

**U00A**  
**Department of the Environment**

***Operating Budget Data***

(\$ in Thousands)

	<u>FY 07</u> <u>Actual</u>	<u>FY 08</u> <u>Working</u>	<u>FY 09</u> <u>Allowance</u>	<u>FY 08-09</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$35,191	\$37,249	\$40,631	\$3,382	9.1%
Special Fund	36,231	41,841	49,030	7,189	17.2%
Federal Fund	25,861	29,958	31,637	1,680	5.6%
Reimbursable Fund	<u>4,409</u>	<u>4,301</u>	<u>5,049</u>	<u>749</u>	<u>17.4%</u>
<b>Total Funds</b>	<b>\$101,692</b>	<b>\$113,348</b>	<b>\$126,348</b>	<b>\$13,000</b>	<b>11.5%</b>

- The Maryland Department of the Environment (MDE) has submitted a fiscal 2008 deficiency request for \$180,251 in special funds and \$153,247 in federal funds. The special fund increase would allow for a software upgrade in the Community Right to Know program, and the federal fund increase would allow for the development and implementation of the Environmental Information Exchange framework.
- The MDE fiscal 2008 allowance totals \$126.3 million. This is \$13.0 million, or 11.5%, more than the fiscal 2008 working appropriation. However, the underlying fiscal 2009 budget change for MDE, absent regular health insurance and the future retiree health insurance funding liability which distorts year-to-year comparisons, is \$8.7 million, or 8.3%. In addition, when the \$7.0 million increase budgeted for Bay Restoration Fund bond debt service is excluded, the overall fiscal 2009 budget change is \$1.7 million, or 1.5%.
- The general fund allowance is \$40.6 million, which is \$3.4 million, or 9.1%, more than the fiscal 2008 working appropriation. The general fund allowance reflects an increase of \$4.4 million for personnel expenses, consisting of a \$1.5 million fund swap from special funds to general funds in the Air and Radiation Administration and \$1.2 million for the future retiree health insurance liability. Decreases include \$500,000 for one-time funding for the Regional Greenhouse Gas Initiative and Climate Change Commission projects, \$190,973 for software service maintenance agreements, \$112,909 for hardware service maintenance agreements, and a fund swap of \$108,856 for reimbursable funds for contractual full-time equivalent (FTE) public health engineers to do Total Maximum Daily Load (TMDL) modeling and development.

Note: Numbers may not sum to total due to rounding.

For further information contact: Andrew D. Gray

Phone: (410) 946-5530

*U00A – Department of the Environment*

- The special fund allowance is \$49.0 million, which is \$7.2 million, or 17.2%, more than the fiscal 2008 working appropriation. The special fund allowance increase is primarily due to the \$7.0 million budgeted for debt service reserve to cover the issuance of \$70.0 million of Bay Restoration bonds in fiscal 2009. Other significant changes largely cancel out in the appropriation. Increases in the special fund allowance include \$1.1 million which includes the \$1.7 million for the last of the three grants to the Maryland Environmental Service for its crumb rubber tire recycling facility, \$967,577 for the future retiree health insurance liability, \$675,252 for an increase in scrap tire stockpile project funding, and \$590,000 for the Statewide Electronics Recycling Program grants to counties and municipalities. Significant decreases include \$2.5 million for personnel expenses primarily due to a shift to general funds in the Air and Radiation Administration, and \$890,000 for a reduction in the grant agreements with the Maryland Geological Survey.
- The federal fund allowance is \$31.6 million, which is \$1.7 million, or 5.6%, more than the fiscal 2008 working appropriation. The federal fund allowance reflects an increase of \$1.5 million in personnel expenses, which includes \$885,521 for the future retiree health insurance liability and \$190,988 for regular earnings. Other changes largely cancel out and include increases of \$1,351,993 for the Midlothian shaft subsidence and Mill Run water supply abandoned mine land reclamation project contracts and \$1,184,672 for nonpoint source pollution control projects. Decreases in the federal fund allowance include \$859,750 for the Map Modernization in Maryland project and \$853,413 due to \$932,163 being budgeted in fiscal 2008 for the Enterprise Environmental Management System but only \$73,750 being budgeted for fiscal 2009. In addition, there is a decrease of \$400,230 due to a substitution of special funds: (1) for lead poisoning outreach; and (2) for establishing an online system for searching lead rental property registrations and lead inspection certificate data.
- The reimbursable fund allowance is \$5.0 million, which is \$0.7 million, or 17.4%, more than the fiscal 2008 working appropriation. The reimbursable fund allowance reflects increases of \$538,130 for Base Realignment and Closure Act drinking water investigations in the piedmont and coastal plain, \$305,000 for air quality planning projects, \$126,250 for Base Realignment and Closure Act infrastructure activities related to water quality, \$120,000 for establishing an environmental data exchange network, \$102,894 for projects to control mobile sources of air emissions, and \$100,332 for a fund swap with general funds for contractual FTE public health engineers to do TMDL modeling and development. Decreases include \$362,078 for air monitoring projects and \$161,000 for fish and shellfish issue analysis.

## ***Personnel Data***

	<b><u>FY 07 Actual</u></b>	<b><u>FY 08 Working</u></b>	<b><u>FY 09 Allowance</u></b>	<b><u>FY 08-09 Change</u></b>
Regular Positions	951.00	945.00	932.00	-13.00
Contractual FTEs	<u>21.40</u>	<u>42.50</u>	<u>47.50</u>	<u>5.00</u>
<b>Total Personnel</b>	<b>972.40</b>	<b>987.50</b>	<b>979.50</b>	<b>-8.00</b>

### ***Vacancy Data: Regular Positions***

Turnover, Excluding New Positions	65.24	7.00%
Positions Vacant as of 1/1/08	87.00	9.21%

- The fiscal 2009 allowance provides for 932 regular positions, which is a decrease of 13 positions from the fiscal 2008 working appropriation. The decrease is due to 13 positions being abolished as part of the statewide 500 position reduction required in Chapter 2 of the 2007 special session. Eight of the positions were vacant less than 12 months, and 5 were vacant between 12 and 24 months. The majority of the positions (7) was in the Waste Management Administration.
- MDE had 87 vacancies as of January 1, 2008. Of these 87 vacancies, 8 have been vacant for between 12 and 24 months. However, 5 of these 8 long-term vacancies were abolished in the fiscal 2009 allowance, which leaves 3 long-term vacancies. Of these 3 long-term vacancies, 1 was filled in December 2007 (but not identified as such in the vacancy data received on January 1, 2008), 1 was filled in January 2008, and 1 position was in the interview process as of January 2008.
- MDE's budgeted fiscal 2009 turnover rate of 7.00% is approximately 2.21% less, or 21.76 fewer positions, than the current fiscal 2008 vacancy rate.

## ***Analysis in Brief***

### **Issues**

***Chesapeake Bay 2010 Trust Fund Allocation:*** Chapter 6 of the 2007 special session created a Chesapeake Bay 2010 Trust Fund for the purpose of providing financial assistance to meet the Chesapeake Bay 2000 Agreement goals, and legislation has been introduced in the 2008 session relating to the allocation of the fund (SB 213/HB 369). **The Department of Legislative Services (DLS) recommends that MDE discuss what strategies it would recommend for allocation of the Chesapeake Bay 2010 Trust Fund revenue for effective and efficient restoration of the bay.**

**Enterprise Environmental Management Systems Failures Withheld:** Modern environmental permitting and regulation requires a coordinated system for storing and manipulating permitting and compliance data. However, MDE’s implementation of a proposed solution, the Enterprise Environmental Management System (EEMS), appears to lack internal coordination, and there has been insufficient communication with the General Assembly and Board of Public Works (BPW) regarding the project’s progress. **MDE should be prepared to brief the committees on what plans it has to attain full functionality of EEMS including the possibility of modifying the existing contract or entering into a new contract once the current contract is completed. MDE should also indicate the total cost of attaining full EEMS functionality.**

**Maryland Environmental Service Sells Tire Plant; \$7.4 Million Cumulative Loss:** The Maryland Environmental Service (MES) Tire Recycling Facility opened in Baltimore County in January 2003 and recycled passenger, light truck, and heavy truck tires into value-added, high quality crumb rubber and rubber mulch. While MES sought to make this operation profitable, the facility was in extremely poor financial health; the facility lost a cumulative \$7.4 million over four and a half years of operation. **DLS recommends that MES brief the committees on the sale of the crumb rubber tire recycling facility; the impact of the facility’s cumulative loss on their cash position; and what changes have been made to ensure that future enterprises are successful.**

## Recommended Actions

	<u>Funds</u>	<u>Positions</u>
1. Delete one vacant position and associated funding.	\$ 47,982	1.0
<b>Total Reductions</b>	<b>\$ 47,982</b>	<b>1.0</b>

## Updates

**Regional Greenhouse Gas Initiatives Report Submitted:** Fiscal 2008 budget bill language restricted \$500,000 in general funds until submission of a report on how MDE planned to spend the funds. In a report received September 26, 2007, MDE summarized the eight projects on which it would spend \$505,000 in general funds.

U00A  
Department of the Environment

***Operating Budget Analysis***

---

**Program Description**

The Maryland Department of the Environment (MDE) was created in 1987 to protect and restore the quality of the State's land, air, and water resources and safeguard citizens from health risks associated with pollution. It is responsible for planning, monitoring, controlling, and regulating air, solid, and hazardous wastes; radiation, sewage sludge, sediment, and stormwater; toxicities, sewage treatment, and water supply facilities; and environmental disease control programs. The department is structured into seven major administrative units.

- ***Office of the Secretary:*** This office provides direction and establishes State environmental policies to be implemented by the operating units.
- ***Administrative Services Administration:*** This administration provides general administrative and fiscal services to the department.
- ***Water Management Administration:*** This administration incorporates all aspects of the State's water pollution control program, including capital project management; implementation of Total Maximum Daily Loads (TMDLs) for pollutants in impaired waterways; and industrial/municipal wastewater and storm water discharge regulatory functions.
- ***Science Services Administration:*** This administration provides hazardous chemical and oil spill emergency response services; develops and promulgates water quality standards; provides technical support and analysis for TMDLs; monitors shellfish; develops environmental and public health risk assessments; implements non-point source pollution programs; and develops and issues fish advisories.
- ***Waste Management Administration:*** This administration ensures that all types of hazardous and nonhazardous solid wastes are managed in a manner that protects public health and the environment.
- ***Air and Radiation Management Administration:*** This administration ensures that air quality and radiation levels in Maryland sustain public health, safety, and the environment.
- ***Coordinating Offices:*** These offices manage budget matters, the Water Quality Revolving Loan Fund, and Board of Public Works' (BPW) activities; coordinate public information and outreach; and provide legal advice.

*U00A – Department of the Environment*

MDE has identified six goals that illustrate its core efforts to protect and preserve Maryland's natural resources. They are:

- promoting land redevelopment and community revitalization;
- ensuring safe and adequate drinking water;
- reducing Maryland citizens' exposure to hazards;
- improving and protecting Maryland's water quality;
- ensuring the air is safe to breathe; and
- providing customer service and community outreach.

**Performance Analysis: Managing for Results**

**Exhibits 1 through 3** provide data on MDE's goal to improve and protect Maryland water quality. Exhibit 1 compares Maryland to other states in terms of wastewater treatment plant compliance with Clean Water Act permit limits. Maryland compares well on three of the four measures shown with rankings of 42, 45, and 46 out of a best of 50. The Perryville wastewater treatment plant in Cecil County brought down Maryland's rank on the number of permit exceedences. This was due to 37 exceedences in the January 1 to December 31, 2005 time period. These exceedences of the wastewater treatment plants' Clean Water Act permit occurred in 11 of the 12 one-month reporting periods. The Perryville wastewater treatment plant is slated for an enhanced nutrient removal upgrade.

**Exhibit 1**  
**Wastewater Treatment Plants Exceeding Clean Water Act Permit Limits**  
**January 1 to December 31, 2005**

<u>Measure</u>	<u>Outcome</u>	<u>Rank (50 Being Best)</u>
Number and Percentage of Facilities Exceeding Clean Water Permit at Least Once	36 of 97 WWTPs, or 37.1%	45
Number of Permit Exceedences	36 WWTPs had 154 exceedences (Perryville in Cecil County had 37 of the 154 exceedences, which were in 11 of the 12 one-month reporting periods)	34
Average Exceedence in Terms of Percent Variance from Permit Limit	84.1%	46
Number of Exceedences of Permit Limits of at Least 500%	5 (Cities of Salisbury, Havre de Grace, Perryville, and Chesapeake Beach (2))	42

WWTP: Wastewater Treatment Plant

Note: Oregon data was excluded as unreliable; the District of Columbia, Montana, and Nevada were not ranked for exceedences of at least 500% as they did not report any.

Source: "Troubled Waters," U.S. PIRG Education Fund (October 2007)

---

Exhibit 2 shows the progress MDE has made toward submitting TMDLs for tributaries of the Chesapeake Bay. TMDLs are permits that limit the concentration of a particular impairing substance that can be in a body of water on any particular day. Maryland listed its impaired water bodies with the U.S. Environmental Protection Agency (EPA) for the 1996/1998 period (impairing substances include cadmium, lead, zinc, copper, shellfish bacteria, fecal coliform, nutrients, and sediment). Of the 245 listings for nutrient and sediment impairments affecting the bay, 89 have TMDLs, and 112 are being collaboratively developed with EPA. This leaves 44 TMDLs that MDE needs to address by September 30, 2011. In the fiscal 2009 allowance, there is \$969,000 budgeted for all types of TMDL development. **MDE should be prepared to brief the committees on whether it will meet this deadline of submitting TMDLs for all 245 bay tributary nutrient and sediment impairments by September 30, 2011.**

**Exhibit 2**  
**Total Maximum Daily Load Status for**  
**Nutrients and Sediments in Bay Tributaries**

	<u>Total</u>	<u>Nutrients</u>	<u>Sediments</u>
Affecting Bay as of 1996/1998 Listing	245	140	105
Completed	-89		
<b>Subtotal: Remaining to Be Completed</b>	<b>156</b>		
MDE Working with EPA	-112	46	66
<b>Total: to Be Addressed by MDE before 2011 Deadline</b>	<b>44</b>		

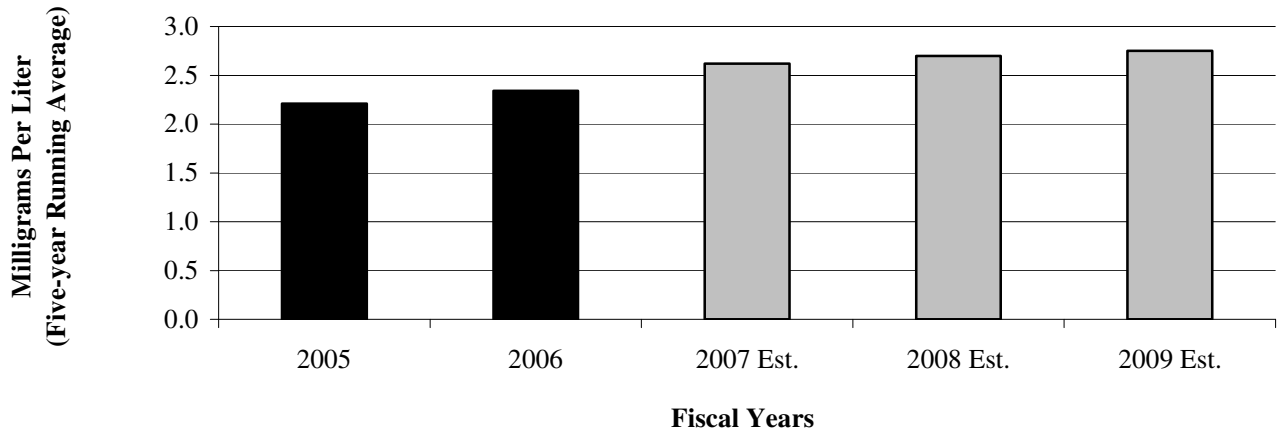
EPA: Environmental Protection Agency  
MDE: Maryland Department of the Environment

Source: Maryland Department of the Environment

---

Exhibit 3 shows the total nitrogen concentrations monitored in non-tidal waters. The measure is calculated using a five-year running average and shows an increase from 2.21 milligrams per liter in fiscal 2005 to an estimated 2.75 milligrams per liter in fiscal 2009. MDE notes that these are just estimates; however, total nitrogen concentration appears to be increasing. **MDE should be prepared to brief the committees on what this possible increasing total nitrogen concentration trend means for the success of efforts to reduce nitrogen flow to the bay and for overall bay restoration efforts.**

**Exhibit 3**  
**Total Nitrogen Concentrations Monitored in Non-tidal Waters**  
**Fiscal 2005-2009**



Source: Governor's Budget Books, Fiscal 2008-2009

## **Fiscal 2008 Actions**

### **Proposed Deficiency**

The Governor has submitted a deficiency appropriation for the fiscal 2008 operating budget, which would increase MDE's special fund appropriation by \$180,251 and the federal fund appropriation by \$153,247. The special fund appropriation would implement a software upgrade in the Community Right to Know program to continue sharing hazardous chemical inventory data with State agencies and local governments. The federal fund appropriation would fund the development and implementation of the Environmental Information Exchange framework. The framework is designed to allow for increased sharing of environmental data between states, tribes, territories, and EPA.

### **Impact of Cost Containment**

Cost containment actions approved by BPW on July 11, 2007, reduced the appropriation by \$735,038. Decreases included shifting position funding from general funds to special or federal funds (\$453,246), reducing five vehicles from the fleet and deferring replacement of two vehicles (\$90,150), eliminating the reviewing of contested cases since the function was moved to the Office of Administrative Hearings (\$80,172), abolishing a regulations coordination position due to automation of regulatory records (\$76,432), and abolishing 1 vacant administrative position (\$35,038). In addition, fiscal 2008 cost containment actions included the abolishment of 13 positions as part of the statewide 500 position reduction required under Chapter 2 of the 2007 special session.

## **Governor’s Proposed Budget**

**Exhibit 4** indicates that MDE’s fiscal 2009 allowance is \$126.3 million, which is 11.5% more than the fiscal 2008 working appropriation. This overall increase in funding reflects increases of \$3,382,262 in general funds for a \$2.5 million fund swap and an increase in the Air and Radiation Administration due to declining special fund revenues and the increased funding needs for the future retiree health insurance liability; and \$7,188,856 in special funds due to an increase of \$7.0 million in debt reserve being budgeted for the proposed fiscal 2009 Bay Restoration bond \$70.0 million debt issuance.

### **Personnel Expenses**

Personnel expenses increase by \$4.3 million in the fiscal 2009 allowance. The majority of the personnel expense increase can be attributed to the future retiree health insurance liability of \$3.2 million. Other significant increases in personnel expenses include \$1.2 million for increments and other compensation and \$1.2 million for current employee and retiree health insurance. One-time hiring freeze savings account for an increase of \$343,627, and other fringe benefit adjustments increase \$155,604.

The personnel expenses component of the fiscal 2009 allowance includes three large decreases. Personnel expenses decrease \$806,340 due to the 12 abolished positions and \$413,060 due to an increase in the turnover rate, which was increased from 6.48% in the fiscal 2008 working appropriation to 7.0% in the fiscal 2009 allowance. The final significant personnel decrease is \$649,175, which is due to how MDE budgets current fiscal year adjustments. In fiscal 2008, MDE has made a number of adjustments in subobject 0110 due to the cost-of-living-allowance, budget amendments, and cost containment reductions, which account for a net increase of \$649,175. These changes will be allocated to the appropriate personnel subobjects before the fiscal 2008 closeout.

### **Programmatic Expenses**

MDE’s goals of water quality improvement, hazard reduction, and providing excellent customer service are reflected in the fiscal 2009 allowance. Bay Restoration Fund bond debt service reserve funds of \$7.0 million are budgeted for the proposed \$70.0 million bond issuance, which addresses water quality improvement. Other water quality improvement components of the fiscal 2009 allowance include \$1,184,672 for nonpoint source pollution control projects, \$538,130 for Base Realignment and Closure Act drinking water investigations in the piedmont and coastal plain, and \$126,250 for Base Realignment and Closure Act infrastructure activities related to water quality.

In terms of reducing Maryland citizens’ exposure to hazards, there is both an increase and a decrease in the budget. The increase is in the amount of \$1,351,993 for the Midlothian shaft subsidence and Mill Run water supply abandoned mine land reclamation project contracts. The decrease is due to the one-time Regional Greenhouse Gas Initiative study funding of \$500,000 provided in fiscal 2008.

**Exhibit 4**  
**Governor’s Proposed Budget**  
**Department of the Environment**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b><u>General</u> <u>Fund</u></b>	<b><u>Special</u> <u>Fund</u></b>	<b><u>Federal</u> <u>Fund</u></b>	<b><u>Reimb.</u> <u>Fund</u></b>	<b><u>Total</u></b>
2008 Working Appropriation	\$37,249	\$41,841	\$29,958	\$4,301	\$113,348
2009 Governor’s Allowance	<u>40,631</u>	<u>49,030</u>	<u>31,637</u>	<u>5,049</u>	<u>126,348</u>
Amount Change	\$3,382	\$7,189	\$1,680	\$749	\$13,000
Percent Change	9.1%	17.2%	5.6%	17.4%	11.5%
<b>Where It Goes:</b>					
<b>Personnel Expenses</b>					
Future retiree health insurance .....					\$3,187
Increments and other compensation.....					1,234
Current employee and retiree health insurance .....					1,234
One-time hiring freeze savings .....					344
Other fringe benefit adjustments.....					156
Abolished positions (13) .....					-806
Fiscal 2008 adjustments for budget amendments and cost containment actions .....					-649
Turnover adjustments.....					-413
<b>Other Changes</b>					
<i>Improving and Protecting Maryland’s Water Quality</i>					
Debt service reserve for \$70 million Bay Restoration bond issuance .....					7,000
Nonpoint source pollution control projects.....					1,185
Base Realignment and Closure drinking water investigations.....					538
Base Realignment and Closure water quality investigations .....					126
<i>Reducing Maryland Citizens’ Exposure to Hazards</i>					
Midlothian shaft subsidence and Mill Run water supply abandoned mine contracts .....					1,352
One-time Regional Greenhouse Gas Initiative studies funding .....					-500
<i>Providing Excellent Customer Service and Community Outreach</i>					
Underbudgeting for Enterprise Environmental Management System in fiscal 2009.....					-853
Software service maintenance agreements .....					-191
Hardware service maintenance agreements .....					-113
<i>Other</i>					
Overall increase of five contractual full-time equivalent positions .....					209
Other adjustments .....					-40
<b>Total</b>					<b>\$13,000</b>

Note: Numbers may not sum to total due to rounding.

### *U00A – Department of the Environment*

Funding for providing excellent customer service and community outreach, decreases in the fiscal 2009 budget. However, the largest decrease is for \$853,413, which is due to \$932,163 being budgeted in fiscal 2008 for the Enterprise Environmental Management System (EEMS) and only \$73,750 being budgeted for fiscal 2009. MDE was granted a no-cost extension for its EEMS contract at the December 12, 2007 BPW meeting, and so this money will likely be canceled in fiscal 2008 and brought in via a budget amendment or a deficiency appropriation in fiscal 2009. The other decreases include \$190,973 for software service maintenance agreements and \$112,909 for hardware service maintenance agreements.

Other changes in the budget include an increase of \$208,695 for five contractual full-time equivalents (FTE) in the Water Management Administration.

### **Impact of Cost Containment**

Fiscal 2009 cost containment actions consisted of a \$500,000 reduction in one-time general funds for Regional Greenhouse Gas Initiative contracts.

## *Issues*

---

### **1. Chesapeake Bay 2010 Trust Fund Allocation**

Chapter 6 of the 2007 special session created a Chesapeake Bay 2010 Trust Fund. The fund is a special nonlapsing fund for the purpose of providing financial assistance to meet the Chesapeake Bay 2000 Agreement goals for the restoration of the Chesapeake Bay and its tributaries. The fund is composed of a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals that would otherwise go to the general fund. In fiscal 2009, the fund is expected to allow for approximately \$50.0 million in assistance. The fund is currently budgeted in the Department of Budget and Management's (DBM) fiscal 2009 allowance pending the determination of how the monies are to be expended.

Legislation has been introduced relating to the allocation of the fund (SB 213/HB 369), and it is possible that budget bill language also will be considered this session. SB 213/HB 369 are crossfiled Administration bills that would create the following:

- BayStat program to measure and evaluate efforts to restore the Chesapeake Bay and administer the Chesapeake Bay 2010 Trust Fund;
- BayStat Subcabinet to oversee the BayStat program and disburse monies from the Chesapeake Bay 2010 Trust Fund for nonpoint source pollution control funding;
- BayStat program scientific advisory panel to advise the Subcabinet on the use of Chesapeake Bay 2010 Trust Fund monies and to monitor the distribution of the monies; and
- Chesapeake Bay Nonpoint Source Fund to provide financial assistance for the implementation of urban and suburban stormwater management practices, and stream and wetland restoration.

However, SB 213/HB 369 do not explicitly allocate funds from the Chesapeake Bay 2010 Trust Fund in contrast to previous bills on this subject. **The Department of Legislative Services (DLS) recommends that MDE discuss what strategies it would recommend for allocation of the Chesapeake Bay 2010 Trust Fund revenue for effective and efficient restoration of the bay.**

### **2. Enterprise Environmental Management System Failures Withheld**

Modern environmental permitting and regulation requires a coordinated system for storing and manipulating permitting and compliance data. The need for such a system has been noted in several audits of MDE conducted by DLS's Office of Legislative Audits. However, MDE's implementation of a proposed solution, the Enterprise Environmental Management System (EEMS), appears to lack internal coordination, and there has been insufficient communication with the General Assembly and BPW regarding the project's progress.

EEMS was first presented to the Maryland General Assembly as a three-year contract with two one-year renewal options that would cost \$6.8 million with a return-on-investment of \$450,000 beginning in fiscal 2005. No savings were achieved in fiscal 2005 nor have any been realized since. Instead, concerns of escalating costs led the General Assembly to cap EEMS funding at \$6.8 million in fiscal 2006; although, subsequently the contract value has been reduced to \$6.5 million.

### **EEMS Cost and Implementation Issues**

The DLS's Office of Legislative Audits completed an audit of MDE on January 18, 2008. Two findings were pertinent to EEMS as follows:

- development and implementation issues were withheld from the General Assembly, and BPW approval for contract scope modifications was not obtained; and
- additional contracts and significant cost overruns were not reported to the General Assembly.

The audit notes that cost overruns due to unplanned testing required the exclusion of MDE programs from participation; programs that have been implemented are still using the legacy databases because State regulatory requirements were not included; and full Independent Verification and Validation information was not reported to the General Assembly. In addition, three contracts for \$398,000 were not disclosed to the General Assembly, which could mean that EEMS spending exceeds the mandated \$6.8 million cap in the future.

The original intent was for EEMS to be completed by fall 2007. This did not occur. Instead, MDE sought and was granted a one-year, no-cost extension at the BPW meeting on December 12, 2007. Employee inexperience and distrust in the implementation process are a concern. It is apparent, at this time, that EEMS will not have the full functionality that was originally proposed, will yield no operating savings, and will cost significantly more than \$6.8 million to implement as initially envisioned.

**MDE should be prepared to brief the committees on what plans it has to attain full functionality of EEMS including the possibility of modifying the existing contract or entering into a new contract once the current contract is completed. MDE should also indicate the total cost of attaining full EEMS functionality.**

### **3. Maryland Environmental Service Sells Tire Plant; \$7.4 Million Cumulative Loss**

The Maryland Environmental Service (MES) Tire Recycling Facility opened in Baltimore County in January 2003 and recycled passenger, light truck, and heavy truck tires into value-added, high quality crumb rubber and rubber mulch. While MES sought to make this operation profitable, the facility was in extremely poor financial health – the facility lost a cumulative \$8.6 million over four and a half years of operation. Lower than anticipated revenues did not cover associated production and capital debt service expenses, placing a strain on MES's cash flow.

*U00A – Department of the Environment*

The facility was originally financed by a financial institution with a loan secured by the facility and equipment. MES indicated at the beginning of fiscal 2007 that it had paid down the majority of the loan, with the balance to come from MDE's Used Tire Cleanup and Recycling Fund. Upon the \$1.1 million payment in fiscal 2007 through Amendment 030-07, MES intended to refinance the remaining \$1.7 million through a Grant Anticipation Note (GAN) that would no longer be secured by the facility and, therefore, would permit its sale. MES anticipates receiving \$1.7 million from MDE's Used Tire Fund in fiscal 2009 then intends to retire the GAN using this \$1.7 million Used Tire Fund payment.

**Exhibit 6** shows the estimated final undesignated unrestricted net assets associated with the crumb rubber tire recycling facility. The facility's undesignated unrestricted net assets as of December 31, 2007, was -\$8.6 million. However, the facility was sold on January 30, 2008, for \$1,050,020. In addition, MES was able to recover receivables that were previously deemed uncollectible and other revenue was realized as shown in Exhibit 6. This revenue was partially offset by rent, depreciation, security, and power costs in January 2008. The estimated final undesignated unrestricted net assets for the crumb rubber tire recycling facility is -\$7.4 million.

MES states that it could not shut down the facility when initially recommended to do so by DLS in October 2007 because of MES's role in promoting tire recycling. According to MES, this role required MES to continue operations until a willing buyer could be found that would evaluate the facility based on its worth as a tire recycling facility and not just as equipment to be sold for whatever asset value remained. It is arguable that MES could have saved approximately \$0.3 million – the difference between the operating losses of \$7.1 million as of January 2007 and the final operating losses figure of \$7.4 million – if the facility had been shutdown as recommended. MES states that it has basically eliminated its reserves, and MES's financial statements indicate that its overall undesignated unrestricted net assets were \$116,000 at the end of fiscal 2007.

---

**Exhibit 6**  
**Net Proceeds of Crumb Rubber Tire Recycling Facility Sale**

<b><u>Undesignated Unrestricted Net Assets (12-31-07)</u></b>	<b><u>-\$8,578,000</u></b>
Receipt of sale price	\$1,050,000
Recovery of receivables previously deemed uncollectable	174,000
Sale of machine parts	41,000
Recovery of expenses	10,000
January 2008 net income	-115,000
Legal fees	-18,000
<b>Subtotal</b>	<b>\$1,142,000</b>
<b>Estimated final undesignated unrestricted net assets</b>	<b>-\$7,436,000</b>

Source: Maryland Environmental Service

---

**DLS recommends that MES brief the committees on the sale of the crumb rubber tire recycling facility; the impact of the facility's cumulative loss on their cash position; and what changes have been made to ensure that future enterprises are successful.**

***Recommended Actions***

---

	<b><u>Amount Reduction</u></b>		<b><u>Position Reduction</u></b>
1. Delete one vacant position and associated funding. Despite the Maryland Department of Environment noting that it is interviewing for this position, the public health engineer position (#057406) has been vacant since June 30, 2006, which is over a year and a half.	\$ 47,982	GF	1.0
<b>Total General Fund Reductions</b>	<b>\$ 47,982</b>		<b>1.0</b>

## ***Updates***

---

### **1. Regional Greenhouse Gas Initiatives Report Submitted**

Fiscal 2008 budget bill language restricted \$500,000 in general funds to MDE until submission of a report on how MDE planned to spend the funds. In a report received September 26, 2007, MDE summarized the eight projects on which it would spend \$505,000 in general funds. This amount is \$5,000 more than the appropriation but was understood to be an estimate.

The eight projects proposed in the report all relate to the Regional Greenhouse Gas Initiative (RGGI) – a voluntary cooperative arrangement between 10 New England and Mid-Atlantic states committed to reducing carbon dioxide emissions. Maryland joined RGGI on April 20, 2007. The projects would support deliberations about what percentage of carbon dioxide allowances Maryland should sell prior to the first auction in June (now July) 2008 and how Maryland should spend the money it receives from the auction to reduce its carbon dioxide emissions. Estimates of project funding are as follows:

- University of Maryland Auction Study – \$220,000
- Study of Public Benefit Fund Strategies in Other States and Areas and Specific Categories of Potential Reduction – \$80,000
- Northeast States for Coordinated Air Use Management Modeling – \$50,000
- Offset Development Potential – \$50,000
- Develop Emissions and Allowance Tracking System – \$45,000
- Leakage Study – \$30,000
- RGGI Regional Organization Contracts for Program Implementation – \$25,000
- Maryland-specific Carbon Calculator – \$5,000

The report submitted by MDE on how it planned to spend the \$500,000 general fund met the requirements of the fiscal 2008 budget bill language. Therefore, the \$500,000 in general funds restricted in the MDE Air and Radiation Management Administration was released.

## ***Current and Prior Year Budgets***

---

### **Current and Prior Year Budgets Maryland Department of the Environment (\$ in Thousands)**

	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
<b>Fiscal 2007</b>					
Legislative Appropriation	\$35,811	\$35,379	\$27,658	\$4,252	\$103,100
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	-125	6,283	1,325	334	7,817
Reversions and Cancellations	-495	-5,431	-3,122	-176	-9,224
<b>Actual Expenditures</b>	<b>\$35,191</b>	<b>\$36,231</b>	<b>\$25,861</b>	<b>\$4,410</b>	<b>\$101,693</b>
<b>Fiscal 2008</b>					
Legislative Appropriation	\$37,503	\$41,480	\$29,958	\$3,988	\$112,929
Cost Containment	-735	0	0	0	-735
Budget Amendments	482	361	0	312	1,155
<b>Working Appropriation</b>	<b>\$37,249</b>	<b>\$41,841</b>	<b>\$29,958</b>	<b>\$4,300</b>	<b>\$113,348</b>

Note: Numbers may not sum to total due to rounding.

## **Fiscal 2007**

MDE's general fund appropriation decreased by \$619,637. The appropriation decreased by a net of \$124,793 for budget amendments due to BPW cost containment actions taken at the February 28, 2007 board meeting (\$532,340), and the transfer of funds to DBM for a comprehensive salary study (\$6,343). These decreases were partially offset by the \$413,890 increase due to allocation of the cost-of-living adjustment (COLA) general fund appropriation as authorized in the fiscal 2007 budget bill (Budget Amendment 001-07). General fund reversions totaled \$494,844 and were in the following programs: Technical and Regulatory Services (\$200,934), Water Management Administration – Water Supply Program (\$122,593), and Waste Management Administration (\$93,730). MDE states that most of these reversions were for health insurance as required by DBM and the fiscal 2007 budget bill.

Special funds dedicated to operating functions increased by a net of \$852,303. The increase was due in part to \$6,283,467 in budget amendments, including:

- \$1,500,000 for a contract with the government of the District of Columbia for a project titled “Statewide Early Warning System for MD Public Water Supply” in which MDE would provide technical support for monitoring raw water system stations along the Potomac and Patuxent rivers;
- \$1,114,421 for providing a grant to MES to help pay for equipment at the MES Tire Recycling Facility in Baltimore County as part of the multi-year plan to pay for the costs of the \$6.7 million facility;
- \$1,000,000 for detailed investigations, engineering, and implementation of corrective action plans as part of remediation of groundwater contamination for the 60 sites that have no responsible party identified or willing/able party;
- \$837,913 for salaries and fringe benefits for employees working on activities in the Maryland Clean Water Fund in the Water Management Administration;
- \$400,000 for Total Maximum Daily Load contracts;
- \$370,000 for Phase II of the Atlantic Coastal Plain Aquifer Study;
- \$304,664 for reallocation of the special fund appropriation for COLA;
- \$300,000 for salary and fringe benefit costs of staff that have been transferred into the Water Quality Financing Administration from the Water Management Administration;
- \$160,000 for services to create an historic emissions inventory database as well as to create a banking and trading database for the State Implementation Plan (air quality plan);

*U00A – Department of the Environment*

- \$132,000 for replacement vehicles in the Water Management Administration;
- \$62,235 for interagency agreements under the Pennsylvania Chesapeake Bay Partnership to use EPA's National Environmental Information Exchange Network to exchange Best Management Practice installation or implementation data from the Chesapeake Bay Program jurisdictions to the Chesapeake Bay Program Office;
- \$62,234 for employee salaries and fringe benefits in the Technical and Regulatory Services Administration; and
- \$40,000 for purchase of two replacement vehicles (one totaled in an accident and one auctioned due to high maintenance costs) in the Air and Radiation Management Administration.

Special fund budget amendments partially were offset by \$5,431,164 in special fund cancellations, the majority of which are in the following programs: Water Management Administration – Water Pollution Control Program (\$2,374,316), Waste Management Administration (\$1,352,149), and Coordinating Offices (\$626,278). MDE states that the Water Management Administration – Water Pollution Control Program cancellations were due to start-up delays for nontidal wetlands projects, reduced expenditures of State revolving loan fund monies due to staff transfers to the Water Quality Financing Administration, and overall reduced expenditures from the Maryland Clean Water Fund. Waste Management Administration cancellations were due to lower than anticipated revenue from the State Hazardous Substance Control Fund, Sewage Sludge Utilization Fund, and Brownfields Voluntary Clean-up Fund.

Federal funds dedicated to operating functions decreased by a net \$1,796,812. Budget amendments accounted for an increase of \$1,324,923 in the appropriation including:

- \$700,000 for Resource Conservation and Recovery Act and Toxic Substances Control Act components of the Performance Partnership Grant with EPA;
- \$286,900 for development and implementation of the Environmental Information Exchange Framework Network Grant;
- \$90,000 for development of a Planet Pollution video;
- \$80,000 for contracts under the Pollution Prevention Incentive for States grant program;
- \$70,000 for Phase II of a data acquisition system and for a service contract with Agilent for gas chromatograph/mass spectrometer (GC/MS) service;
- \$58,023 for liaison work performed with the Mid-Atlantic Highlands Action Program and for the Nutrient Criterion for Wadeable Streams program; and
- \$40,000 for an ozone monitoring contract with Howard University;

### *U00A – Department of the Environment*

These budget amendments were offset by \$3,121,735 in federal fund cancellations, the majority of which were in the following programs: Waste Management Administration (\$850,720), Water Management Administration – Water Pollution Control Program (\$729,946), Technical and Regulatory Services (\$403,483), and Coordinating Offices (\$390,987). MDE states that the Waste Management Administration cancellation was due to less hazardous waste program site remediation activity than budgeted. Water Management Administration – Water Pollution Control Program cancellations were due to delays in abandoned mine land reclamation projects and in the floodplain mapping project. Technical and Regulatory Services cancellations were due to delays in letting contracts for nonpoint source projects, and Coordinating Offices cancellations were due to procurement delays in pollution prevention and a reduction in One-Stop Reporting Program grants.

Reimbursable funds dedicated to operating functions increased by a net of \$157,718. The increase was due to \$334,000 in budget amendments, including:

- \$245,000 for an agreement with the Maryland Department of Transportation (MDOT) for salary and fringe benefits and for air quality forecasting and modeling work by the University of Maryland;
- \$50,000 for an agreement between the Waste Management Administration, the Maryland Port Administration, and Honeywell International, Inc. for a site cleanup at the Dundalk Marine Terminal with MDE staff supervision; and
- \$39,000 for agreements with the Judiciary's Mediation and Conflict Resolution Office for use of Alternate Dispute Resolution to resolve the air permitting process for the Curtis Bay energy medical waste incinerator in Baltimore.

These budget amendments partially were offset by \$176,282 in reimbursable fund cancellations, the majority of which were in the following programs: Technical and Regulatory Services (\$95,868), and Air and Radiation Management Administration (\$45,299). MDE states that the Technical and Regulatory Services cancellations were due to contract delays with a Department of Health and Mental Hygiene-funded community health grant. Air and Radiation Management Administration cancellations were due to staffing difficulties in the Vehicle Emissions Inspection Program.

## **Fiscal 2008**

The general fund appropriation decreases by a net of \$253,435. Cost containment actions approved by BPW on July 11, 2007, decreased the appropriation by \$735,038. Cost containment actions included shifting position funding from general funds to special or federal funds (\$453,246), reducing five vehicles from the fleet and deferring replacement of two vehicles (\$90,150), eliminating the reviewing of contested cases since the function was moved to the Office of Administrative Hearings (\$80,172), abolishing a regulations coordination position due to automation of regulatory records (\$76,432), and abolishing one vacant administrative position (\$35,038). This decrease partially was offset by allocation of \$481,603 to MDE for the salary increase general fund appropriation to State agencies as authorized in the fiscal 2007 budget bill (Budget Amendment 001-07).

*U00A – Department of the Environment*

The special fund appropriation increases by \$361,460 due to allocation of the COLA special fund appropriation (\$336,460) as authorized in the fiscal 2008 budget bill (Budget Amendment 002-08) and a budget amendment for a grant (\$25,000) from the Campbell Foundation to establish and lead a volunteer Enforcement Corps.

The reimbursable fund appropriation increases by \$312,181 due to the following budget amendments:

- \$230,000 from MDOT for transportation-related air pollution prevention activities in the MDE – Air and Radiation Management Administration;
- \$70,000 from the Maryland Port Administration for an agreement with Honeywell International, Inc. that stipulates that the Maryland Port Administration and Honeywell will carry out a site cleanup at the Dundalk Marine Terminal with supervision provided by MDE – Waste Management Administration staff; and
- \$12,181 from the Judiciary’s Mediation and Conflict Resolution Office to MDE’s Coordinating Offices for training in conflict management and facilitation techniques for staff to better handling public meetings.

## ***Audit Findings***

---

Audit Period for Last Audit:	July 1, 2004 – March 31, 2007
Issue Date:	January 18, 2008
Number of Findings:	15
Number of Repeat Findings:	4
% of Repeat Findings:	26.7%
Rating: (if applicable)	n/a

- Finding 1:** Enterprise Environmental Management System implementation issues were not fully disclosed to the General Assembly’s budget committees, and BPW approval for contract scope modifications was not obtained.
- Finding 2:** Additional contracts necessary for EEMS implementation and significant project cost overruns were not disclosed to the General Assembly’s budget committees.
- Finding 3:** MDE lacked guidelines on penalties imposed for violations of environmental laws.
- Finding 4:** Funds were provided to a private foundation for the purchase of land after obtaining only one property appraisal, and a conservation easement was not recorded.
- Finding 5:** Procedures were not established to verify exemptions from paying into the fund granted to wastewater facilities.
- Finding 6:** MDE activities in certain special funds did not always comply with State law.
- Finding 7:** Security standards for hazardous material facilities were not established within the timeframe required by State law.
- Finding 8:** A strategic plan addressing counterterrorism procedures to enhance protection of the State’s public drinking water systems was not developed timely.
- Finding 9:** MDE’s internal network was not adequately secured and controls on its firewall need improvement.
- Finding 10:** **Certain accounts were not adequately controlled, and certain critical activities were not properly monitored.**
- Finding 11:** **An adequate disaster recovery plan did not exist.**

*U00A – Department of the Environment*

**Finding 12:** User account and password controls over certain critical systems were not adequate.

**Finding 13:** Procedures and controls over the processing of purchasing and disbursement transactions were inadequate.

**Finding 14:** Control of corporate purchasing cards was inadequate.

**Finding 15:** Criteria and eligibility requirements had not been established for Secretary incentive award payments as required by State law.

\*Bold denotes item repeated in full or part from preceding audit report.

**Object/Fund Difference Report  
Department of the Environment**

<u>Object/Fund</u>	<u>FY07 Actual</u>	<u>FY08 Working Appropriation</u>	<u>FY09 Allowance</u>	<u>FY08-FY09 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	951.00	945.00	932.00	-13.00	-1.4%
02 Contractual	21.40	42.50	47.50	5.00	11.8%
<b>Total Positions</b>	<b>972.40</b>	<b>987.50</b>	<b>979.50</b>	<b>-8.00</b>	<b>-0.8%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 65,673,219	\$ 67,255,302	\$ 71,539,817	\$ 4,284,515	6.4%
02 Technical and Spec. Fees	892,893	1,463,091	1,671,786	208,695	14.3%
03 Communication	672,493	772,704	821,292	48,588	6.3%
04 Travel	436,071	497,553	498,272	719	0.1%
06 Fuel and Utilities	580,048	608,269	602,268	-6,001	-1.0%
07 Motor Vehicles	1,405,680	1,727,209	1,530,725	-196,484	-11.4%
08 Contractual Services	9,401,153	11,315,756	11,008,877	-306,879	-2.7%
09 Supplies and Materials	1,226,099	1,325,718	1,212,402	-113,316	-8.5%
10 Equip. – Replacement	987,271	984,514	698,783	-285,731	-29.0%
11 Equip. – Additional	565,038	208,071	191,507	-16,564	-8.0%
12 Grants, Subsidies, and Contributions	15,707,886	18,025,948	20,406,804	2,380,856	13.2%
13 Fixed Charges	4,144,591	4,114,258	4,115,436	1,178	0%
14 Land and Structures	0	5,050,000	12,050,000	7,000,000	138.6%
<b>Total Objects</b>	<b>\$ 101,692,442</b>	<b>\$ 113,348,393</b>	<b>\$ 126,347,969</b>	<b>\$ 12,999,576</b>	<b>11.5%</b>
<b>Funds</b>					
01 General Fund	\$ 35,190,882	\$ 37,249,229	\$ 40,631,491	\$ 3,382,262	9.1%
03 Special Fund	36,231,477	41,841,024	49,029,880	7,188,856	17.2%
05 Federal Fund	25,860,804	29,957,517	31,637,157	1,679,640	5.6%
09 Reimbursable Fund	4,409,279	4,300,623	5,049,441	748,818	17.4%
<b>Total Funds</b>	<b>\$ 101,692,442</b>	<b>\$ 113,348,393</b>	<b>\$ 126,347,969</b>	<b>\$ 12,999,576</b>	<b>11.5%</b>

Note: The fiscal 2008 appropriation does not include deficiencies.

**Fiscal Summary  
Department of the Environment**

<u>Program/Unit</u>	<u>FY07 Actual</u>	<u>FY08 Wrk Approp</u>	<u>FY09 Allowance</u>	<u>Change</u>	<u>FY08-FY09 % Change</u>
01 Office of The Secretary	\$ 2,041,326	\$ 1,857,846	\$ 1,741,509	-\$ 116,337	-6.3%
02 Administrative and Employee Services Admin.	7,652,969	7,260,497	7,850,801	590,304	8.1%
04 Water Management Administration	28,755,519	33,232,921	33,641,430	408,509	1.2%
05 Technical and Regulatory Services Administration	13,099,781	13,408,246	14,863,022	1,454,776	10.8%
06 Waste Management Administration	24,521,473	26,271,147	29,073,980	2,802,833	10.7%
07 Air and Radiation Management Administration	14,467,734	15,074,863	15,434,015	359,152	2.4%
10 Coordinating Offices	11,153,640	16,242,873	23,743,212	7,500,339	46.2%
<b>Total Expenditures</b>	<b>\$ 101,692,442</b>	<b>\$ 113,348,393</b>	<b>\$ 126,347,969</b>	<b>\$ 12,999,576</b>	<b>11.5%</b>
General Fund	\$ 35,190,882	\$ 37,249,229	\$ 40,631,491	\$ 3,382,262	9.1%
Special Fund	36,231,477	41,841,024	49,029,880	7,188,856	17.2%
Federal Fund	25,860,804	29,957,517	31,637,157	1,679,640	5.6%
<b>Total Appropriations</b>	<b>\$ 97,283,163</b>	<b>\$ 109,047,770</b>	<b>\$ 121,298,528</b>	<b>\$ 12,250,758</b>	<b>11.2%</b>
Reimbursable Fund	\$ 4,409,279	\$ 4,300,623	\$ 5,049,441	\$ 748,818	17.4%
<b>Total Funds</b>	<b>\$ 101,692,442</b>	<b>\$ 113,348,393</b>	<b>\$ 126,347,969</b>	<b>\$ 12,999,576</b>	<b>11.5%</b>

Note: The fiscal 2008 appropriation does not include deficiencies.