

L00A
Department of Agriculture

Operating Budget Data

(\$ in Thousands)

	<u>FY 08</u> <u>Actual</u>	<u>FY 09</u> <u>Working</u>	<u>FY 10</u> <u>Allowance</u>	<u>FY 09-10</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$33,710	\$29,772	\$32,009	\$2,237	7.5%
Contingent & Back of Bill Reductions	0	0	-2,244	-2,244	
Adjusted General Fund	\$33,710	\$29,772	\$29,765	-\$7	0.0%
Special Fund	20,304	20,395	21,334	939	4.6%
Contingent & Back of Bill Reductions	0	0	-47	-47	
Adjusted Special Fund	\$20,304	\$20,395	\$21,287	\$892	4.4%
Federal Fund	5,365	6,513	4,722	-1,791	-27.5%
Contingent & Back of Bill Reductions	0	0	-8	-8	
Adjusted Federal Fund	\$5,365	\$6,513	\$4,714	-\$1,799	-27.6%
Reimbursable Fund	2,370	3,025	15,377	12,352	408.3%
Contingent & Back of Bill Reductions	0	0	-7	-7	
Adjusted Reimbursable Fund	\$2,370	\$3,025	\$15,371	\$12,345	408.0%
Adjusted Grand Total	\$61,749	\$59,706	\$71,138	\$11,432	19.1%

- The Maryland Department of Agriculture (MDA) has submitted a fiscal 2009 budget deficiency request for \$80,000 in special funds for enforcement of pesticide regulations in the Office of Plant Industries and Pest Management.
- The overall adjusted change in MDA's budget is \$11.4 million, or 19.1%. The major change is \$12.4 million in reimbursable funds, which includes \$11.9 million for cover crops.
- Three contingent reductions are included in the allowance. Deletion of the deferred compensation match would decrease MDA's general fund appropriation by \$193,952. Reductions of \$1,250,000 general funds are also included for the Maryland Agricultural and Resource-Based Industry Development Corporation as well as five positions and \$400,000 in general funds for soil conservation districts in the Office of Resource Conservation.

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

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- Across-the-board reductions are effected in MDA’s budget. The total reduction is \$460,804 in general funds. Reductions detailed for MDA include 8 positions and \$233,264 in general funds as part of the abolition of 1,000 positions, \$25,009 in general funds to reduce full-time equivalents, and \$202,531 in general funds in the expectation of savings in contracted services based on a favorable bidding climate. Additional personnel actions may occur in this agency as part of a statewide \$30.0 million general fund unallocated across-the-board general fund reduction.

Personnel Data

	<u>FY 08</u> <u>Actual</u>	<u>FY 09</u> <u>Working</u>	<u>FY 10</u> <u>Allowance</u>	<u>FY 09-10</u> <u>Change</u>
Regular Positions	436.50	426.50	417.50	-9.00
Contractual FTEs	<u>51.45</u>	<u>49.67</u>	<u>51.95</u>	<u>2.28</u>
Total Personnel	487.95	476.17	469.45	7.28

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	30.78	7.15%
Positions and Percentage Vacant as of 12/31/08	28.40	6.66%

- With across-the-board and contingent reductions the allowance would provide for 417.5 positions.
- Across-the-board cuts abolish 8 unspecified positions and 1 personnel specialist was abolished. A contingent reduction would abolish 5 new soil conservation district positions and, therefore, the 5 new positions are not reflected above.
- MDA’s turnover rate of 7.15% is 0.49% greater than the current vacancy rate and is greater than the fiscal 2009 working appropriation turnover rate of 4.90%.

Analysis in Brief

Major Trends

2008 Federal Farm Bill Passed but Appropriations Pending: The 2008 Federal Farm Bill was the largest Farm Bill to date, but Congress has yet to appropriate funding. The U.S. Department of Agriculture will need to write the regulations determining the actual allocation of funding.

Issues

2008 Federal Farm Bill: While uncertainty surrounds the allocation of the 2008 Federal Farm Bill, the Chesapeake Bay Watershed Initiative has been announced and Maryland may be a recipient. **The Department of Legislative Services (DLS) recommends that MDA discuss how the 2008 Farm Bill is anticipated to impact agricultural policy in Maryland and how the Chesapeake Bay Watershed Initiative funding likely would be used.**

No Legal Authority to Charge Fees for Disposal/Cremation and Necropsy of Animals: The authority for MDA to charge fees for disposal/cremation and necropsy of animals does not appear to exist in statute and calls into question other fees charged by MDA's Animal Health Diagnostic Laboratories. **DLS recommends that MDA (1) stop collecting the fees for the disposal/cremation and necropsy of animals until legislation is enacted to permit it to do so; or (2) obtain a formal opinion from the Office of the Attorney General clarifying MDA's authority.**

Cover Crop Goal Unrealistic: A record amount of funding has been appropriated for cover crops in fiscal 2010. However, over the last four fiscal years, cover crop acreage has averaged an approximately 50% decline between the number of initial acres and final eligible acres. A 400,000-acre goal would require approximately 800,000 in initial acres signed up. **DLS recommends that MDA comment on (1) how it anticipates meeting the 400,000 acre cover crop goal in fiscal 2010 given the approximately 50% decline in final eligible acres as a percent of initial acres; and (2) whether this goal is attainable. DLS also recommends that the cover crop allowance be reduced by \$5.0 million in reimbursable funds to reflect a more realistic expenditure. Budget bill language to this effect is included as a recommendation.**

Soil Conservation District Report Not Forthcoming: The General Assembly requested that MDA include with the fiscal 2010 State budget submission a report on the number of authorized soil conservation district field personnel positions and funding. The report has not been received. **DLS recommends that MDA comment on why the required report has not been submitted.**

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Recommended Actions

	<u>Funds</u>	<u>Positions</u>
1. Adopt budget bill language reducing the reimbursable fund appropriation for the Cover Crop Program by \$5,000,000.		
2. Strike contingent language on the Maryland Agricultural and Resource-Based Industry Development Corporation appropriation.		
3. Reduce the grant to the Maryland Agricultural Resource-Based Industry Development Corporation.	\$ 2,500,000	
4. Strike contingent language on the Resource Conservation Operations appropriation.		
5. Abolish five new positions and reduce funding by \$400,000.	400,000	5.0
Total Reductions	\$ 2,900,000	5.0

Operating Budget Analysis

Program Description

The Maryland Department of Agriculture (MDA) supervises, administers, and promotes agricultural activities throughout the State. Its mission is to provide leadership and support to agriculture and the citizens of Maryland by conducting regulatory, service, and educational activities that assure consumer confidence, protect the environment, and promote agriculture. MDA is organized into four administrative units: Office of the Secretary; Marketing, Animal Industries, and Consumer Services; Plant Industries and Pest Management; and Office of Resource Conservation. These units provide marketing services; agricultural land preservation; inspection, grading, monitoring, and testing of agricultural product quality; animal and plant disease control; pest management; and technical and financial assistance for encouraging management practices that minimize soil erosion and nutrient runoff. In fiscal 2004, the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) was created as an independent agricultural development agency that is budgeted within MDA.

MDA's primary goals are:

- to promote profitable production, use, and sale of Maryland agricultural products;
- to protect the health of the public, plant, and animal resources in Maryland;
- to preserve adequate amounts of productive agricultural land and woodland in Maryland;
- to provide and promote land stewardship, including conservation, environmental protection, preservation, and resource management; and
- to provide health, safety, and economic protection for Maryland consumers.

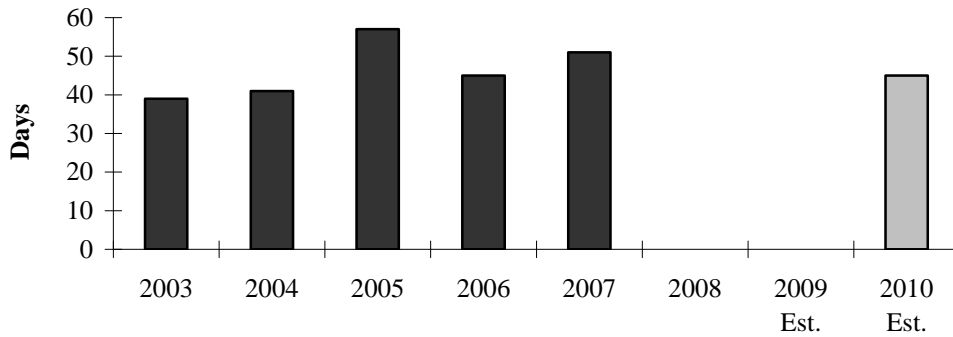
Performance Analysis: Managing for Results

MDA's fiscal 2010 Managing for Results submission reflects staffing concerns in Central Services, Maryland Horse Industry Board, and State Chemist. **Exhibit 1** presents the data, which indicates the following trends:

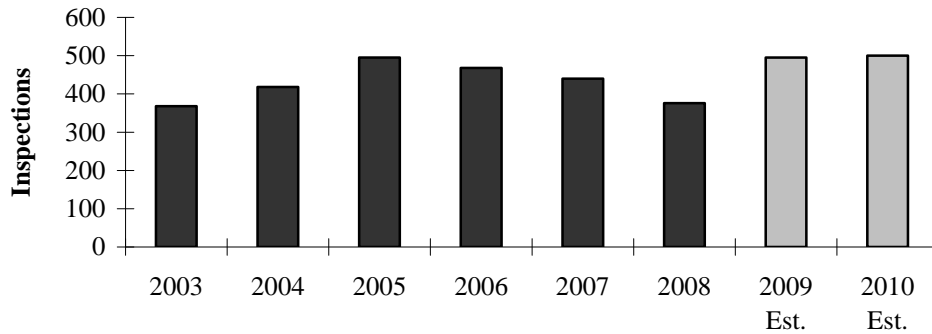
- Average number of work days to complete employment eligibility test – data is not available for this human resource office measure for either the fiscal 2008 actual or the fiscal 2009 estimate due to the loss of human resources positions; this makes recruiting, retaining, and appropriately compensating qualified individuals more difficult; MDA responds that in the last two years it has lost two human resources personnel officers (the human resources director and a personnel specialist) and that tracking data will be a challenge.

Exhibit 1
Maryland Department of Agriculture Staffing Concerns
Fiscal 2003-2010

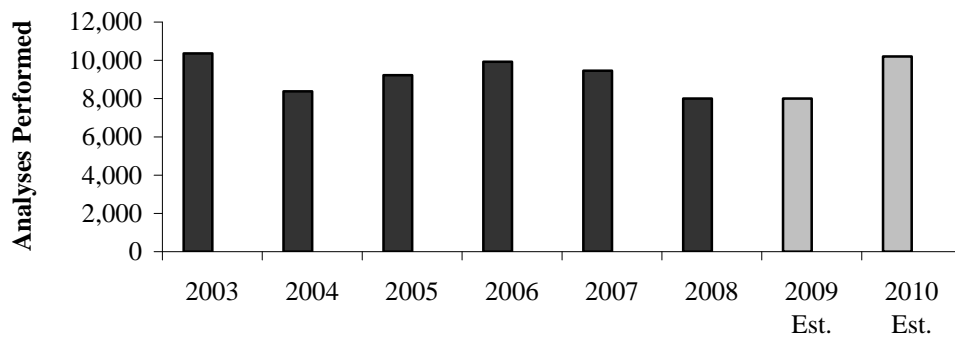
Average Number of Work Days to Complete Employment Eligibility Test



Number of Horse Stable Inspections Performed Annually



Number of Livestock and Pet Food Laboratory Analyses Performed



Source: Governor's Budget Books, Fiscal 2007-2010

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- Number of horse stable inspections performed annually – fiscal 2007 and 2008 inspections decline relative to fiscal 2005 and 2006 due to the illness of an inspector in fiscal 2007, and both medical leave and retirement in fiscal 2008; MDA notes that it will be fully staffed at one inspector in fiscal 2009. This staffing level leaves little leeway for illness or other absence despite inspectors being cross-trained with the State Board of Veterinary Medical Examiners.
- Number of livestock and pet food laboratory analyses performed – fiscal 2007 and 2008 analyses decline relative to fiscal 2006 partially due to two chemist positions being unfilled; MDA notes that it is fully staffed, but one chemist position currently is out on long-term sick leave.

The Department of Legislative Services (DLS) recommends that MDA comment on how its staffing levels relate to the completion of duties by specialists and on how cross-training of employees or other measures might allow for better coverage of duties.

Fiscal 2009 Actions

Proposed Deficiency

The Governor has submitted a deficiency appropriation for the fiscal 2009 operating budget which would increase MDA's special fund appropriation by \$80,000. The appropriation would increase the Office of Plant Industries and Pest Management special fund appropriation to provide funds for enforcement of pesticide regulations. The source of funding is pesticide registration fees.

Impact of Cost Containment

The net impact of the June 25, and October 15, 2008 Board of Public Works (BPW) actions is a reduction of 10 positions, \$5.3 million in general funds, \$1.3 million in special funds, and \$12,000 in federal funds. A summary of the reductions follows:

- cover crops – \$3.1 million, however, MDA intends to increase its special fund appropriation through an allocation from the Chesapeake Bay 2010 Trust Fund;
- Tobacco Transition Program infrastructure grants – \$1.2 million;
- salaries, wages, and fringe benefits – \$0.9 million;
- Maryland Agricultural and Resource-Based Industry Development Corporation grant – \$0.5 million;
- Other Post Employment Benefits (OPEB) prefunding – \$0.4 million;
- Wine and Grape Promotion Council grant – \$0.2 million;

Analysis of the FY 2010 Maryland Executive Budget, 2009

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- travel and vehicles – \$0.2 million; and
- statewide employee health insurance balances – \$0.1 million.

In addition to BPW actions on June 25, 2008, and October 15, 2008, MDA's general fund appropriation is estimated to decrease \$232,878 in fiscal 2009 due to the across-the-board State salary reduction.

Proposed Budget

MDA's fiscal 2010 allowance increases by \$11.4 million, or 19.1%, relative to the fiscal 2009 working appropriation as shown in **Exhibit 2**. The changes by fund are a decrease of \$7,000 in general funds, an increase of \$892,000 in special funds, a decrease of \$1,799,000 in federal funds, and an increase of \$12,345,000 in reimbursable funds. There are three items reduced contingent upon the enactment of the Governor's Budget Reconciliation and Financing Act of 2009 (House Bill 101/Senate Bill 166) and several across-the-board reductions.

Personnel

Overall, personnel expenses decrease \$304,000 in the fiscal 2010 allowance relative to fiscal 2009. There are increases in employee and retiree health insurance spending of \$505,000 and retirement contribution spending of \$269,000. These are offset by the following personnel decreases:

- turnover adjustments – the turnover rate is increased from 4.90% in the fiscal 2009 working appropriation to 7.15% in the fiscal 2010 allowance, which reduces funding by \$593,000 and requires that more positions be held vacant in fiscal 2010;
- OPEB – the funding for reducing the unfunded liability for OPEB is deleted; and
- position abolished – one personnel specialist position was abolished for a reduction of \$47,000, which MDA indicates will make it more difficult to conduct human resources functions.

Exhibit 2
Proposed Budget
Department of Agriculture
(\$ in Thousands)

How Much It Grows:	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Fund</u>	<u>Federal</u> <u>Fund</u>	<u>Reimb.</u> <u>Fund</u>	<u>Total</u>
2009 Working Appropriation	\$29,772	\$20,395	\$6,513	\$3,025	\$59,706
2010 Allowance	<u>32,009</u>	<u>21,334</u>	<u>4,722</u>	<u>15,377</u>	<u>73,443</u>
Amount Change	\$2,237	\$939	-\$1,791	\$12,352	\$13,737
Percent Change	7.5%	4.6%	-27.5%	408.3%	23.0%
Contingent Reduction	-\$2,244	-\$47	-\$8	-\$7	-\$2,305
Adjusted Change	-\$7	\$892	-\$1,799	\$12,345	\$11,432
Adjusted Percent Change	-0.0%	4.4%	-27.6%	408.0%	19.1%

Where It Goes:

Personnel Expenses

Employee and retiree health insurance pay-as-you-go costs	\$505
Retirement contribution	269
Increments due to January 1 annualization.....	92
Workers' compensation premium assessment.....	65
Other fringe benefit adjustments	-6
Turnover adjustments	-593
Reduction in Other Post Employment Benefits' unfunded liability	-370
Reduction of 8 positions and funding (Section 18)	-233
Contingent reduction of deferred compensation.....	-194
Abolished position (1)	-47

Other Changes

Cover Crops

Allocation from the Chesapeake Bay 2010 Trust Fund for cover crops.....	11,946
Additional Bay Restoration Fund revenue for cover crops in fiscal 2010.....	1,435
Commodity cover crop funding decrease	-702

Mandates

MARBIDCO mandated appropriation increase to \$4.0 million	1,250
Contingent reduction for MARBIDCO	-1,250
Soil Conservation District grant funding and 5 new positions	400

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Where It Goes:

Contingent reduction for Soil Conservation Districts.....	-400
<i>Other Agricultural Programs</i>	
Tobacco Transition Program resources shifted from PAYGO agricultural preservation to operating infrastructure grants.....	695
Contractual services decrease for emerald ash borer eradication and gypsy moth.....	-1,048
Reduction in grant for poultry litter structures and improving dairy herd nutrition.....	-336
Reduced settlement and appraisal fees for agricultural land preservation.....	-210
<i>Operations</i>	
Statewide telephone charges invoiced by DBM.....	273
Replacement vehicles (13) and leasing vehicles.....	251
Other.....	33
One-time software upgrades for laptops and desktops.....	-165
<i>Across-the-board Reductions</i>	
Reduction for contractual services (Section 24).....	-203
Reduction for contractual full-time equivalents (Section 23).....	-25
Total	\$11,432

DBM: Department of Budget and Management

MARBIDCO: Maryland Agricultural and Resource-Based Industry Development Corporation

PAYGO: pay-as-you-go

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

Other Changes

Overall, the non-personnel portion of the fiscal 2010 allowance increases \$11,944,000. The areas of change include cover crops, mandates, general agricultural policy, and operations. Cover crop funding increases \$12,679,000 in fiscal 2010 as follows:

- allocation from the Chesapeake Bay 2010 Trust Fund – cover crop funding increases \$11,946,000 in reimbursable funds from the Department of Natural Resources (DNR);
- additional Bay Restoration Fund revenue – the budgeted amount for the fiscal 2010 Bay Restoration Fund allocation to cover crops is \$1,435,000 above the fiscal 2009 working appropriation; and
- commodity cover crop funding – a grant of \$600,000 from the Maryland Grain Producers Utilization Board and a grant of \$102,000 from the Chesapeake Bay Trust are not included in the fiscal 2010 allowance.

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Mandates in MDA's budget increase by \$1,650,000 as follows but are also subject to contingent reductions:

- MARBIDCO – the grant to MARBIDCO increases by \$1,250,000 in general funds relative to the fiscal 2009 working appropriation in order to meet the statutory funding requirement of \$4 million for fiscal 2010;
- Soil conservation district funding – general funds for soil conservation districts increase by \$400,000 for five new positions, (\$207,000) and grants (\$193,000).

Funding for other agricultural programs decreases \$899,000. There is an increase of \$695,000 in special funds that represents a shift of funding from the Tobacco Transition Program's pay-as-you-go (PAYGO) capital allocation for agricultural land preservation to the operating budget for operating infrastructure grants. This offsets reductions made by BPW in its October 15, 2008 meeting. The decreases in programmatic spending are as follows:

- emerald ash borer and gypsy moth contractual services – \$1,048,000 in federal funds for emerald ash borer eradication and gypsy moth mitigation are reduced to reflect the reduced need for funding the emerald ash borer eradication effort and the federal government's shift from funding gypsy moth mitigation on the East Coast to funding it in the Midwest;
- grants for poultry litter structures and improving dairy herd nutrition – the federal grants for poultry litter structures and improving dairy herd nutrition collectively are reduced by \$336,000; and
- agricultural land preservation settlement and appraisal fees – the overall decrease in the transfer of agricultural land has reduced the amount of funding available for agricultural land preservation and consequently the amount that is needed for settlement and appraisal fees.

Spending on operations increases \$392,000 in the fiscal 2010 allowance. The one decrease in spending is for \$165,000 in one-time software upgrades for laptops and desktops. Among the increases are the following:

- statewide telephone charges invoiced by the Department of Budget and Management (DBM) – the telephone charges increase by \$273,000 based on a schedule kept by DBM; and
- replacement vehicles and leasing vehicles– funding is included for approximately 13 new vehicles and for leasing vehicles for monitoring emerald ash borer eradication, which restores funding cut by BPW in October 2008 and allows for replacement of vehicles with an average mileage of greater than 125,000 miles.

Impact of Cost Containment

Cost containment actions in the fiscal 2010 allowance include contingent reductions and across-the-board reductions. The three contingent reductions are as follows:

- deletion of the deferred compensation match – reduces MDA’s appropriation by \$193,952 in all funds;
- reduction for the grant to MARBIDCO – reduces MDA’s general fund appropriation by \$1,250,000, which reduces the amount of grants by 10 and loans by 6 from a \$4 million estimate of 25 grants and 23 loans; and
- reduction for the mandated \$400,000 increase to the soil conservation districts – abolishes the proposed increase of 5 soil conservation district field positions and grant funding for the districts for a reduction of \$400,000 general funds, which maintains the existing technical assistance level provided by soil conservation districts.

Across-the-board reductions include the following:

- Section 18 – deletion of 8 positions and reduction of \$233,264 in general funds as part of the abolition of 1,000 positions;
- Section 23 – reduction of \$25,009 in general funds to reduce full-time equivalents which could disproportionately impact mosquito control; and
- Section 24 – reduction of \$202,531 in general funds in the expectation of savings in contracted services based on a favorable bidding climate.

Additional personnel actions may occur in MDA as part of a statewide \$30 million general fund unallocated across-the-board reduction.

Issues

1. 2008 Federal Farm Bill

The Food, Conservation, and Energy Act of 2008 is known as the 2008 Farm Bill. According to the Congressional Research Service, the Farm Bill dictates federal farm and food policy and has a renewal period of five years. The federal 2008 Farm Bill was enacted on June 18, 2008, as Public Law 110-246 with 15 titles and 50% more provisions than the 2002 Farm Bill.

Overall, the 2008 Farm Bill allocation to Maryland is uncertain due to the need for the appropriations process to be completed when Congress returns. However, the 2008 Farm Bill does contain a substantial number of conservation provisions, one of which is a program within Title II – the Conservation Title – that contains likely funding for Maryland. On January 15, 2009, the U.S. Department of Agriculture (USDA) and the U.S. Environmental Protection Agency announced the Chesapeake Bay Watershed Initiative. The Notice of Funding Availability for the Initiative was published in the Federal Register on January 22, 2009.

The initiative allows eligible farmers within the Chesapeake Bay watershed (Maryland, Virginia, Pennsylvania, West Virginia, Delaware, and New York) to receive payments for voluntary implementation of conservation practices. Conservation practices may address air quality, wetlands, wildlife habitat, and forestry through conservation practices that prevent soil erosion, sedimentation, and excess nutrient runoff.

The initiative's financial and technical assistance funding will be provided through the Environmental Quality Incentives Program administered by the USDA's Natural Resources Conservation Service. The funding plan by federal fiscal year is as follows:

- 2009 – \$23 million;
- 2010 – \$43 million;
- 2011 – \$72 million; and
- 2012 – \$50 million.

The funding will be targeted to the following river basins: Susquehanna River, Shenandoah River, Potomac River (North and South Potomac) and Patuxent River. A section of the Susquehanna River and the entire Potomac and Patuxent rivers are in Maryland. **DLS recommends that MDA discuss how the 2008 Farm Bill is anticipated to impact agricultural policy in Maryland and how the Chesapeake Bay Watershed Initiative funding likely would be used.**

2. No Legal Authority to Charge Fees for Disposal/Cremation and Necropsy of Animals

The authority for MDA to charge fees for disposal/cremation and necropsy of animals does not appear to exist in statute and calls into question other fees charged by MDA's Animal Health Diagnostic Laboratories. MDA conducted 8,141 necropsies and 258,273 laboratory tests in fiscal 2008.

No Authority to Charge Fees

During the 2008 legislative session, a legislative request was received concerning MDA's authority to charge fees for disposal/cremation and necropsy of animals. In a review of the Agriculture Article and the Code of Maryland Regulations, DLS found no statute or regulation that authorizes MDA to charge such fees. Subsequently, the General Assembly's Assistant Attorney General also found that there is no explicit authority in statute, while some justification might be possible if a regulation relating to the necropsy of livestock was in the Code of Maryland Regulations.

Definition of Animal

The question of the authority appears to lie in the definition of an animal. First, an animal in this context could be either a domestic companion – a pet – or it could be livestock. Second, an animal in this context could be considered as either an individual unit or as part of a larger unit, such as a herd. Agriculture Article Section 10-601(c) defines farm product (which includes livestock but does not appear to include domestic animals) as follows:

(c) *Farm product* – "Farm product" means any agricultural, horticultural, vegetable, or fruit product of the soil, including livestock, meats, marine food products, poultry, eggs, dairy products, wool, hides, feathers, nuts, honey, and every product of farm, forest, orchard, garden or water, but does not include canned, frozen, dried, or pickled products.

Agriculture Article Section 10-602 states that when requested by any person financially interested in any farm product the Secretary may do the following:

- examine the product to determine its quality, condition, grade, or other classification, either on the basis of the standards established by the Secretary, or the standards announced from time to time by the United States Department of Agriculture;
- provide the person with an official certificate; and
- adopt rules and regulations concerning the inspection and certification of any farm product, including the payment of reasonable fees, as necessary to effectuate the purposes of this subtitle.

Question of Authority to Charge for Necropsy Only

Based on the statute above, MDA agrees that it does not have the authority to charge for either disposal/cremation or necropsy of domestic animals. However, MDA believes that it may still have the authority to charge for necropsy of livestock. The reasoning is that a herd of livestock can be considered a farm product and to protect this farm product the inspection and certification of individual members of the herd needs to be conducted in order to check for communicable disease. One form this inspection could take is a necropsy.

However, even if MDA is found to have the authority to charge for necropsies of livestock, there still is the question of whether MDA has the right to charge fees for disposal/cremation of livestock. MDA's reasoning about the charging for the disposal/cremation of the livestock is that these fees can be lumped into the fee for the necropsy as if the disposal/cremation process was just a component of the overall necropsy process. An alternative view is that the disposal/cremation process is separate from the necropsy process and, therefore, there is no authority in Agriculture Article Section 10-602 that justifies MDA's charging of disposal/cremation fees for livestock.

MDA indicated to DLS that it would review its current regulations related to diagnostic lab services and promulgate changes necessary to exercise its authority under Agriculture Article Section 10 subtitle 6. **DLS recommends that MDA (1) stop collecting the fees for the disposal/cremation and necropsy of animals until legislation is enacted to permit it to do so; or (2) obtain a formal opinion from the Office of the Attorney General clarifying MDA's authority.**

3. Cover Crop Goal Unrealistic

The fiscal 2009 legislative appropriation for cover crops was approximately \$8.5 million. BPW reduced the appropriation by \$3.1 million general funds in October 2008 to \$5.4 million special and reimbursable funds. MDA was directed to solicit approximately \$20.0 million in cover crop interest with the goal of planting 300,000 acres. To date, \$11.2 million for 237,903 acres of cover crops has been approved in the fiscal 2009 fall certification. MDA plans to increase its cover crop appropriation to \$11.2 million through carryover fiscal 2008 and new Bay Restoration Fund special funds (\$4.1 million) and an allocation from the Chesapeake Bay 2010 Trust Fund (\$2.8 million). These increases partially are offset by lower than anticipated reimbursable fund and special fund grant funding (\$0.8 million) and the need to offset the reduction of general funds with special funds (\$0.3 million).

In the fiscal 2010 allowance, approximately \$17.8 million is included for cover crops, or 400,000 acres. This appropriation includes \$5.8 million in Bay Restoration Fund special funds from the fee collected from septic system users and \$11.9 million reimbursable funds from the Chesapeake Bay 2010 Trust Fund through DNR.

However, as shown in **Exhibit 3**, the cover crop program has not shown that it can support this level of funding. For instance, over the last couple of years, the average number of final eligible acres as a percent of initial acres is approximately 50%. At this average rate, approximately 800,000 acres of cover crops would need to be solicited in order to meet the fiscal 2010 goal. Exhibit 3 shows that for the last five years, solicitations have been well under 800,000 acres.

**Exhibit 3
Cover Crop History
Fiscal 2005-2009**

Fiscal Year	Initial Acres	Approved Acres	Fall Certification	Final Eligible Acres	Final Eligible Acres as a % of Initial Acres
2005	205,089	170,430	56,852	53,848	26%
2006	210,308	205,268	135,328	128,638	61%
2007	454,881	290,000	243,995	238,674	52%
2008	336,800	303,364	203,144	187,479	56%
2009	398,225	387,022	237,903	n/a	n/a

Source: Maryland Department of Agriculture; Department of Legislative Services

DLS recommends that MDA comment on (1) how it anticipates meeting the 400,000-acre cover crop goal in fiscal 2010 given the approximately 50% decline in final eligible acres as a percent of initial acres; and (2) whether this goal is attainable. DLS also recommends that the cover crop allowance be reduced by \$5.0 million in reimbursable funds to reflect a more realistic expenditure. Budget bill language to this effect is included as a recommendation.

4. Soil Conservation District Report Not Forthcoming

Committee narrative in the *2008 Joint Chairmen's Report* expressed the General Assembly's intent that MDA submit a report on the number of authorized soil conservation district field personnel positions, the number of vacant authorized field personnel positions, the funding source, the amount for each authorized position and the source of funding and the amount, as well as which subprograms and subobjects are covered under soil conservation district funding. This report was to be submitted with the fiscal 2010 State budget submission. DLS did not receive the report with the fiscal 2010 State budget submission. **DLS recommends that MDA comment on why the required report has not been submitted.**

Recommended Actions

1. Adopt the following language:

Authorization to expend reimbursable funds received from the Department of Natural Resources for the Cover Crop Program is reduced by \$5,000,000.

Explanation: The fiscal 2010 allowance includes \$17.8 million for cover crops: \$5.8 million in Bay Restoration Fund special fund revenue and \$11.9 million in reimbursable funds from the Department of Natural Resources for an allocation from the Chesapeake Bay 2010 Trust Fund. The fiscal 2010 allowance for cover crops is \$6.6 million more than the \$11.2 million proposed to be spent on cover crops in fiscal 2009. This action reduces the \$11.9 million allocation from the Chesapeake Bay 2010 Trust Fund by \$5.0 million for a reimbursable fund appropriation of \$6.9 million and a total cover crop appropriation of \$12.8 million. The \$12.8 million appropriation would allow for an approximately \$1.6 million increase from the cover crop spending proposed for fiscal 2009.

2. Strike the following language: ~~, provided that this appropriation shall be reduced by \$1,250,000 contingent upon the enactment of legislation reducing the mandated amount of funds for the Maryland Agricultural and Resource Based Industry Development Corporation.~~

Explanation: Technical amendment to reflect budget action.

- | | <u>Amount
Reduction</u> | |
|---|------------------------------------|----|
| 3. Reduce the grant to the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO), leaving \$1.5 million for fiscal 2010. The fiscal 2010 allowance includes the statutorily mandated \$4.0 million appropriation. However, the Budget Financing and Reconciliation Act of 2009 reduces the grant to MARBIDCO by \$1.25 million, which is equal to the fiscal 2009 working appropriation of \$2.75 million. The \$2.5 million reduction would allow \$0.5 million for MARBIDCO to continue operations such as servicing existing loans and providing non-financial services and would allow \$1.0 million for grant and loan activity in fiscal 2010. | \$ 2,500,000 | GF |

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4. Strike the following language: ~~, provided that this appropriation shall be reduced by \$400,000 and 5 new positions contingent upon the enactment of legislation reducing the mandated amount of funds for the Resource Conservation Operations.~~

Explanation: Technical amendment to reflect budget action.

	<u>Amount Reduction</u>		<u>Position Reduction</u>
5. Abolish five new positions and reduce funding by \$400,000. Soil conservation districts are statutorily mandated to receive an appropriation of \$9.6 million in fiscal 2010. This \$400,000 reduction is consistent with the reduction proposed in the Budget Reconciliation and Financing Act of 2009. This action would hold soil conservation district personnel numbers and funding at the fiscal 2009 working appropriation level.	400,000	GF	5.0
Total General Fund Reductions	\$ 2,900,000		5.0

Current and Prior Year Budgets

Current and Prior Year Budgets Maryland Department of Agriculture (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2008					
Legislative Appropriation	\$32,127	\$21,377	\$4,908	\$3,910	\$62,322
Deficiency Appropriation	2,357	1,593	2,869	0	6,819
Budget Amendments	308	151	-69	0	390
Cost Containment	-400	-214	-80	0	-694
Reversions and Cancellations	-682	-2,603	-2,263	-1,540	-7,088
Actual Expenditures	\$33,710	\$20,304	\$5,365	\$2,370	\$61,749
Fiscal 2009					
Legislative Appropriation	\$34,573	\$21,542	\$6,525	\$3,025	\$65,665
Cost Containment	-5,259	-1,251	-12	0	-6,522
Budget Amendments	458	104	0	0	562
Working Appropriation	\$29,772	\$20,395	\$6,513	\$3,025	\$59,705

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

Fiscal 2008

MDA's general fund appropriation increased by a net of \$1.6 million. The changes are as follows:

- deficiency appropriation – an increase of \$2.4 million due to a \$3.0 million increase necessary to replace lost federal funds for gypsy moth suppression partially offset by a \$0.7 million decrease due to additional special fund revenue available for cover crops;
- budget amendments – an increase of \$0.3 million for allocation of the cost-of-living adjustment (COLA) general fund appropriation as authorized in the fiscal 2008 budget bill;
- cost containment – a decrease of \$0.4 million for cost containment actions including reductions to be Nutrient Management Cost Share Program, pesticide regulation, utilities, and the Manure Transport Program, the reclassification of an assistant secretary position, and other salaries, wages, and fringe benefits reductions to reflect the loss of 10 positions in MDA as part of the statewide 500.15 position reduction; and
- reversions and cancellations – a decrease of \$0.7 million mostly due to unused gypsy moth suppression funding because bid contracts came in lower than anticipated, the availability of additional special and federal funds received for gypsy moth suppression, and a reversion of cover crop funding supplanted by Bay Restoration Fund special funds.

MDA's special fund appropriation decreased by a net of \$1.1 million. The changes are as follows:

- deficiency appropriation – an increase of \$1.6 million to budget additional special fund revenue for the cover crop program, to replace lost federal funds for gypsy moth suppression, and to appropriate additional grant funding for implementing agricultural best management practices;
- budget amendments – an increase of \$0.2 million mostly for allocation of the COLA special fund appropriation as authorized in the fiscal 2008 budget bill;
- cost containment – a decrease of \$0.2 million for cost containment actions, affecting the Tobacco Transition Program, that reduced Cigarette Restitution Fund funded infrastructure grants and the reduction of appropriations for salaries, wages, and fringe benefits to reflect the overall reduction of 10 positions in MDA as part of the statewide 500.15 position reduction; and
- reversions and cancellations – a decrease of \$2.6 million mostly due to cancellation of Bay Restoration Fund monies, cancellation of unspent National Fish and Wildlife Foundation and Chesapeake Bay Trust grants, decreased spending in Animal Health, and the shift of Maryland

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Agricultural Land Preservation Fund operating monies to the PAYGO capital budget for land preservation.

MDA's federal fund appropriation increased by a net of \$0.5 million. The changes are as follows:

- deficiency appropriation – an increase of \$2.9 million for eradicating the emerald ash borer, providing funds for gypsy moth suppression, and implementing and refining agricultural best management practices;
- budget amendments – a decrease of \$68,642 as part of closeout cancellations;
- cost containment – a decrease of \$80,396 to reflect the reduction of appropriations for salaries, wages, and fringe benefits as part of the overall reduction of 10 positions in MDA as part of the statewide 500.15 position reduction; and
- reversions and cancellations – a decrease of \$2.3 million mostly due to federal Environmental Quality Incentives Program funding not received, unneeded emerald ash borer funding due to lower than expected contractual fees, federal Women, Infants and Children grant funding not received, and gypsy moth suppression funding unused.

MDA's reimbursable fund appropriation decreased by \$1.5 million. The only change to the reimbursable fund appropriation was the cancellation of \$1.5 million due to lower than expected funding from the Maryland Department of the Environment, DNR, and Department of Health and Mental Hygiene.

Fiscal 2009

The general fund appropriation decreases by a net of \$4.8 million. The changes are as follows:

- cost containment – a decrease of \$5.3 million due to salaries, wages, and fringe benefits reductions at the June 25, 2008 BPW meeting (\$436,486); reductions from cover crops, MARBIDCO, the Wine and Grape Promotion Council grant, from abolishing 10 vacant positions, vehicles and out-of-state travel at the October 15, 2008 BPW meeting (\$4,294,949); and fringe benefit appropriations being reduced as OPEB prefunding of \$412,960 was ceased and statewide employee health insurance balances of \$114,219 were used in lieu of budgeted funds, also at the October 15, 2008 BPW meeting; and
- budget amendments – an increase of \$0.5 million for allocation of the COLA general fund appropriation as authorized in the fiscal 2009 budget bill and for allocation of the Annual Salary Review for the scientist series in Office of Marketing, Animal Industries and Consumer Services, and Office of Plant Industries and Pest Management.

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The special fund appropriation decreases by a net of \$1.1 million. The changes are as follows:

- cost containment – a decrease of \$1.3 million for cost containment actions relating to salaries, wages, and fringe benefits as part of BPW actions on June 25, 2008, and expenditures for infrastructure grants as part of BPW actions on October 15, 2008; and
- budget amendments – an increase of \$0.1 million for allocation of the COLA special fund appropriation as authorized in the fiscal 2009 budget bill.

The federal fund appropriation decreases by \$12,375 for cost containment actions relating to salaries, wages, and fringe benefits as part of BPW actions on June 25, 2008.

The reimbursable fund appropriation remains unchanged from the legislative appropriation.

**Object/Fund Difference Report
Department of Agriculture**

<u>Object/Fund</u>	<u>FY08 Actual</u>	<u>FY09 Working Appropriation</u>	<u>FY10 Allowance</u>	<u>FY09 - FY10 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	436.50	426.50	430.50	4.00	0.9%
02 Contractual	51.45	49.67	51.95	2.28	4.6%
Total Positions	487.95	476.17	482.45	6.28	1.3%
Objects					
01 Salaries and Wages	\$ 25,597,393	\$ 28,296,714	\$ 28,427,319	\$ 130,605	0.5%
02 Technical and Spec. Fees	1,496,852	1,357,253	1,336,545	-20,708	-1.5%
03 Communication	657,099	714,997	935,188	220,191	30.8%
04 Travel	492,823	568,617	596,286	27,669	4.9%
06 Fuel and Utilities	1,253,322	1,237,279	1,342,589	105,310	8.5%
07 Motor Vehicles	1,485,492	1,135,789	1,398,414	262,625	23.1%
08 Contractual Services	9,328,264	8,199,042	6,716,599	-1,482,443	-18.1%
09 Supplies and Materials	1,326,886	1,623,249	1,467,110	-156,139	-9.6%
10 Equipment – Replacement	225,838	309,545	389,211	79,666	25.7%
11 Equipment – Additional	367,802	283,794	371,188	87,394	30.8%
12 Grants, Subsidies, and Contributions	17,551,259	14,902,108	28,933,346	14,031,238	94.2%
13 Fixed Charges	326,949	293,377	954,518	661,141	225.4%
14 Land and Structures	1,639,050	784,000	574,250	-209,750	-26.8%
Total Objects	\$ 61,749,029	\$ 59,705,764	\$ 73,442,563	\$ 13,736,799	23.0%
Funds					
01 General Fund	\$ 33,709,926	\$ 29,772,039	\$ 32,009,083	\$ 2,237,044	7.5%
03 Special Fund	20,304,369	20,395,340	21,334,147	938,807	4.6%
05 Federal Fund	5,364,734	6,512,901	4,722,039	-1,790,862	-27.5%
09 Reimbursable Fund	2,370,000	3,025,484	15,377,294	12,351,810	408.3%
Total Funds	\$ 61,749,029	\$ 59,705,764	\$ 73,442,563	\$ 13,736,799	23.0%

Note: The fiscal 2009 appropriation does not include deficiencies. The fiscal 2010 allowance does not include contingent reductions.

**Fiscal Summary
Department of Agriculture**

<u>Program/Unit</u>	<u>FY08 Actual</u>	<u>FY09 Wrk. Approp.</u>	<u>FY10 Allowance</u>	<u>Change</u>	<u>FY09 - FY10 % Change</u>
11 Office of the Secretary	\$ 8,298,039	\$ 8,230,200	\$ 8,765,321	\$ 535,121	6.5%
12 Office of Marketing, Animal Industries and Consumer Svcs.	17,419,401	17,398,240	19,184,100	1,785,860	10.3%
14 Office of Plant Industries and Pest Management	15,188,993	13,330,740	12,469,696	-861,044	-6.5%
15 Office of Resource Conservation	20,842,596	20,746,584	33,023,446	12,276,862	59.2%
Total Expenditures	\$ 61,749,029	\$ 59,705,764	\$ 73,442,563	\$ 13,736,799	23.0%
General Fund	\$ 33,709,926	\$ 29,772,039	\$ 32,009,083	\$ 2,237,044	7.5%
Special Fund	20,304,369	20,395,340	21,334,147	938,807	4.6%
Federal Fund	5,364,734	6,512,901	4,722,039	-1,790,862	-27.5%
Total Appropriations	\$ 59,379,029	\$ 56,680,280	\$ 58,065,269	\$ 1,384,989	2.4%
Reimbursable Fund	\$ 2,370,000	\$ 3,025,484	\$ 15,377,294	\$ 12,351,810	408.3%
Total Funds	\$ 61,749,029	\$ 59,705,764	\$ 73,442,563	\$ 13,736,799	23.0%

Note: The fiscal 2009 appropriation does not include deficiencies. The fiscal 2010 allowance does not include contingent reductions.