEY GENERAL MAY BRING AN ACTION TO RECOVER**
18 **PRINCIPAL, INTEREST, LATE FEES AND PENALTIES, ATTORNEY'S FEES, AND COSTS**
19 **FROM ANY LOAN RECIPIENT THAT DEFAULTS ON THE LOAN RECIPIENT'S**
20 **OBLIGATIONS UNDER THE LOAN AGREEMENT.**

21 **(iii) 1. IN THE EVENT OF A DEFAULT ON A LOAN OBLIGATION**
22 **ISSUED UNDER THIS SUBSECTION, THE DEPARTMENT MAY PLACE A LIEN AGAINST**
23 **THE PROPERTY THAT, SUBJECT TO THE TAX LIENS OF THE FEDERAL, STATE, AND**
24 **LOCAL GOVERNMENTS, SHALL HAVE THE SAME PRIORITY AND STATUS AS A LIEN OF**
25 **THE STATE FOR UNPAID TAXES UNDER §§ 14-804 AND 14-805 OF THE TAX -**
26 **PROPERTY ARTICLE.**

27 **2. THE DEPARTMENT MAY EXERCISE THE SAME RIGHTS**
28 **AND POWERS IN ENFORCING THE LIEN AND COLLECTING FUNDS FOR THE PAYMENT**
29 **OF AMOUNTS IN DEFAULT UNDER THE LOAN OBLIGATION AS THE STATE MAY**
30 **EXERCISE IN COLLECTING UNPAID TAXES UNDER TITLE 14, SUBTITLE 8 OF THE**
31 **TAX - PROPERTY ARTICLE.**

32 **(12) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT**
33 **THIS SUBSECTION.**

(I) ON OR BEFORE NOVEMBER 1, 2025, AND EACH NOVEMBER 1 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:

(1) THE STATUS OF THE FUND;

(2) REVENUES, ENCUMBRANCES TO, AND EXPENDITURES FROM THE FUND;

(3) A DESCRIPTION OF THE PROJECTS FUNDED BY THE FUND; AND

(4) THE NUMBER OF APPLICATIONS FOR FINANCIAL ASSISTANCE FROM THE FUND THAT WERE DENIED.

5-514.

(a) (1) In addition to being subject to an injunctive action under this subtitle, a person who violates any provision of this subtitle [relating to water appropriation and use] or any [rule,] regulation, order, or permit adopted or issued under [any such provision] THIS SUBTITLE is liable for a civil penalty not exceeding [\$5,000] \$10,000 per violation to be collected in a civil action brought by the Department.

(2) Each day a violation occurs or continues is a separate violation under this subsection.

(3) (i) Before bringing a civil action against a local government under this subsection, the Department shall meet and consult with the local government to seek an alternative resolution to the contested issue.

(ii) Prior consultation by the Department with the local government shall constitute compliance with this subsection.

(b) A person who violates a provision of this subtitle or a regulation adopted under this subtitle is subject to the penalties provided in § 9-343 of this article.

(c) (1) [All] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ALL funds collected by the Department under this section, including any civil penalty or any fine imposed by a court under the provisions of this section, shall be paid into the Maryland Clean Water Fund.

(2) FUNDS COLLECTED BY THE DEPARTMENT UNDER THIS SECTION RELATING TO AN UNSAFE CONDITION, AS DEFINED UNDER § 5-509 OF THIS SUBTITLE, SHALL BE PAID INTO THE PRIVATE DAM REPAIR FUND.

1 6–843.

2 (a) (1) Except as provided in this subsection and subsection (b) of this section,
3 and in cooperation with the Department of Housing and Community Development, the
4 State Department of Assessments and Taxation, and other appropriate governmental
5 units, the Department shall provide for the collection of [an annual] A fee for every rental
6 dwelling unit in the State.

7 (2) [The annual fee for an affected property is \$30] **FOR AN AFFECTED**
8 **PROPERTY, THE FEE:**

9 (I) **IS \$120; AND**

10 (II) **SHALL BE COLLECTED BY THE DEPARTMENT ONCE EVERY**
11 **2 YEARS.**

12 (3) (i) **1.** Subject to the provisions of subparagraphs (ii) and (iii) of
13 this paragraph, on or before December 31, 2000, the [annual] fee for a rental dwelling unit
14 built after 1949 that is not an affected property is \$5.

15 **2.** After December 31, 2000, there is no [annual] fee for a
16 rental dwelling unit built after 1949 that is not an affected property.

17 (ii) The owner of a rental dwelling unit built after 1949 that is not
18 an affected property may not be required to pay the fee provided under this paragraph if
19 the owner certifies to the Department that the rental dwelling unit is lead free pursuant to
20 § 6–804 of this subtitle.

21 (iii) An owner of a rental dwelling unit who submits a report to the
22 Department that the rental dwelling unit is lead free pursuant to § 6–804 of this subtitle
23 shall include a [\$10] **\$50** processing fee with the report.

24 (b) The fees imposed under this section do not apply to any rental dwelling unit:

25 (1) Built after 1978; or

26 (2) Owned and operated by a unit of federal, State, or local government, or
27 any public, quasi–public, or municipal corporation.

28 (c) **(1)** The fee imposed under this section shall be paid on or before December
29 31, 1995, or the date of registration of the affected property under Part III of this subtitle
30 and on or before December 31 [of each] **EVERY OTHER** year thereafter or according to a
31 schedule established by the Department by regulation.

32 **(2) THE DEPARTMENT MAY ESTABLISH A PROTOCOL TO STAGGER**
33 **REGISTRATIONS OF AFFECTED PROPERTY UNDER PART III OF THIS SUBTITLE TO**

1 **EQUALLY DIVIDE REGISTRATIONS OVER SEQUENTIAL CALENDAR YEARS.**

2 (d) An owner who fails to pay the fee imposed under this section is liable for a
3 civil penalty of up to triple the amount of each registration fee unpaid that, together with
4 all costs of collection, including reasonable attorney's fees, shall be collected in a civil action
5 in any court of competent jurisdiction.

6 7-503.

7 (a) There is a Voluntary Cleanup Program in the Department.

8 (b) The purpose of the Voluntary Cleanup Program is to:

9 (1) Encourage the investigation of eligible properties with known or
10 perceived contamination;

11 (2) Protect public health and the environment where cleanup projects are
12 being performed or need to be performed;

13 (3) Accelerate cleanup of eligible properties; and

14 (4) Provide predictability and finality to the cleanup of eligible properties.

15 7-506.

16 (a) (1) To participate in the Program, an applicant shall:

17 (i) Submit an application, on a form provided by the Department,
18 that includes:

19 1. Information demonstrating to the satisfaction of the
20 Department that the contamination did not result from the applicant knowingly or willfully
21 violating any law or regulation concerning controlled hazardous substances;

22 2. Information demonstrating the person's status as a
23 responsible person or an inculpable person;

24 3. Information demonstrating that the property is an eligible
25 property as defined in § 7-501 of this subtitle;

26 4. A detailed report with all available relevant information
27 on environmental conditions including contamination at the eligible property known to the
28 applicant at the time of the application;

29 5. An environmental site assessment that includes:

30 A. Established Phase I site assessment standards and follows

principles established by the American Society for Testing and Materials and that demonstrates to the satisfaction of the Department that the assessment has been conducted in accordance with those standards and principles; and

B. A Phase II site assessment unless the Department concludes, after review of the Phase I site assessment, that there is sufficient information to determine that there are no recognized environmental conditions, as defined by the American Society for Testing and Materials; and

6. A description, in summary form, of a proposed voluntary cleanup project that includes the proposed cleanup criteria under § 7–508 of this subtitle and the proposed future use of the property, if appropriate; and

(ii) Subject to paragraph (2) of this subsection, pay to the Department:

1. An initial application fee of [~~\$6,000~~] **\$10,000** which the Department may reduce on a demonstration of financial hardship in accordance with subsection (b) of this section;

2. An application fee of \$2,000 for each application submitted subsequent to the initial application for the same property; [and]

3. An application fee of \$2,000 for each application submitted subsequent to the initial application for contiguous or adjacent properties that are part of the same planned unit development or a similar development plan; **AND**

4. IF THE DIRECT COSTS OF REVIEW OF THE APPLICATION AND ADMINISTRATION AND OVERSIGHT OF THE RESPONSE ACTION PLAN EXCEED THE APPLICATION FEE, THE ADDITIONAL COSTS INCURRED BY THE DEPARTMENT.

(2) If an applicant certifies that the applicant intends to use the eligible property to generate clean or renewable energy, the Department shall waive the fees required under paragraph (1)(ii) of this subsection.

(b) The Department shall adopt regulations to establish criteria for determining whether an applicant has:

(1) Demonstrated financial hardship; or

(2) Certified that the applicant intends to use the eligible property to generate clean or renewable energy.

(a) Except as provided in subsection (c) of this section, by regulation, the Department shall establish and collect a fee to be paid by a generator of coal combustion by-products, based on a per ton rate of coal combustion by-products generated by the generator annually.

(b) The Department shall base the fees on the following factors:

(1) The total annual tonnage of coal combustion by-products that the generator generates;

(2) The type and volume of coal combustion by-products generated by the generator;

(3) Whether the generator uses or disposes of the coal combustion by-products;

(4) To the extent that the coal combustion by-products are used rather than disposed of, the types of the uses;

(5) Whether the coal combustion by-products are transported for use or disposal out-of-state; [and]

(6) **THE VOLUME OF COAL COMBUSTION BY-PRODUCTS THAT HAVE BEEN DISPOSED OF AND REMAIN IN LANDFILLS OR OTHER STORAGE UNITS IN THE STATE THAT ARE SUBJECT TO INSPECTION AND MONITORING, NOT INCLUDING COAL COMBUSTION BY-PRODUCTS THAT HAVE BEEN:**

(I) ADDED TO CEMENT PRODUCTS;

(II) USED IN COAL MINE RECLAMATION; OR

(III) BENEFICIALLY REUSED IN A MANNER ACCEPTABLE TO THE DEPARTMENT; AND

(7) Other factors the Department considers appropriate.

(c) The Department may not establish or impose a fee on coal combustion by-products that are:

(1) Beneficially used, as the Department determines; or

(2) Used for coal mine reclamation in accordance with regulations the Department adopts or with regulations of the receiving state.

(d) Fees imposed on coal combustion by-products that are transported for use or disposal out-of-state may not exceed 50% of the fees established for disposal in-State.

(e) The fees collected by the Department under this section shall be deposited into the Fund and used in accordance with § 9–284 of this subtitle.

(f) The fees imposed shall be set at the rate necessary to implement the purposes set forth in § 9–284 of this subtitle.

(g) In any fiscal year, if the fee schedule established by the Department generates revenue that exceeds the amount necessary to operate a regulatory program to control the management of coal combustion by-products, the Department shall reduce the fees in the following fiscal year.

9–320.

(b) The following payments shall be made into the Maryland Clean Water Fund:

(1) All application fees, permit fees, renewal fees, and funds collected by the Department under this subtitle, including any civil or administrative penalty or any fine imposed by a court under the provisions of this subtitle;

(2) Any civil penalty or any fine imposed by a court under the provisions of Title 5, Subtitle 5 of this article relating to water appropriation and use;

(3) Any civil or administrative penalty or any fine imposed by a court under the provisions of Title 4, Subtitle 1 of this article;

(4) Any fees or funds that the Department collects under Subtitle 2, Part III of this title and §§ 9–269 and 9–270 of this title and any civil or administrative penalty or fine imposed by a court under the provisions of Subtitle 2 of this title; [and]

(5) Any fees or funds that the Department collects under Subtitle 24 of this title and any civil or administrative penalty or fine imposed by a court under the provisions of Subtitle 24 of this title; **AND**

(6) ANY OTHER FEES LEGALLY AUTHORIZED TO BE PAID INTO THE MARYLAND CLEAN WATER FUND.

9–1606.

(a) (1) A loan made by the Administration shall be evidenced by a loan agreement.

(2) Loans made from the Water Quality Fund, except for loans made in accordance with § 9–1605(d)(9) of this subtitle, shall be subject to the provisions of § 9–1605(d)(1) of this subtitle.

(3) Loans made from the Drinking Water Loan Fund, except for loans made in accordance with § 9–1605.1(d)(10) of this subtitle, shall be subject to the provisions of § 9–1605.1(d)(1) of this subtitle.

(4) LOANS MADE FROM THE PRIVATE DAM REPAIR FUND SHALL BE SUBJECT TO THE PROVISIONS OF § 5–509.2 OF THIS ARTICLE.

(5) Subject to the provisions of any applicable bond resolution, the Administration may consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, or any other term of any loan agreement or loan obligation.

(6) In connection with any security received by or owned by the Administration, including any loan obligations, the Administration may commence any action to protect or enforce the rights conferred upon it by any law or loan agreement or loan obligation.

(b) Notwithstanding any other provision of public general or public local law, charter, or ordinance, a borrower may issue and sell loan obligations to the Administration:

(1) At private sale, without public bidding;

(2) Without regard to any limitations on the denomination of such obligations; and

(3) At any interest rate or cost or at any price that the borrower considers necessary or desirable.

(c) A borrower may pay any fees or charges necessary to enable the Administration to sell its bonds, including any fees for the insurance of its loan obligations or bonds of the Administration, or to provide any other guarantee, credit enhancement, or additional security for any such loan obligations or bonds.

(d) (1) Notwithstanding any other provision of public general or public local law, charter, or ordinance, a borrower may agree with the Administration to pledge any [moneys] **MONEY** that the borrower is entitled to receive from the State, including the borrower's share of the State income tax, to secure its obligations under a loan agreement.

(2) The State Comptroller and the State Treasurer shall cause any [moneys] **MONEY** withheld under such a pledge to be paid to, or applied at the direction of, the Administration.

(e) Each loan agreement shall contain a provision whereby the borrower acknowledges and agrees that [the]:

(1) **THE** borrower's loan obligation is cancelable only upon repayment in

1 full; and [that neither]

2 (2) NEITHER the Administration, the Secretary, nor the Board is
3 authorized to forgive the repayment of all or any portion of the loan, except for [loans]:

4 (I) LOANS to disadvantaged communities, pursuant to the federal
5 Safe Drinking Water Act[, and loans];

6 (II) LOANS made in accordance with §§ 9–1605(d)(9) and
7 9–1605.1(d)(10) of this subtitle; AND

8 (III) LOANS MADE IN ACCORDANCE WITH § 5–509.2(H) OF THIS
9 ARTICLE.

10 (f) (1) In the event of a default on a loan obligation by a borrower other than
11 a local government, the Administration may place a lien against property of the borrower
12 securing the loan which, subject to the tax liens of the federal, State, and local governments,
13 shall have the same priority and status as a lien of the State for unpaid taxes under §§
14 14–804 and 14–805 of the Tax – Property Article.

15 (2) The Administration may exercise the same rights and powers in
16 enforcing such lien and collecting funds for the payment of amounts in default under the
17 loan obligation as the State may exercise in collecting unpaid taxes under Title 14, Subtitle
18 8 of the Tax – Property Article.

19 15–807.

20 (a) Except as otherwise provided in this subtitle, a person may not engage in
21 surface mining within the State without first obtaining a surface mining license.

22 (b) (1) An application for a license shall be in writing and on a form prepared
23 and furnished by the Department.

24 (2) If the application is made by a corporation, partnership, or association
25 [it] THE APPLICATION shall contain information concerning its officers, directors, and
26 principal owners, as the Department reasonably requires.

27 (c) (1) The application shall be accompanied by a [\$300] \$500 fee.

28 (2) (I) The license shall be renewable annually[, and the].

29 (II) THE renewal fee is [\$150] \$300.

30 (III) The application for renewal shall be made annually by January

31 1.

(d) The Department may not issue any new surface mining license or renew any existing surface mining license to any person if it finds, after investigation, that the applicant has failed and continues to fail to comply with any of the provisions of this subtitle.

(e) A license under this section is not required for the following activities:

(1) Those aspects of deep mining that do not have a significant effect on the surface, if the affected land does not exceed 3 acres in area;

(2) Operations engaged in processing minerals;

(3) Excavation or grading conducted solely in aid of on-site farming or on-site construction for purposes other than surface mining;

(4) Removal of overburden and mining of limited amounts of any mineral when done only for the purpose of prospecting and to the extent necessary to determine the location, quantity, or quality of any natural deposit, if no minerals are sold, processed for sale, or consumed in the regular operation of business;

(5) The handling, processing, or storage of slag and stone on the premises of a manufacturer as a part of any manufacturing process that requires stone as a raw material or produces slag as a by-product;

(6) The extraction of minerals by a landowner for the landowner's own noncommercial use from land owned or leased by the landowner;

(7) Mining operations if the affected land does not exceed 1 acre in area;

(8) Dredging from submerged public or private lands in the State if this activity is conducted under a license from the State Board of Public Works or by permit from the Department, as provided for in Title 16 of this article; or

(9) The extraction of sand, gravel, rock, stone, earth, or fill from borrow pits for highway construction purposes or other public facilities, if the work is performed under a bond, a contract, and the specifications of the Department that require reclamation of the area affected in the manner provided by this subtitle.

(f) (1) Any person who violates the provisions of this section is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than \$10,000.

(2) The fine shall be paid to the Surface Mined Land Reclamation Fund.

15-815.

(a) (1) Any permittee engaged in surface mining under a surface mining

1 permit may apply at any time for modification of the permit.

2 **(2)** The application shall be in writing on forms furnished by the
3 Department and fully state the information called for.

4 **(3)** [In addition, the] **THE** applicant may be required to furnish [other]
5 **ADDITIONAL** information **THAT** the Department reasonably deems necessary to enforce
6 this subtitle.

7 **(4)** [However, it is not necessary to resubmit information which has not
8 changed since the original application, if the applicant so states in writing] **IF AN**
9 **APPLICANT STATES IN WRITING THAT INFORMATION HAS NOT CHANGED SINCE THE**
10 **ORIGINAL APPLICATION, THE APPLICANT DOES NOT HAVE TO RESUBMIT THAT**
11 **INFORMATION.**

12 (b) **(1)** A modification under this section may affect [the]:

13 **(I)** **THE** land area covered by the permit[, the];

14 **(II)** **THE** approved mining and reclamation plan coupled with the
15 permit[, or other]; **OR**

16 **(III)** **OTHER** terms and conditions of the permit.

17 **(2)** **(I)** A permit may be modified to include land contiguous to the
18 existing affected land, but not other lands.

19 **(II)** The mining and reclamation plan may be modified in any
20 manner, if the Department determines that the modified plan fully meets the standards
21 set forth in § 15–822 of this subtitle and that the modifications would be generally
22 consistent with the bases for the issuance of the original permit.

23 **(III)** Other terms and conditions may be modified only if the
24 Department determines that the permit as modified would meet the requirements of §§
25 15–808 and 15–810 of this subtitle.

26 **(IV)** [No] **A** modification may **NOT** extend the expiration date of any
27 permit issued under this subtitle.

28 (c) Except as otherwise provided in subsection (d) of this section, a **[\$100] \$200**
29 fee shall be charged for a permit modification.

30 (d) **[(1)]** In addition to the fee required in subsection (c) of this section, a fee shall
31 be charged equal to **[\$12] \$50** for each additional acre of affected land over and above the
32 amount of land covered in the original permit, for each year of operation.

1 [(2) The additional fee may not exceed \$1,000 per year.]

2 (e) The Department shall approve and grant the permit modification requested
3 as expeditiously as possible but not later than 30 days after the application forms or any
4 supplemental information required are filed with the Department.

5 (f) The Department may deny the permit modification on finding:

6 (1) An uncorrected violation of the type listed in § 15–810(b)(7) of this
7 subtitle;

8 (2) Failure to submit an adequate mining and reclamation plan in light of
9 conditions existing at the time of the modification; or

10 (3) Failure or refusal to pay the modification fee.

11 (g) If the Department denies an application to modify a permit, the Department
12 shall give the permittee written notice of:

13 (1) The Department's determination;

14 (2) Any changes in the application which would make it acceptable; and

15 (3) The permittee's right to a hearing at a stated time and place.

16 (h) The date for the hearing may not be less than 15 days nor more than 30 days
17 after the date of the notice unless the Department and the permittee mutually agree on
18 another date.

19 15–816.

20 (a) **(1)** The procedure to be followed and standards to be applied in renewing a
21 permit shall be the same as those for the initial application for a permit[, except that it is
22 not necessary to resubmit information which has not changed since the time of the original
23 application, if the applicant so states in writing].

24 **(2)** **IF AN APPLICANT STATES IN WRITING THAT INFORMATION HAS**
25 **NOT CHANGED SINCE THE ORIGINAL APPLICATION, THE APPLICANT DOES NOT HAVE**
26 **TO RESUBMIT THAT INFORMATION.**

27 **(3)** **[However, the applicant may be required] THE DEPARTMENT MAY**
28 **REQUIRE AN APPLICANT** to furnish other information the Department deems necessary
29 to evaluate the renewal request.

30 **(4)** In the absence of any changes in legal requirements for the issuance of

1 a permit since the date on which the original permit was issued, the only basis for the denial
2 of a renewal permit shall be:

3 [(1)] (I) An uncorrected violation of the type listed in § 15–810(b)(7) of
4 this subtitle;

5 [(2)] (II) Failure to submit an adequate mining and reclamation plan in
6 light of conditions existing at the time of renewal; or

7 [(3)] (III) Failure or refusal to pay the renewal fee.

8 (b) Application for a renewal of a permit cannot be made any earlier than 1 year
9 prior to the expiration date of the original permit.

10 (c) Except as otherwise provided in subsection (d) of this section, the fee to be
11 charged for a permit renewal shall be ~~[\$12]~~ **\$50** for each acre of affected land for each year
12 of operation[, but not exceeding \$1,000 per year].

13 (d) The fee shall be paid annually during the term of the permit.

14 (e) (1) If the term of a permit which is renewed exceeds 5 years, the permittee
15 shall pay additional fees, based on the formula in subsection (c) of this section, for each
16 5–year portion of the term of the renewed permit.

17 (2) These additional fees shall be paid to the Department within 1 year
18 before the completion of any 5–year portion of the term of the permit.

19 (f) If the Department denies an application to renew a permit, the Department
20 shall give the permittee written notice of:

21 (1) The Department’s determination;

22 (2) Any changes in the application that would make it acceptable; and

23 (3) The permittee’s right to a hearing at a stated time and place.

24 (g) The date for the hearing may not be less than 15 days nor more than 30 days
25 after the date of the notice unless the Department and the permittee mutually agree on
26 another date.

27 Article – State Finance and Procurement

28 6–226.

29 (a) (2) (i) Notwithstanding any other provision of law, and unless
30 inconsistent with a federal law, grant agreement, or other federal requirement or with the

terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

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

189. the Teacher Retention and Development Fund; [and]

190. the Protecting Against Hate Crimes Grant Fund; AND

191. THE PRIVATE DAM REPAIR FUND.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 4–411(e) through (g) of Article – Environment of the Annotated Code of Maryland be renumbered to be Section(s) 4–411(d) through (f), respectively.

SECTION 4. AND BE IT FURTHER ENACTED, That Sections 2 and 3 of this Act shall take effect July 1, 2024.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect June 1, 2024.