

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

***Operating Budget Data***

(\$ in Thousands)

	<b><u>FY 16</u></b> <b><u>Actual</u></b>	<b><u>FY 17</u></b> <b><u>Working</u></b>	<b><u>FY 18</u></b> <b><u>Allowance</u></b>	<b><u>FY 17-18</u></b> <b><u>Change</u></b>	<b><u>% Change</u></b> <b><u>Prior Year</u></b>
General Fund	\$31,717	\$30,509	\$29,544	-\$965	-3.2%
Adjustments	0	-803	-91	712	
<b>Adjusted General Fund</b>	<b>\$31,717</b>	<b>\$29,706</b>	<b>\$29,453</b>	<b>-\$253</b>	<b>-0.9%</b>
Special Fund	74,347	89,163	103,771	14,608	16.4%
Adjustments	0	0	-140	-140	
<b>Adjusted Special Fund</b>	<b>\$74,347</b>	<b>\$89,163</b>	<b>\$103,631</b>	<b>\$14,468</b>	<b>16.2%</b>
Federal Fund	29,916	33,806	31,662	-2,144	-6.3%
Adjustments	0	0	-77	-77	
<b>Adjusted Federal Fund</b>	<b>\$29,916</b>	<b>\$33,806</b>	<b>\$31,585</b>	<b>-\$2,221</b>	<b>-6.6%</b>
Reimbursable Fund	3,410	6,692	3,898	-2,795	-41.8%
<b>Adjusted Reimbursable Fund</b>	<b>\$3,410</b>	<b>\$6,692</b>	<b>\$3,898</b>	<b>-\$2,795</b>	<b>-41.8%</b>
<b>Adjusted Grand Total</b>	<b>\$139,391</b>	<b>\$159,367</b>	<b>\$168,567</b>	<b>\$9,200</b>	<b>5.8%</b>

Note: Includes targeted reversions, deficiencies, and contingent reductions.

- The overall adjusted change in the Maryland Department of the Environment (MDE) fiscal 2018 budget is an increase of \$9.2 million, or 5.8%. The single largest change in the budget is a \$12.0 million increase in Bay Restoration Fund revenue bond debt service, which is offset by a decrease of \$2.7 million for personnel expenses.

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

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***Personnel Data***

	<b><u>FY 16</u></b> <b><u>Actual</u></b>	<b><u>FY 17</u></b> <b><u>Working</u></b>	<b><u>FY 18</u></b> <b><u>Allowance</u></b>	<b><u>FY 17-18</u></b> <b><u>Change</u></b>
Regular Positions	939.00	894.00	894.00	0.00
Contractual FTEs	<u>27.41</u>	<u>60.50</u>	<u>49.50</u>	<u>-11.00</u>
<b>Total Personnel</b>	<b>966.41</b>	<b>954.50</b>	<b>943.50</b>	<b>-11.00</b>

***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	58.11	6.50%
Positions and Percentage Vacant as of 12/31/16	82.50	9.23%

- Between the fiscal 2016 actual and the fiscal 2018 allowance, MDE's positions decrease by 45.0. Regular positions decrease by 5.0 filled positions between the fiscal 2016 working appropriation and the fiscal 2017 allowance. Section 20 of the fiscal 2017 budget bill abolished 21.0 vacant regular positions. The highest concentration of abolished positions is 9.0 positions that handled environmental compliance in the Water Management Administration. A budget amendment transferred funding from the Water Management Administration and Coordinating Offices to the Department of Information Technology related to 18.0 positions transferred in August 2016 for the Information Technology Enterprise Initiative as authorized by Section 21 of the fiscal 2017 budget bill. Finally, 1.0 position was transferred to the Department of Budget and Management's Personnel Services Division for payroll services in fiscal 2017.
- As of December 31, 2016, MDE has 82.5 vacant positions, of which 18.5 positions have been vacant for more than a year. MDE notes that 3.5 vacancies have been filled, 8.0 are being recruited, 5.0 have appointments pending, and 2.0 have been used for contractual conversions.
- MDE contractual full-time equivalents (FTE) decrease by 11.0 in the fiscal 2018 allowance. The changes include a decrease of 10.0 FTEs in the Land Management Administration and 2.0 FTEs in Coordinating Offices, which are partially offset by an increase of 1.0 FTE in Air and Radiation Management Administration.
- The MDE turnover rate decreased from 7.02% in the fiscal 2017 working appropriation to 6.50% in the fiscal 2018 allowance, requiring 58.11 positions to be vacant. MDE should be able to meet this requirement as it has 82.50 vacancies as of December 31, 2016.

## *Analysis in Brief*

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### **Major Trends**

***Environmental Emergency Calls Have Increased and Environmental Emergencies Addressed Have Decreased:*** The number of environmental emergency calls received increased from 2,752 in fiscal 2015 to 3,251 in fiscal 2016 and has been increasing since fiscal 2013. However, the percent of emergency calls that were addressed has decreased, from 22.4% in fiscal 2013 to 13.6% in fiscal 2016. MDE notes that it responds to 100.0% of the environmental emergency calls that require an emergency response.

***Statewide Recycling Rate Stagnates:*** The statewide Maryland Recycling Act recycling rate has stagnated at around 45%. MDE notes that this is a national trend and has a number of contributing factors such as material type shift, material weight shift, recycled material demand decline, and recycling investment hurdles. Maryland's Zero Waste Strategy is one way to boost the recycling rate. **The Department of Legislative Services (DLS) recommends that MDE comment on the status of implementing Maryland's Zero Waste Strategy and the potential for increasing the recycling rate as a result.**

***Maryland Air Quality Subject to a More Stringent Federal Standard and Actions in Upwind States:*** Exceedances of the eight-hour ozone standard increased from 8 in fiscal 2015 to 26 in fiscal 2016. MDE notes that the U.S. Environmental Protection Agency (EPA) lowered the ozone standard from 75 parts per billion in 2015 to 70 parts per billion in 2016, which had the effect of making the ozone standard more difficult to achieve, and increased the number of ozone standard exceedance days. Maryland has filed two petitions with EPA to seek redress from upwind states, but neither has been successful so far. **DLS recommends that MDE comment on the role of cooperative federalism in reducing Maryland's air quality concerns, the likelihood that cooperative federalism will be promoted in the current EPA Administration, and whether Maryland will pursue lawsuits to seek the redress that has not been provided by filing petitions with the EPA.**

### **Issues**

***Requested Reports Not Submitted:*** The 2016 *Joint Chairmen's Report* (JCR) included requests for a report on compliance and enforcement inspections and positions and a report on wetland restoration funding. To date, neither report has been submitted. **DLS recommends that MDE comment on why neither the compliance and enforcement inspections and positions report nor the wetland restoration funding report were submitted as requested. DLS also recommends adding budget bill language to restrict funds pending the receipt of the reports.**

***MDE and Judiciary Coordinate on Rental Property Data:*** Committee narrative in the 2016 JCR requested that MDE and the Judiciary collaborate on a report discussing how data on rental property compliance with the Reduction of Lead Risk in Housing Act will be shared and how testimony by rental property owners may be checked against MDE's data for rental property cases that come before

the rent court. The Judiciary and MDE submitted a report in which the following actions were proposed: (1) best practices should be implemented on determining when landlords have failed to indicate that a property is in compliance with the Lead Paint Risk Reduction Inspection requirements; and (2) legislation should be passed to allow for the Judiciary to send MDE data on Lead Paint Risk Reduction Inspection Certificates for verification and enforcement. **DLS recommends that MDE comment on whether the Administration will propose the recommended legislation.**

***Volkswagen Emissions Settlement Approved:*** Volkswagen was caught using illegal “defeat devices” to delude vehicle emissions inspections. As a result, Maryland stands to gain under the Volkswagen emissions settlement. There are multiple settlements at play including the multistate consumer protection settlement and the environmental settlement. As part of the environmental settlement, Maryland is eligible to receive \$71 million from the \$2.7 billion Mitigation Trust Fund for use in eligible projects over the 15 years in which the trust is active. **DLS recommends that MDE comment on the full extent of Maryland’s exposure to nitrogen oxides and smog as a result of the defeat devices, the ongoing and concluded lawsuits from which Maryland stands to benefit, and the planned use of any funding to be received from settlements.**

***Staffing Shortage Status Uncertain Due to Lack of Information and Proposed Regulation Change:*** Information provided by MDE in its response to the November 2011 audit indicated that it was understaffed by 342 positions. This was stated in the context of the requirement to inspect construction sites that disturb more than 5,000 square feet of land or that result in more than 100 cubic yards of earth movement on the average of once every two weeks. The compliance and enforcement inspections and positions report has not been submitted, and the Administration proposes to remove the sediment and erosion control requirement. Therefore, MDE’s understaffing status is uncertain. **DLS recommends that MDE comment on its current understaffing status.**

***Lead Poisoning Prevention Issues Continue:*** Lead poisoning prevention has garnered a substantial amount of interest since the identification that Freddie Gray – who died in Baltimore City after being apprehended by police in April 2015 – had childhood lead poisoning. Last year’s analysis listed a number of lead poisoning prevention issues, including the January 2015 lead paint audit findings; the lack of progress on lead databases (online lead rental registry enhancements project and lead rental certification and accreditation information system), the impact of the universal testing regulations on MDE, a rental property certification fraud joint investigation with EPA, and the use of private inspectors for lead paint inspections as opposed to MDE employees given the potential for rental property certification fraud. **DLS recommends that MDE comment on why it has been unable to make further progress on the online lead rental registry enhancements project and lead rental certification and accreditation information databases.**

## **Recommended Actions**

	<b><u>Funds</u></b>
1. Delete funding for double-budgeted Maryland Energy Administration rent.	\$ 170,000
2. Add budget bill language restricting funding pending receipt of a report on compliance and enforcement inspections and positions.	
3. Add budget bill language restricting funding pending receipt of a report on wetland restoration funding in fiscal 2019.	
4. Reduce funding for Bay Restoration Fund revenue bond debt service.	5,000,000
<b>Total Reductions</b>	<b>\$ 5,170,000</b>

## **Updates**

***Maryland Energy Administration Co-location Complete:*** The Maryland Energy Administration (MEA) website notified that it co-located with MDE on December 16, 2015. MEA first moved into temporary space in the Montgomery Park building on MDE's fourth floor within the Water Management Administration's area and stayed there until the buildout of its final office space was approved and completed. MEA has now relocated to permanent space on the seventh floor, effective January 2017. MDE notes that rent savings were accounted for in the fiscal 2017 budget and that final rental agreement details are being completed.

*U00A – Department of the Environment*

U00A  
Department of the Environment

## ***Operating Budget Analysis***

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### **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.
- ***Operational Services Administration:*** This administration provides general administrative and fiscal services to the department.
- ***Water Management Administration:*** This administration administers the State's water pollution control and drinking water protection activities; implements Total Maximum Daily Loads (TMDL) for pollutants in impaired waterways; and regulates industrial/municipal wastewater and stormwater discharge.
- ***Science Services Administration:*** This administration develops and promulgates water quality standards; provides technical support and analysis for TMDLs; monitors shellfish; develops environmental and public health risk assessments; implements nonpoint source pollution programs; and develops and issues fish advisories.
- ***Land 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. It regulates solid waste management facilities, scrap tire recycling facilities, above-ground and below-ground petroleum storage facilities, petroleum distribution, hazardous waste transportation, mining, and both concentrated animal feeding operations and Maryland animal feeding operations. In addition, this administration coordinates lead poisoning prevention efforts.
- ***Air and Radiation Management Administration:*** This administration ensures that air quality and radiation levels in Maryland sustain public health, safety, and the environment. It operates an air-monitoring network, licenses asbestos removal contractors, provides oversight of the Vehicle Emissions Inspection Program, and monitors radiation use. Climate change initiatives are a relatively new component of its operations.

- **Coordinating Offices:** This office manages budget matters, the Water Quality and Drinking Water Revolving Loan funds and other water pollution control program capital projects, and Board of Public Works (BPW) activities; coordinates public information and outreach; provides hazardous chemical and oil spill emergency response services; provides legal advice; and information technology services.

MDE has four goals that are consistent with efforts to protect and preserve Maryland's natural resources. They are:

- provide excellent customer service and community outreach;
- manage air quality and emissions for maximum protection of human health and the environment;
- reduce Maryland citizens' exposure to hazards; and
- protect water resources and ensure safe and adequate supplies of drinking water.

## **Performance Analysis: Managing for Results**

The MDE Managing for Results measures show (1) true environmental emergencies are being addressed despite an increase in environmental emergency calls; (2) the statewide Maryland Recycling Act recycling rate stagnating at around 45%; and (3) Maryland air quality being subject to a more stringent federal ozone standard and actions in upwind states.

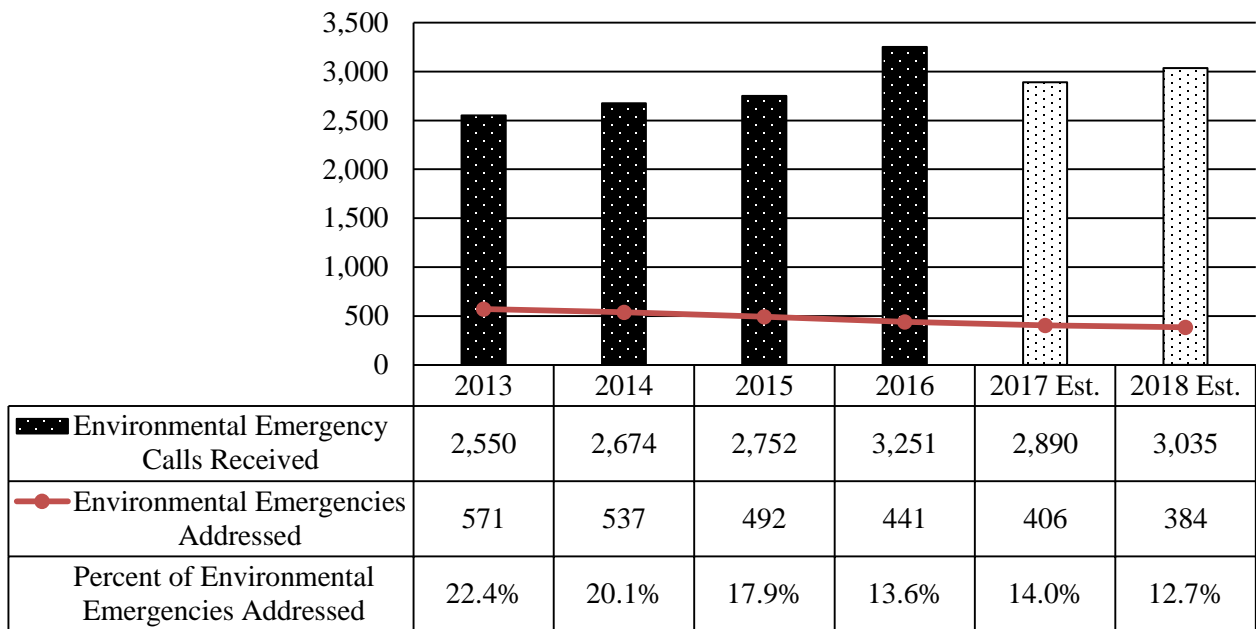
### **1. Environmental Emergency Calls Have Increased and Environmental Emergencies Addressed Have Decreased**

MDE has a goal to provide excellent customer service and community outreach. Under this goal, MDE has the objective to address environmental emergencies to reduce risk to public health and the environment. As shown in **Exhibit 1**, the number of environmental emergency calls received increased from 2,752 in fiscal 2015 to 3,251 in fiscal 2016 and has been increasing since fiscal 2013. However, the percent of emergency calls addressed has decreased over the time period shown, from 22.4% in fiscal 2013 to 13.6% in fiscal 2016. MDE notes that environmental emergency calls vary substantially from year to year and that the reason for this is unclear. In terms of the number of environmental emergencies addressed, MDE notes that any oil spill outside of its intended container is considered a reportable spill, but these spills may only be one gallon or less and usually do not require an emergency response. Therefore, the numbers are somewhat inflated. MDE notes that it addresses 100% of the environmental emergency calls that require an emergency response. The number of emergency responses is dependent on factors such as hurricanes; flooding; ice; and extreme cold



weather when heating oil companies are moving more heating oil, hence more spills are possible. In terms of other factors, MDE notes that white powder scares can cause statistical anomalies in the data.

**Exhibit 1**  
**Environmental Emergency Calls Received and Addressed**  
**Fiscal 2013-2018 Est.**



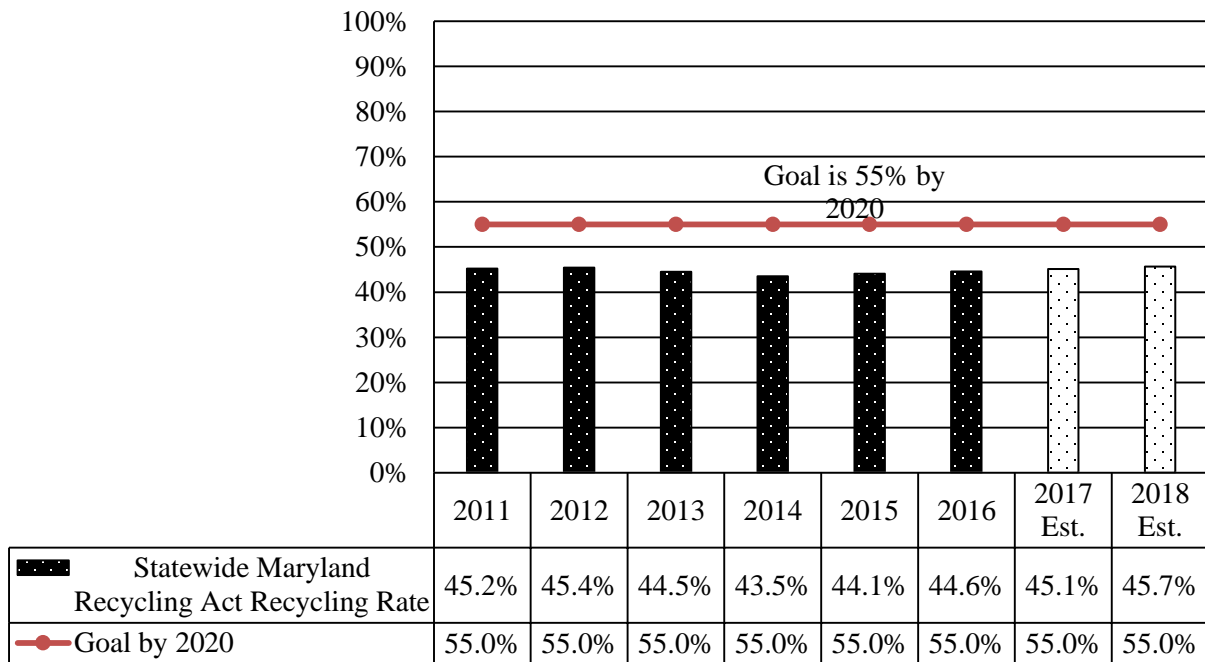
Source: Department of Budget and Management

## 2. Statewide Recycling Rate Stagnates

Also under the goal to provide excellent customer service and community outreach, MDE has an objective of supporting and tracking statewide recycling efforts. Maryland's recycling policy is guided by the Maryland Recycling Act, established by Chapter 536 of 1988. The Maryland Recycling Act sets mandatory recycling rates for State governments and local jurisdictions in the State, as well as a voluntary statewide recycling goal of 55% by 2020. As shown in **Exhibit 2**, the statewide recycling rate has stagnated at around 45%. MDE notes that this is a national trend and has a number of contributing factors as follows.

- **Material Type Shift:** If the generation of frequently recycled materials such as paper decreases, the recycling rate could be negatively impacted even though environmentally, waste avoidance is preferable to recycling.

**Exhibit 2**  
**Statewide Maryland Recycling Act Rate**  
**Calendar 2011-2018 Est.**



Source: Department of Budget and Management

- Material Weight Shift:** Packaging may shift from heavy, easily recyclable materials toward lighter but less easily recyclable materials, and easily recycled materials may also simply become lighter, counting less toward the weight-based recycling rate. In contrast, other materials that tend to be recycled less frequently (e.g., food scraps) are less susceptible to becoming lighter.
- Recycled Material Demand Decline:** Demand for recycled materials can be reduced by contamination of recyclables during single-stream recycling and by foreign government policies such as China's "Green Fence" policy, which reduced the import of low-quality recyclables beginning in 2013.
- Recycling Investment Hurdles:** Maryland may have reached the point at which it has exhausted the easy, least expensive recycling options. Further progress on recycling less commonly recycled materials may require funding that local governments do not have.

**Exhibit 3** shows the amount of Maryland solid waste that is recycled versus the amount that is not recycled in calendar 2014, the most recent year for which data is available. Increasing the amount of recycling will require reducing the amount of waste landfilled in a Maryland permitted facility (2,291,524 tons), exported through a Maryland permitted facility for disposal (2,001,205 tons), or incinerated in a Maryland permitted facility (1,469,464 tons). Maryland's Zero Waste Strategy is one such remedy to the stagnation of the Maryland Recycling Act recycling rate. It is a comprehensive strategy comprised of short- and long-term measures designed to nearly eliminate the need for waste disposal facilities by 2030 by reducing the generation of waste and increasing reuse and recycling. **The Department of Legislative Services (DLS) recommends that MDE comment on the status of implementing Maryland's Zero Waste Strategy and the potential for increasing the recycling rate as a result of doing so.**

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**Exhibit 3**  
**Maryland Solid Waste Recycled vs. Not Recycled**  
**Calendar 2014**  
**(Measured in Tons)**

<u><b>Input</b></u>	<u><b>Total</b></u>
Generated in Maryland	12,098,318
Imported into Maryland	284,091
<b>Total</b>	<b>12,382,409</b>
<u><b>Output</b></u>	
<b>Recycled (Includes Composted)</b>	
Recycled through Maryland Nonpermitted Facility	5,070,263
Recycled through Maryland Permitted Facility (In-state)	1,313,962
Recycled through Maryland Permitted Facility (Exported)	302,197
Adjustment for Tons Managed from Ash, Back-end Scrap Metal, and Bypass	-193,474
Adjustment For Natural Wood Waste Disposed or Stored	-88,476
<b>Subtotal Recycled</b>	<b>6,404,472</b>
<b>Not Recycled</b>	
Landfilled in a Maryland Permitted Facility	2,291,524
Exported through a Maryland Permitted Facility (for Disposal)	2,001,205
Incinerated in a Maryland Permitted Facility	1,469,464
Stored in a Maryland Permitted Facility	361,454
Reported as Disposed by Counties, not through a Maryland Permitted Facility	129,822
Adjustment for Tons Managed from Ash, Back-end Scrap Metal, and Bypass	-275,532
<b>Subtotal Not Recycled</b>	<b>5,977,937</b>
<b>Total</b>	<b>12,382,409</b>

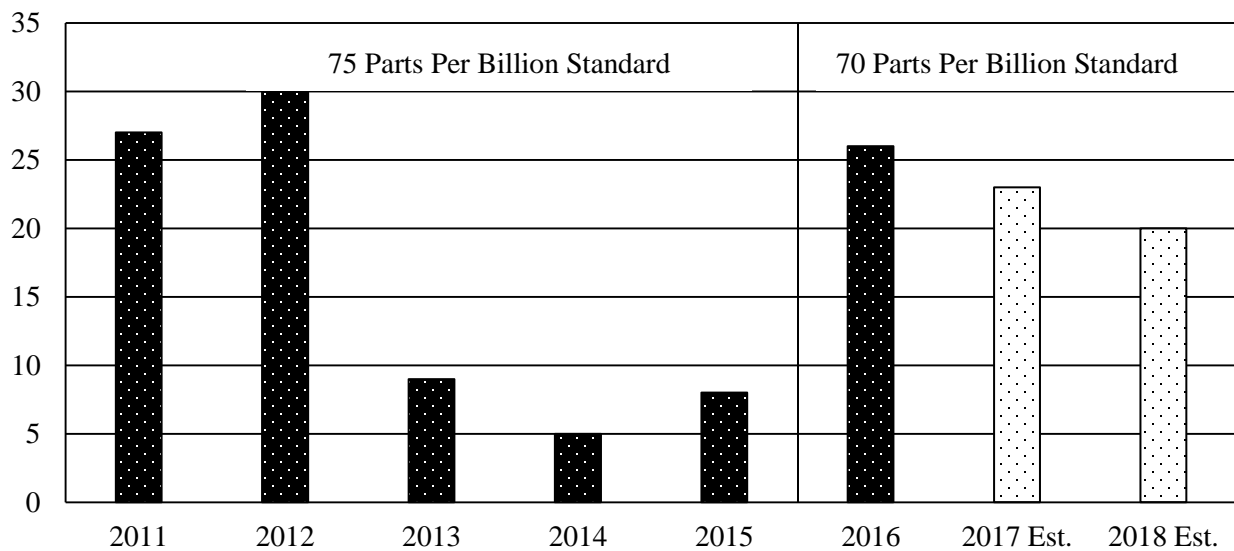
Source: Maryland Department of the Environment

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### 3. Maryland Air Quality Subject to a More Stringent Federal Standard and Actions in Upwind States

MDE has a goal to manage air quality and emissions for maximum protection of human health and the environment. Under this goal, MDE has the objective to achieve attainment with the eight-hour ozone and PM<sub>2.5</sub> standards in the Baltimore and Washington metropolitan areas and Cecil County. As can be seen in **Exhibit 4**, exceedances of the eight-hour ozone standard increased from 8 in fiscal 2015 to 26 in fiscal 2016. MDE notes that the U.S. Environmental Protection Agency (EPA) lowered the ozone standard from 75 parts per billion in 2015 to 70 parts per billion in 2016, which had the effect of making the ozone standard more difficult to achieve and thus increased the number of ozone standard exceedance days.

**Exhibit 4**  
**Exceedances of the Eight-hour Ozone Standard**  
**Calendar 2011-2018 Est.**



Source: Department of Budget and Management

Maryland's ozone exceedance challenge is at least partly a result of the air quality from upwind states. In response, MDE notes Maryland has filed two petitions with EPA for redress as follows.

- Power Plants:** Maryland filed a petition with EPA under Section 126 of the federal Clean Air Act on November 16, 2016, to require 36 power plants in five upwind states – Indiana, Kentucky, Ohio, Pennsylvania, and West Virginia – to reduce pollution substantially by running their installed air pollution controls to reduce emissions. Requiring the use of controls in the

summer months, when ozone production is greatest, would be consistent with the requirements implemented last year in Maryland's nitrogen oxide regulations. EPA published a rule in the Federal Register on January 3, 2017, extending the time for ruling on the petition to July 15, 2017.

- ***Ozone Transport Region:*** Maryland and seven other Northeast and Mid-Atlantic states filed a petition under Section 176A of the federal Clean Air Act requesting that EPA add nine upwind states – Illinois, Indiana, Kentucky, Michigan, North Carolina, Ohio, Tennessee, Virginia, and West Virginia – to the Ozone Transport Region. EPA announced on January 11, 2017, that it is proposing to reject the petition based on other provisions of the Clean Air Act providing more effective means to reduce ozone transport.

**DLS recommends that MDE comment on the role of cooperative federalism in reducing Maryland's air quality concerns, the likelihood that cooperative federalism will be promoted in the current EPA Administration, and whether Maryland will pursue lawsuits to seek the redress that has not been provided by filing petitions with EPA.**

## **Fiscal 2017 Actions**

There are two sets of actions that affect the MDE fiscal 2017 budget. The two actions are the Section 20 position abolitions from the fiscal 2017 budget bill and a fiscal 2017 targeted general fund reversion.

### **Section 20 Position Abolitions**

Section 20 of the fiscal 2017 budget bill authorized the Governor to abolish 657 regular vacant positions, reduce general fund appropriations by at least \$20 million, and reduce special fund appropriations by at least \$5 million. On June 22, 2016, BPW abolished 21 MDE positions as shown in **Exhibit 5**. All 21 positions were vacant. The highest concentration of abolished positions was 9 positions that handle environmental compliance in the Water Management Administration. The data provided by the Department of Budget and Management (DBM) indicates a total salary funding of \$1,159,659 for the abolished positions, while the agency reduction was only \$430,000 (\$230,000 in general funds and \$200,000 in special funds).

**Exhibit 5**  
**Section 20 Position Abolitions**  
**June 22, 2016**

<u>Program</u>	<u>Title</u>	<u>Fiscal 2017 Salary</u>	<u>Section 20 Reduction</u>	<u>Difference</u>
Water Management Administration	Environmental Compliance Specialist IV	\$44,017		
Water Management Administration	Regulatory Compliance Engineer – Architect III	57,335		
Water Management Administration	Natural Resources Planner III	44,017		
Water Management Administration	Environmental Compliance Specialist III	54,451		
Water Management Administration	Environmental Compliance Specialist IV	44,017		
Water Management Administration	Regulatory Compliance Engineer – Architect Senior	69,825		
Water Management Administration	Management Associate	36,557		
Water Management Administration	Environmental Compliance Specialist III	53,431		
Water Management Administration	Environmental Compliance Specialist IV	44,017		
Science Services Administration	Program Manager III	60,543		
Science Services Administration	Natural Resources Planner III	44,017		
Science Services Administration	Natural Resources Planner V	53,193		
Land Management Administration	Environmental Compliance Specialist III	44,457		
Land Management Administration	Environmental Program Manager I Waste Management	56,743		
Land Management Administration	Regulatory Compliance Engineer – Architect Senior	63,522		
Land Management Administration	Environmental Compliance Specialist I	36,557		
Land Management Administration	Geologist Supervisor	82,901		
Air and Radiation Management Administration	Environmental Programs Administrative Aide	40,792		
Air and Radiation Management Administration	Environmental Program Manager I General	91,107		
Coordinating Offices	Administrator I	47,333		
Coordinating Offices	Assistant Attorney General VI	90,827		
<b>Total</b>		<b>\$1,159,659</b>	<b>\$430,000</b>	<b>\$729,659</b>

Source: Department of Legislative Services

## Fiscal 2017 Targeted Reversion

Appendix A of the Governor’s Budget Highlights book reflects an \$803,000 general fund targeted reversion in fiscal 2017. **DLS recommends that MDE explain what funds will be reverted as well as the impact of the reversion on its operations.**

## Proposed Budget

The MDE fiscal 2018 adjusted allowance increases by \$9.2 million, or 5.8%, relative to the fiscal 2017 adjusted working appropriation, as shown in **Exhibit 6**. The changes by fund reflect a decrease of \$0.3 million in general funds, an increase of \$14.5 million in special funds, a decrease of \$2.2 million in federal funds, and a decrease of \$2.8 million in reimbursable funds. The single largest change in the budget is an increase of \$12.0 million in special funds for debt service on Bay Restoration Fund revenue bonds. While not an increase, there is a swap of \$487,975 from general funds to special funds in Water Management Administration – Administration Direction for the Interstate Commission on the Potomac River Basin (\$141,975) and Susquehanna River Basin Commission (\$346,000) grants. Changes in personnel funding are discussed first and then other changes.

### Exhibit 6 Proposed Budget Department of the Environment (\$ in Thousands)

<b>How Much It Grows:</b>	<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>
Fiscal 2016 Actual	\$31,717	\$74,347	\$29,916	\$3,410	\$139,391
Fiscal 2017 Working Appropriation	29,706	89,163	33,806	6,692	159,367
Fiscal 2018 Allowance	<u>29,453</u>	<u>103,631</u>	<u>31,585</u>	<u>3,898</u>	<u>\$168,567</u>
Fiscal 2017-2018 Amount Change	-\$253	\$14,468	-\$2,221	-\$2,795	\$9,200
Fiscal 2017-2018 Percent Change	-0.9%	16.2%	-6.6%	-41.8%	5.8%

### Where It Goes:

#### Personnel Expenses

Turnover adjustments .....	\$425
Workers’ compensation.....	114
Other fringe benefit adjustments .....	-32

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**Where It Goes:**

Social Security contribution .....	-63
Retirement contribution net of the contingent sweeper reduction.....	-364
Salaries decrease for Section 20 funding and positions budgeted at base.....	-411
Employee and retiree health insurance.....	-1,081
Miscellaneous adjustments.....	-1,293

**Other Changes**

**Protection of Water Resources**

Bay Restoration Fund revenue bond debt service .....	12,000
Wastewater treatment plant operation and maintenance grants .....	2,000
Compliance program enforcement of water pollution and resource protection laws .....	280
Maryland Center for Environmental Training drinking water assistance .....	210
Tidal wetlands projects and in lieu fee wetland sites monitoring and maintenance.....	200
Energy-Water Infrastructure Program project oversight .....	-100

**Routine Operations**

One-time targeted reversion in fiscal 2017 .....	803
Montgomery Park lease and tax payments.....	417
Contractual full-time equivalents .....	179
Other.....	-63
Statewide controlled subobjects .....	-114
Motor vehicle costs decrease for purchases and gas and oil budgeted.....	-180
Environmental Permit Tracking System Modernization Project.....	-2,646

**Exposure to Hazards**

Electronics recycling grants for counties and municipalities .....	-320
Pay-as-you-throw analysis and composting training.....	-331
Scrap tire stockpile cleanup.....	-430

<b>Total</b>	<b>\$9,200</b>
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Note: Numbers may not sum to total due to rounding.



## Personnel

### Changes by Category

MDE's overall personnel expenditures decrease by \$2,704,979 in the fiscal 2018 adjusted allowance. Of note, this decrease includes an across-the-board contingent reduction for a supplemental pension payment. The personnel changes are as follows.

- **Turnover Adjustments:** There is an increase of \$425,373 for turnover as a result of reducing the turnover rate from 7.02% in the fiscal 2017 working appropriation to 6.50% in the fiscal 2018 allowance.
- **Workers' Compensation:** There is an increase of \$114,345 for workers' compensation.
- **Social Security Contribution:** Social Security contribution decreases by \$63,236.
- **Retirement Contribution Net of the Contingent Sweeper Reduction:** There is a decrease of \$364,421 for the retirement contribution, which reflects both the \$56,690 decrease in MDE's budget and the \$307,731 across-the-board contingent reduction for a supplemental pension payment.
- **Salaries Decrease for Section 20 Funding and Positions Budgeted at Base:** Regular earnings decrease by \$410,578 in the fiscal 2018 allowance. This reflects the abolition of 21 positions in fiscal 2017 as well as the budgeting of positions at the base level since a number of positions are being actively recruited, which sets the positions back to base. The budgeting of positions at the base level accounts for a greater reduction than might otherwise be the case because it reduces the increment funding for the vacant positions that was provided in fiscal 2017.
- **Employee and Retiree Health Insurance:** There is a decrease of \$1,081,470 for employee and retiree health insurance.
- **Miscellaneous Adjustments:** There is an increase of \$1,292,609 for miscellaneous adjustments because MDE budgets all of its salary-related budget amendments and adjustments in one particular place during the fiscal year and then allocates the funding to the particular subobjects at the time the budget is reconciled at the end of the year.

### Other Changes

Overall, the nonpersonnel portion of the MDE fiscal 2018 adjusted allowance increases by \$11.9 million. The areas of change may be broadly categorized as activities related to the protection of water resources, routine operations, and exposure to hazards. The biggest change is an increase of \$12.0 million in special funds for Bay Restoration Fund revenue bond debt service.

## **Protection of Water Resources**

- ***Bay Restoration Fund Revenue Bond Debt Service:*** There is an increase of \$12 million – from \$26 million to \$38 million – in special funds in the Coordinating Offices – Bay Restoration Fund Debt Service. This reflects the increased debt service for Bay Restoration Fund revenue bonds issued to upgrade wastewater treatment plants to enhanced nutrient removal (ENR) technology. However, the current revenue bond issuance schedule appears to require only \$33 million for debt service since the planned issuance of \$100 million in fiscal 2017 has been reduced to \$60 million. DLS recommends that the special fund appropriation be reduced by \$5 million.
- ***Wastewater Treatment Plant Operation and Maintenance Grants:*** Operation and maintenance grants for wastewater treatment plants upgraded to ENR technology increase by \$2,000,000 in special funds in the Coordinating Offices – ENR Operation and Maintenance Grant. This funding reflects the requirement to provide up to 10% of the Bay Restoration Fund allocation in order to offset increased electricity and operation costs.
- ***Compliance Program Enforcement of Water Pollution and Resource Protection Laws:*** There is an increase of \$280,000 in federal funds in the Water Management Administration – Compliance for services to enhance the ability of the compliance program to enforce water pollution and resource protection laws and regulations.
- ***Maryland Center for Environmental Training Drinking Water Assistance:*** Funding increases by \$210,000 in the Water Management Administration – Water Supply for a contract with the Maryland Center for Environmental Training for assistance with drinking water activities.
- ***Tidal Wetlands Projects and In Lieu Fee Wetland Sites Monitoring and Maintenance:*** There is an increase of \$200,000 (\$275,000 special fund and \$31,250 general fund increase and \$106,250 federal fund decrease) in the Water Management Administration – Wetlands and Waterways for a Memorandum of Understanding (MOU) with the Chesapeake Bay Trust on implementation of tidal wetland projects and for an MOU with an undetermined governmental agency to monitor and maintain in lieu fee wetland sites that have been constructed.
- ***Energy-Water Infrastructure Program Project Oversight:*** There is a decrease of \$100,000 in special funds. The fiscal 2017 working appropriation includes \$100,000 in special funds in the Coordinating Offices – Water Quality Financing for hiring inspectors for Energy-Water Infrastructure Program pay-as-you-go capital projects. However, this funding will not be used in either fiscal 2017 or 2018 because the Energy-Water Infrastructure Program projects are similar to MDE’s existing project review portfolio and so existing resources are being used to provide oversight.

## Routine Operations

- **One-time Targeted Reversion in Fiscal 2017:** The fiscal 2018 spending plan includes an \$803,000 targeted general fund reversion for fiscal 2017. The targeted reversion does not appear to be incorporated into the fiscal 2018 allowance, and there is an \$803,000 increase in funding reflected here.
- **Montgomery Park Lease and Tax Payments:** There is an overall increase of \$416,526 comprised of \$348,641 for Montgomery Park lease payments and an increase of \$67,885 for real estate taxes as part of the lease contract. The increase reflects an additional 1,000 square feet of storage space and an escalation in the rent.
- **Contractual Full-time Equivalents:** MDE's overall contractual full-time equivalent (FTE) count decreases by a net of 11.0 in fiscal 2018 while the funding increases by \$178,661 as shown in **Exhibit 7**. The funding and contractual FTE count changes are not commensurate because MDE created contractual FTEs during fiscal 2017 that either it did not fund with the controlled subobjects for this purpose or will not fund until fiscal 2018, thus reflecting an increase.

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### Exhibit 7 Contractual FTE Number and Funding Changes Fiscal 2017-2018

<u>Program</u>	<u>FTEs</u>	<u>SF</u>	<u>Funding</u>		<u>Total</u>	<u>Explanation</u>
			<u>FF</u>	<u>RF</u>		
Office of the Secretary	0	\$38,578	-\$37,301	\$0	\$1,277	
Administrative Services Administration	0	0	30,664	0	30,664	FTEs were added in fiscal 2017 but are not funded until fiscal 2018.
Water Management Administration	0	-83,050	-10,283	10,924	-82,409	FTEs were reduced in fiscal 2017 but the funding reduction is not reflected until fiscal 2018.
Science Services Administration	0	0	2,470	0	2,470	

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<u>Program</u>	<u>FTEs</u>	<u>SF</u>	<u>Funding</u>		<u>Total</u>	<u>Explanation</u>
			<u>FF</u>	<u>RF</u>		
Land Management Administration	-10	229,150	52,649	0	281,799	Ten FTEs were reduced but FTEs added in fiscal 2017 are not funded until fiscal 2018.
Air and Radiation Management Administration	1	-10,701	285	176	-10,240	Two FTEs were added to reflect a position in fiscal 2017, and 1 reassigned FTE and 1 FTE were reduced due to the position no longer being necessary.
Coordinating Offices	-2	1,722	-46,622	0	-44,900	Two FTEs are no longer necessary.
<b>Total</b>	<b>-11</b>	<b>\$175,699</b>	<b>-\$8,138</b>	<b>\$11,100</b>	<b>\$178,661</b>	

FF: federal funds

FTE: full-time equivalent

RF: reimbursable funds

SF: special funds

Source: Department of Budget and Management; Maryland Department of the Environment; Department of Legislative Services

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- Statewide Controlled Subobjects:** Statewide controlled subobjects decrease overall by \$114,432. The changes include decreases for the Enterprise Budgeting System (\$142,577) and the Statewide Personnel System (\$85,368), which are offset partially by increases for the Office of the Attorney General administrative fee (\$37,590), the Office of Administrative Hearings (\$26,208), the Retirement administrative fee (\$20,164), the Department of Information Technology (DoIT) Services allocation (\$13,381), DBM paid telecommunications (\$12,554), and the Annapolis Data Center charges (\$3,616).
  - Motor Vehicle Costs Decrease for Purchases and Gas and Oil Budgeted:** Overall, there is a decrease of \$180,404 for motor vehicle costs in fiscal 2018. This primarily reflects a reduction of \$124,133 for gas and oil due to lower gas prices and a reduction of \$71,650 due to fewer vehicles being purchased in the Water Management Administration – Compliance, Science

## *U00A – Department of the Environment*

Services Administration – Field Services Program, Land Management Administration – Oil Control Program, and the Air and Radiation Management Administration.

- ***Environmental Permit Tracking System Modernization Project:*** There is a decrease of \$2,646,028 in reimbursable funds in Coordinating Offices – Major Information Technology Development Projects (MITDP) due to the final funding that was transferred from DoIT's Major Information Technology Development Project Fund for implementation of the Environmental Permit Tracking System Modernization Project through the use of .Net technologies.

### **Exposure to Hazards**

- ***Electronics Recycling Grants for Counties and Municipalities:*** Electronics recycling grants for counties and municipalities decrease by \$320,000 in special funds in the Land Management Administration – Resource Management Administration.
- ***Pay-as-you-throw Analysis and Composting Training:*** Special funds decrease by \$331,420 in the Land Management Administration – Resource Management Program for a one-time pay-as-you-throw analysis (\$250,000) and a one-time composting training session (\$81,420).
- ***Scrap Tire Stockpile Cleanup:*** Funding decreases by \$430,000 (\$505,000 special fund decrease and \$75,000 federal fund increase) in the Land Management Administration – Resource Management Program for scrap tire stockpile cleanups due to a reduction of \$230,000 for the Garner/Brandywine Scrap Tire Cleanup in Prince George's County and a reduction of \$200,000 for the Boehm/Crownsville Scrap Tire Cleanup in Anne Arundel County.

### **Across-the-board Reductions**

The fiscal 2018 budget bill includes a \$54.5 million (all funds) across-the-board contingent reduction for a supplemental pension payment. Annual payments are mandated for fiscal 2017 through 2020 if the Unassigned General Fund balance exceeds a certain amount at the close of the fiscal year. This agency's share of these reductions is \$91,096 in general funds, \$139,905 in special funds, and \$76,730 in federal funds. This action is tied to a provision in the Budget Reconciliation and Financing Act (BRFA) of 2017.

## ***Issues***

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### **1. Requested Reports Not Submitted**

The 2016 *Joint Chairmen's Report* (JCR) included the request for two reports as follows.

- ***Compliance and Enforcement Inspections and Positions:*** The budget committees were concerned that the 2017 Phase III Watershed Implementation Plan development period is nearing, and the Administration has not demonstrated sufficient inspector positions and funding to meet the needs of Chesapeake Bay restoration. Therefore, the budget committees requested a report from MDE and the Maryland Department of Agriculture on the necessary inspectors per inspection activity associated with Chesapeake Bay restoration, the actual inspectors per inspection activity, and both the funding and programmatic changes necessary to reach the necessary inspectors per inspection activity, among other components. The report was requested to be submitted by September 1, 2016.
- ***Wetland Restoration Funding:*** The budget committees were concerned that there is insufficient funding being provided for wetland restoration work related to greenhouse gas reductions and the benefits associated with climate change adaptation. Therefore, the committees requested that MDE use up to \$2 million from the funds received under Public Service Commission Order 86372 to be used through the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund for wetland restoration in fiscal 2018. The committees also requested that a report be provided on how the funding could be used for this purpose. The report was requested to be submitted by December 1, 2016.

To date, neither report has been submitted. **DLS recommends that MDE comment on why neither the compliance and enforcement inspections and positions report nor the wetland restoration funding report were submitted as requested. DLS also recommends adding budget bill language to restrict funds pending the receipt of the reports.**

### **2. MDE and the Judiciary Coordinate on Rental Property Data**

Committee narrative in the 2016 JCR requested that MDE and the Judiciary collaborate on a report discussing how data on rental property compliance with the Reduction of Lead Risk in Housing Act will be shared and how testimony by rental property owners may be checked against MDE's data for rental property cases that come before the rent court. The report was requested due to concerns that there is a lack of data sharing between the Judiciary and MDE on the status of rental properties required to be registered under Maryland's Reduction of Lead Risk in Housing Act. The Act requires owners of affected rental properties to reduce the potential for child exposure to lead paint hazards by performing specific lead risk reduction treatments prior to each change in tenancy. The lack of coordination is exemplified by data in the report *Justice Diverted: How Renters Are Processed In The Baltimore City Rent Court*, which reflects that 81% of a sample of landlords provided information in

rent court about their registration and inspection status with MDE that was subsequently found to be incorrect, outdated, or otherwise unsupported by MDE’s Online Lead Rental Registration system.

The Judiciary and MDE submitted a report in which the following actions were proposed:

- **Best Practices:** The Judiciary will educate judicial staff on alerting judges when landlords have submitted Failure to Pay Rent Forms but have failed to indicate that the property is in compliance with the Lead Paint Risk Reduction Inspection requirements; and
- **Legislative Changes:** Statute should be amended to require the landlord to file a copy of the Lead Paint Risk Reduction Inspection Certificate with the Petition for Warrant of Restitution, which would allow the Judiciary to send MDE a random sampling of Lead Paint Risk Reduction Inspection Certificates for Affected Properties for verification and enforcement.

**DLS recommends that MDE comment on whether the Administration will propose the recommended legislation.**

### **3. Volkswagen Emissions Settlement Approved**

Volkswagen was caught using illegal “defeat devices” to delude vehicle emissions inspections. As a result, Maryland stands to gain under the Volkswagen emissions settlement. There are multiple settlements at play, including the multistate consumer protection settlement and the environmental settlement. As part of the environmental settlement, Maryland is eligible to receive \$71 million from the \$2.7 billion Mitigation Trust Fund for use in eligible projects over the 15 years in which the trust is active. Yet to be determined are the trustee and the lead agency who will request funds from the trustee. In any event, the use of funds in any year is capped at one-third with no more than two-thirds allowed to be requested for the first two years. A plan for how to spend the \$71 million is due 60 days after the trustee is named. In addition, Maryland, along with New York and Massachusetts, is suing for State environmental law violations. **DLS recommends that MDE comment on the full extent of Maryland’s exposure to nitrogen oxides and smog as a result of the defeat devices, the ongoing and concluded lawsuits from which Maryland stands to benefit, and the planned use of any funding to be received from settlements.**

#### 4. **Staffing Shortage Status Uncertain Due to Lack of Information and Proposed Regulation Change**

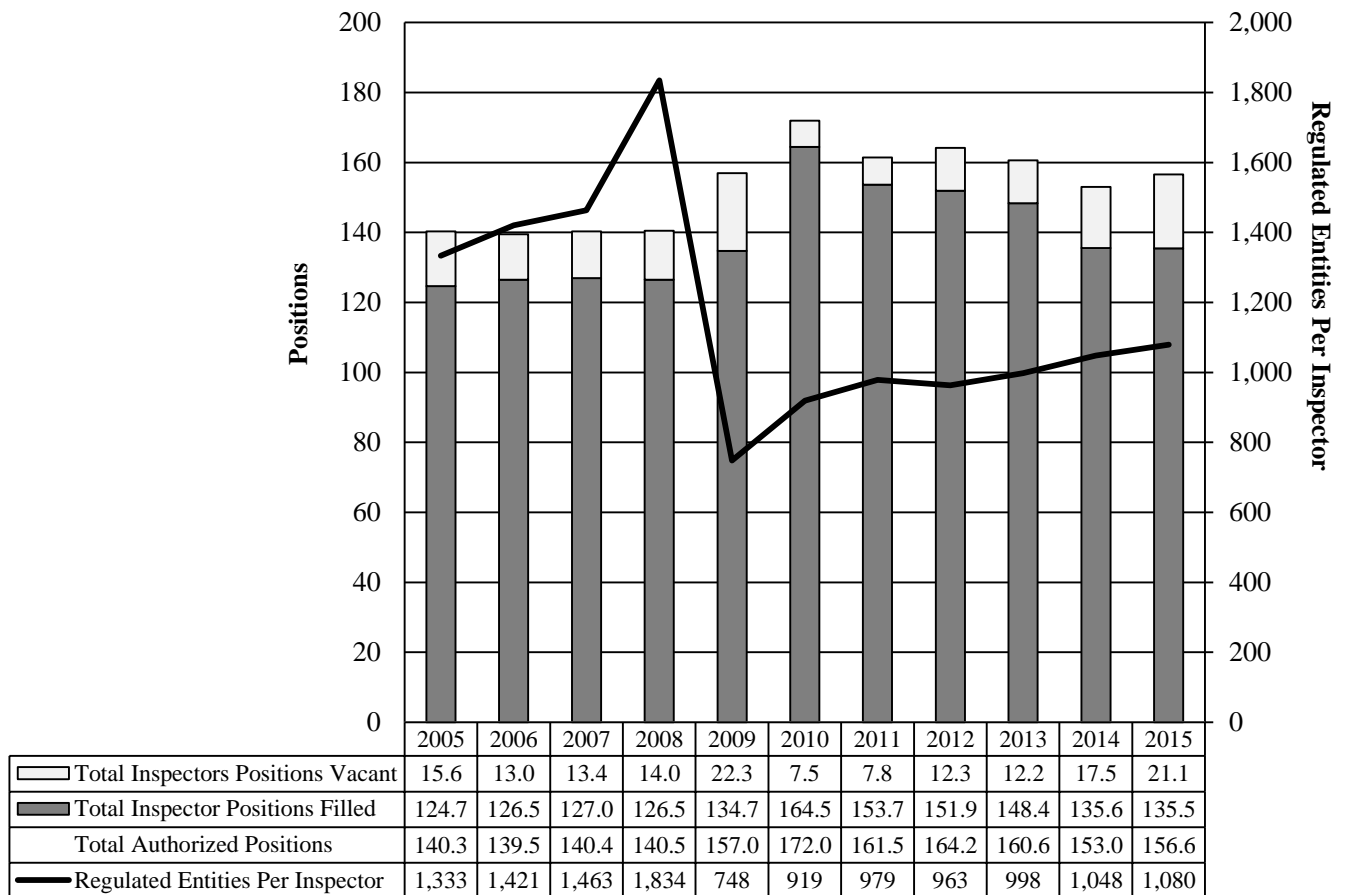
MDE's November 2011 audit included a finding that inspections of construction sites that disturb more than 5,000 square feet of land or that result in more than 100 cubic yards of earth movement were not being performed on the average of once every two weeks, as required by State regulations. MDE responded that a fiscal analysis that it performed in 2007 and updated through December 2010 estimated that MDE was understaffed by 342 positions – just to comply with minimum mandated regulations. MDE's current understaffing status is not clear due to the following.

- ***Compliance and Enforcement Inspections and Positions:*** As noted in another issue in this analysis, the requested report on compliance and enforcement inspections and positions has not been submitted. This report is informed by the fiscal 2016 version of MDE's annual enforcement and compliance report, which also has not been released.
- ***Proposed Sediment and Erosion Control Regulation Change:*** In December 2016, the Administration proposed to repeal the regulations related to the requirement that MDE inspect every active construction site for compliance with erosion and sediment control plans an average of once every two weeks. On January 20, 2017, the regulation change was published in the *Maryland Register*. The disposition of this policy is before the Joint Committee on Administrative, Executive, and Legislative Review. MDE notes that removing the two-week inspection frequency will allow enforcement authorities to prioritize and inspect sites as appropriate and reallocate field staff to address problem sites that need more frequent attention, thus improving the efficiency of inspection coverage. It is not clear what this means for the staffing shortage.

**Exhibit 8** shows MDE's vacant, filled, and total authorized inspector positions across all three of its administrations – Water Management, Land Management, Air and Radiation Management – and regulated entities per inspector. As can be seen, MDE's total authorized inspectors peaked in fiscal 2010 at 172.0. Since then, the total authorized inspectors have declined to 156.6 in fiscal 2015, which is roughly equivalent to the number of authorized inspectors in fiscal 2002. In general, filled inspector positions also peaked in fiscal 2010 and have since declined for both the Air and Radiation Management and Water Management Administrations. The Land Management Administration's filled inspector positions have not declined in the same way due to the focus on adding positions supporting the Lead Poisoning Prevention Program. In fact, the Lead Poisoning Prevention Program is also responsible for the precipitous decrease in the regulated entities per inspector after fiscal 2008. This is because the number of Lead Poisoning Prevention Program regulated entities was revised downward in fiscal 2009. Overall, there appears to be no net increase in the number of authorized or filled inspector positions since fiscal 2002. **DLS recommends that MDE comment on its current understaffing status.**



**Exhibit 8**  
**MDE Filled Inspector Positions and Regulated Entities Per Inspector**  
**Fiscal 2005-2015**



MDE: Maryland Department of the Environment

Source: Maryland Department of the Environment

## 5. Lead Poisoning Prevention Issues Continue

Lead poisoning prevention has garnered a substantial amount of interest since the identification that Freddie Gray – who died in Baltimore City after being apprehended by police in April 2015 – had childhood lead poisoning. Last year’s analysis listed a number of lead poisoning prevention issues, including the January 2015 lead paint audit findings, the lack of progress on lead databases (online lead rental registry enhancements project and lead rental certification and accreditation information system),

the impact of the universal testing regulations on MDE, a rental property certification fraud joint investigation with EPA, and the use of private inspectors for lead paint inspections as opposed to MDE employees given the potential for rental property certification fraud. The status of lead related activities is as follows.

- ***January 2015 Lead Paint Audit Findings:*** MDE had two lead paint audit findings in its January 2015 audit: (1) procedures were not sufficient to ensure properties with lead paint that were constructed before 1950 were registered and fees paid (repeat audit finding); and (2) MDE did not have a process to ensure that owners who have registered properties affected by lead paint had a required inspection certificate. Resolution of these audit findings is ongoing as reflected in the following lead related activity updates.
- ***Lead Databases:*** MDE was working on an online lead rental registry enhancement project (\$0.5 million funding need) and lead rental certification and accreditation information (\$1.0 million funding need) as of last year's analysis. MDE notes that the online lead rental registry enhancement project may have been combined with the lead rental certification and accreditation information database. In terms of the lead rental certification and accreditation information database, MDE notes that the project is on hold until fiscal 2018 and that the delays may result in continued findings by the Office of Legislative Audits because there are no efficient ways to compare the data in the online lead rental registry with the certification database at this time. Instead, MDE has developed procedures to compare the data by hand, which is time and personnel intensive. However, MDE does note that it has been approved to move to the implementation phase of the online lead rental registry after having the planning phase approved by DoIT. In addition, while there is no funding in either fiscal 2017 or 2018 for the project, MDE is hopeful that it will be able to use MITDP funds and the Lead Poisoning Prevention fund for the project.
- ***Universal Testing Regulations Impact on MDE:*** The Administration published regulations in the *Maryland Register* on January 8, 2016, effectuating the plan announced on October 26, 2015, to expand the definition of childhood blood lead at-risk areas to include the entire State in order to provide universal testing of children at ages 1 and 2. MDE notes that it is too early to determine the total impact of the regulations but notes anecdotally that Lead Poisoning Prevention Program staff are reporting a recent increase in the incidence of poisoned children requiring investigations. Increased testing and finding more poisoned child cases from that additional testing may be responsible for that increase.
- ***Rental Property Certification Fraud Joint Investigation:*** On January 28, 2016, MDE announced that it had opened a joint investigation with EPA and the Department of Health and Mental Hygiene (DHMH) to determine whether a private inspector fraudulently certified rental properties as being lead free. MDE notes that the investigation of the lead free certificates issued by an inspector through an accredited contractor is continuing. While EPA is not actively involved in the inspections, it does continue to have regular conference calls with MDE. DHMH has not been involved in the investigation, and the U.S. Department of Housing

and Urban Development was involved at the beginning in order to identify housing it financed but has not been active recently.

- ***Use of Private Inspectors:*** MDE relies heavily on accredited lead paint services providers doing inspections, which is a concern given the recent investigation into whether a private inspector fraudulently certified rental properties as being lead free. MDE notes that its staff and resources are not sufficient to perform risk reduction inspections and issue certifications for the more than 140,000 registered affected rental properties in the State and thus MDE must rely on its accredited inspectors and abatement contractors to do this work. However, MDE notes that during the next year it will be looking at strengthening its lead inspection and certification regulations to further ensure that the private inspection industry is performing compliant inspections and issuing valid certificates for properties.

**DLS recommends that MDE comment on why it has been unable to make further progress on the online lead rental registry enhancements project and lead rental certification and accreditation information databases.**

## ***Recommended Actions***

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- |  | <b><u>Amount<br/>Reduction</u></b> |
|--|------------------------------------|
| 1. Delete funding for double-budgeted Maryland Energy Administration (MEA) rent. MEA includes the same amount of special fund appropriation in its budget. The Maryland Department of the Environment is authorized to process a reimbursable fund budget amendment in order to process the MEA rent payment.  | \$ 170,000 SF                      |
| 2. Add the following language to the general fund appropriation:   |                                    |
| <p><u>, provided that \$200,000 of this appropriation made for the purpose of administering the Water Management Administration shall be restricted pending receipt of a report on compliance and enforcement inspections and positions. The report shall be written by the Maryland Department of the Environment (MDE) and the Maryland Department of Agriculture (MDA) and shall include information on the necessary inspectors per inspection activity associated with Chesapeake Bay restoration, the actual inspectors per inspection activity, and both the funding and programmatic changes necessary to reach the necessary inspectors per inspection activity. The report should also include a list of all inspection activities conducted by MDE's Water Management Administration, Land Management Administration, Air and Radiation Management Administration, and MDA's Office of Resource Conservation; and the number of regular positions and contractual full-time equivalents associated with the inspections including the number of vacancies for fiscal 2011 through 2019 estimated. In addition, MDE and MDA should comment on potential innovative funding options available for meeting inspection goals and the experience of nearby states. The report shall be submitted by November 15, 2017. The budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of the report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.</u></p> |                                    |

**Explanation:** The 2016 Joint Chairmen's Report includes a request for a report on compliance and enforcement inspections and positions. The report was not submitted and so funding is restricted pending the receipt of a new report on the same topic.

<b>Information Request</b>	<b>Authors</b>	<b>Due Date</b>
Report on compliance and enforcement inspections and positions	MDE MDA	November 15, 2017

3. Add the following language to the general fund appropriation:

Further provided that \$200,000 of this appropriation made for the purpose of administering the Water Management Administration shall be restricted pending receipt of a report on wetland restoration funding. The report shall be written by the Maryland Department of the Environment (MDE) and shall reflect on how the Administration could use up to \$2,000,000 from the funds received under Public Service Commission Order 86372 to be used through the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund under Natural Resources Article Section 8-2A-02 for wetland restoration projects in fiscal 2019. The wetland restoration projects should (1) prioritize greenhouse gas reductions through net carbon sequestration; and (2) seek to provide climate change adaptation benefits, including flood storage, storm surge buffers, and erosion control. The report shall be submitted by December 1, 2017. The budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of the report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

**Explanation:** The 2016 Joint Chairmen’s Report includes a request for a report on wetland restoration funding for fiscal 2018. The report was not submitted and so funding is restricted pending the receipt of a new report on the same topic.

Information Request	Author	Due Date
Report on wetland restoration funding for fiscal 2019	MDE	December 1, 2017

	<u>Amount Reduction</u>
4. Reduce funding for Bay Restoration Fund revenue bond debt service. The current revenue bond issuance schedule and prior issuance debt service schedule require only \$33,000,000 in the fiscal 2018 special fund appropriation.	5,000,000 SF
<b>Total Special Fund Reductions</b>	<b>\$ 5,170,000</b>

## ***Updates***

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### **1. Maryland Energy Administration Co-location Complete**

The Maryland Energy Administration (MEA) website notified that it co-located with MDE on December 16, 2015. MEA first moved into temporary space in the Montgomery Park building on MDE's fourth floor within the Water Management Administration's area and stayed there until the buildout of its final office space was approved and completed. MEA has now relocated to permanent space on the seventh floor, effective January 2017. MDE notes that rent savings were accounted for in the fiscal 2017 budget and that final rental agreement details are being completed.

**Appendix 1**  
**Current and Prior Year Budgets**  
**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 2016</b>					
Legislative Appropriation	\$31,575	\$76,829	\$33,835	\$4,164	\$146,403
Deficiency Appropriation	0	1,450	485	0	1,935
Budget Amendments	775	534	362	1,252	2,923
Reversions and Cancellations	-632	-4,466	-4,766	-2,005	-11,870
<b>Actual Expenditures</b>	<b>\$31,717</b>	<b>\$74,347</b>	<b>\$29,916</b>	<b>\$3,410</b>	<b>\$139,391</b>
<b>Fiscal 2017</b>					
Legislative Appropriation	\$31,814	\$88,519	\$33,452	\$4,046	\$157,831
Cost Containment	0	0	0	0	0
Budget Amendments	-1,305	644	354	2,646	2,339
<b>Working Appropriation</b>	<b>\$30,509</b>	<b>\$89,163</b>	<b>\$33,806</b>	<b>\$6,692</b>	<b>\$160,170</b>

Note: Does not include targeted reversions, deficiencies, and contingent reductions. Numbers may not sum to total due to rounding.

## **Fiscal 2016**

The Maryland Department of the Environment (MDE) general fund appropriation increased by \$142,506. The changes are as follows.

- **Budget Amendments:** An increase of \$775,000 due to budget amendments allocating the funding in Section 48 of the fiscal 2016 budget bill that restored the 2% State salary reduction (\$470,000); reallocating a portion of the 2% cost containment reductions in Section 19 of the fiscal 2016 budget from the operating budget to the Hazardous Substance Clean-Up Program pay-as-you-go capital program and thus is reflected as an appropriation increase in the budget amendment (\$300,000); and realigning appropriations between State agencies based on fiscal 2016 estimated expenditures for telecommunications as provided in Section 17 of the fiscal 2017 budget bill (\$5,000).
- **Reversions:** A decrease of \$632,494 due to reversions in the Operational Services Administration (\$631,383), and other programs (\$1,111).

The MDE special fund appropriation decreased by \$2,482,190. The changes are as follows.

- **Deficiency Appropriation:** An increase of \$1,450,000 due to deficiency appropriations in the Land Management Administration to provide grants to reimburse costs using the Oil Contaminated Site Environmental Cleanup Fund because the revenue was not available when the fiscal 2016 budget was prepared (\$750,000), and to support additional contractual employees working with lead property registrations and improve lead registry databases from the Lead Poisoning Prevention Fund (\$700,000).
- **Budget Amendments:** An increase of \$534,000 due to a budget amendment that allocated the funding in Section 48 of the fiscal 2016 budget bill that restored the 2% State salary reduction.
- **Cancellations:** A decrease of \$4,466,190 as a result of cancellations in the Coordinating Offices (\$2,129,743), Air and Radiation Management Administration (\$878,484), Land Management Administration (\$654,601), Water Management Administration (\$503,026), and other programs (\$300,336).

The MDE federal fund appropriation decreased by \$3,918,735. The changes are as follows.

- **Deficiency Appropriation:** An increase of \$485,000 in Coordinating Offices from the U.S. Environmental Protection Agency's Congressionally Mandated Projects from federal fiscal 2010 funding for a one-time grant – on a cost-share basis at 55% of the eligible project cost – to Salisbury to support water systems such as the replacement of cast iron piping in order to improve the reliability of the drinking water system.



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- **Budget Amendments:** An increase of \$362,000 due to a budget amendment that allocated the funding in Section 48 of the fiscal 2016 budget bill that restored the 2% State salary reduction.
- **Cancellations:** A decrease of \$4,765,735 as a result of cancellations in the Land Management Administration (\$3,031,714), Science Services Administration (\$891,734), Coordinating Offices (\$636,682), and other programs (\$205,605).

The MDE reimbursable fund appropriation decreased by \$753,873. The changes are as follows.

- **Budget Amendments:** An increase of \$1,251,582 due to budget amendments that provide funding transferred from the Department of Technology's (DoIT) Major Information Technology Development Project Fund (MITDPF) for the Environmental Permit Tracking System Modernization Project to reflect fiscal 2014 through 2016 funding for updating the existing PowerBuilder user interface with one developed using current .Net technologies (\$1,206,028); from the Maryland Emergency Management Agency for MDE's Coordinating Offices to support the Hazardous Materials Emergency Preparedness Grant Program (\$30,554); and from the Maryland Department of Agriculture for the MDE's Science Services Administration for an extension of the agreement to provide technical support services in the development of Maryland's *Accounting for Growth* strategy (\$15,000).
- **Cancellations:** A decrease of \$2,005,455 due to cancellations in Major Information Technology Development Projects (MITDP) (\$1,206,028), Air and Radiation Management Administration (\$472,436), Science Services Administration (\$177,713), and other programs (\$149,278).

### **Fiscal 2017**

The MDE general fund appropriation decreases by a net of \$1,305,340 due to budget amendments. The budget amendments decrease the appropriation by transferring funding to DoIT from the Water Management Administration and Coordinating Offices related to 18 full-time equivalents transferred in August 2016 for the Information Technology Enterprise Initiative as authorized by Section 21 of the fiscal 2017 budget bill (\$1,599,631), which is offset partially by an increase in the appropriation for allocating the fiscal 2017 increment funding as authorized in the fiscal 2017 budget bill (\$294,291).

The MDE special fund appropriation increases by \$644,186 due to a budget amendment that allocates fiscal 2017 increment funding as authorized in the fiscal 2017 budget bill.

The MDE federal fund appropriation increases by \$354,132 due to a budget amendment that allocates fiscal 2017 increment funding as authorized in the fiscal 2017 budget bill.

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The MDE reimbursable fund appropriation has increased by \$2,646,028 due to a budget amendment that transferred funding from DoIT's MITDPF to MDE's MITDP for implementing the Environmental Permit Tracking System Modernization Project through the use of .Net technologies.

**Appendix 2**  
**Major Information Technology Projects**  
**Department of the Environment**  
**Environmental Permit Tracking System Modernization**

<b>Project Status</b>	Planning (according to the Information Technology Project Request (ITPR) form).				<b>New/Ongoing Project:</b>	Ongoing.		
<b>Project Description:</b>	The Environmental Permit Tracking System Modernization project is intended to modernize how the Maryland Department of the Environment (MDE) captures permit data by transferring the existing system from a legacy PowerBuilder user interface to .Net technologies. The project will also support the Web Revamp Project by making ePermitting and eCommerce available to citizens and businesses.							
<b>Project Business Goals:</b>	The project will reduce the level of effort required to enter data in the MDE centralized permit tracking system and ensure that the technologies that support the mission are cost effective and sustainable.							
<b>Estimated Total Project Cost:</b>	n/a				<b>Estimated Planning Project Cost:</b>		\$3,340,000	
<b>Project Start Date:</b>	The project began in February 2013 with the development of the task order Request for Proposals.				<b>Projected Completion Date:</b>		Permit modernization go live on July 18, 2017	
<b>Schedule Status:</b>	Based on the ITPR form, MDE is working on the permit modernization application and database framework development and developing the permit modernization process and configuration including training. Overall, it looks like the project schedule has slipped about five months, given that in the fiscal 2017 budget analysis the permit modernization go-live date was February 18, 2017, and now the permit modernization go-live date is July 18, 2017. There is no mention of a new eCommerce go-live date.							
<b>Cost Status:</b>	There does not appear to be a change in the overall cost, but the fiscal year funding schedule is unclear. MDE’s actual encumbrances and expenditures are as follows: fiscal 2014 —\$41,722, fiscal 2015 – \$452,250, and fiscal 2016 – \$0. For fiscal 2017, there is \$2,646,028. Therefore a total of \$3,140,000 has been either encumbered, expended, or budgeted in MDE’s budget. The remaining \$200,000 of the total \$3,340,000 is budgeted in the Department of Information Technology (DoIT) for project oversight. However, fiscal 2018 funding of \$1,490,000 is budgeted in DoIT, which appears to be unneeded.							
<b>Scope Status:</b>	The scope is still a plan at this stage, but it looks like the eCommerce component has been dropped.							
<b>Project Management Oversight Status:</b>	DoIT has approved the information technology request.							
<b>Identifiable Risks:</b>	Funding is the only medium-level risk. MDE notes that the technology is proven, but that it is new to MDE.							
<b>Additional Comments:</b>	There appears to be some uncertainty about the timing of funding. Fiscal 2018 funding would appear to be unneeded.							
<b>Fiscal Year Funding (\$ in Thousands)</b>	<b>Prior Years</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>Balance to Complete</b>	<b>Total</b>
Personnel Services	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Professional and Outside Services	1.9	1.4	0.0	0.0	0.0	0.0	0.0	3.3
Other Expenditures	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total Funding</b>	<b>\$1.9</b>	<b>\$1.4</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$3.3</b>

**Appendix 3**  
**Object/Fund Difference Report**  
**Department of the Environment**

<u>Object/Fund</u>	<u>FY 16 Actual</u>	<u>FY 17 Working Appropriation</u>	<u>FY 18 Allowance</u>	<u>FY 17 - FY 18 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	939.00	894.00	894.00	0.00	0%
02 Contractual	27.41	60.50	49.50	-11.00	-18.2%
<b>Total Positions</b>	<b>966.41</b>	<b>954.50</b>	<b>943.50</b>	<b>-11.00</b>	<b>-1.2%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 84,672,318	\$ 87,905,540	\$ 85,508,292	-\$ 2,397,248	-2.7%
02 Technical and Spec. Fees	1,342,691	1,867,270	2,045,931	178,661	9.6%
03 Communication	780,264	722,731	808,323	85,592	11.8%
04 Travel	288,656	56,101	60,950	4,849	8.6%
06 Fuel and Utilities	399,529	482,358	424,974	-57,384	-11.9%
07 Motor Vehicles	1,496,021	1,310,664	1,130,260	-180,404	-13.8%
08 Contractual Services	16,167,992	23,594,889	20,107,171	-3,487,718	-14.8%
09 Supplies and Materials	1,205,032	1,116,031	1,106,171	-9,860	-0.9%
10 Equipment – Replacement	1,458,753	1,048,066	930,864	-117,202	-11.2%
11 Equipment – Additional	400,264	158,270	154,950	-3,320	-2.1%
12 Grants, Subsidies, and Contributions	11,948,717	10,989,926	13,255,926	2,266,000	20.6%
13 Fixed Charges	4,900,448	4,918,176	5,340,779	422,603	8.6%
14 Land and Structures	14,329,956	26,000,000	38,000,000	12,000,000	46.2%
<b>Total Objects</b>	<b>\$ 139,390,641</b>	<b>\$ 160,170,022</b>	<b>\$ 168,874,591</b>	<b>\$ 8,704,569</b>	<b>5.4%</b>
<b>Funds</b>					
01 General Fund	\$ 31,717,337	\$ 30,508,846	\$ 29,544,182	-\$ 964,664	-3.2%
03 Special Fund	74,347,204	89,162,774	103,770,575	14,607,801	16.4%
05 Federal Fund	29,916,328	33,805,986	31,662,103	-2,143,883	-6.3%
09 Reimbursable Fund	3,409,772	6,692,416	3,897,731	-2,794,685	-41.8%
<b>Total Funds</b>	<b>\$ 139,390,641</b>	<b>\$ 160,170,022</b>	<b>\$ 168,874,591</b>	<b>\$ 8,704,569</b>	<b>5.4%</b>

Note: Does not include targeted reversions, deficiencies, and contingent reductions.

**Appendix 4**  
**Fiscal Summary**  
**Department of the Environment**

<u>Program/Unit</u>	<u>FY 16 Actual</u>	<u>FY 17 Wrk Approp</u>	<u>FY 18 Allowance</u>	<u>Change</u>	<u>FY 17 - FY 18 % Change</u>
01 Office of the Secretary	\$ 2,492,469	\$ 2,300,457	\$ 2,381,447	\$ 80,990	3.5%
02 Administrative and Employee Services Administration	9,220,974	8,954,976	9,426,179	471,203	5.3%
04 Water Management Administration	28,370,800	31,106,063	30,873,923	-232,140	-0.7%
05 Technical and Regulatory Services Administration	11,855,525	12,911,195	12,578,970	-332,225	-2.6%
06 Land Management Administration	32,735,778	34,200,069	32,500,868	-1,699,201	-5.0%
07 Air and Radiation Management Administration	19,505,249	20,363,399	20,559,999	196,600	1.0%
10 Coordinating Offices	35,209,846	50,333,863	60,553,205	10,219,342	20.3%
<b>Total Expenditures</b>	<b>\$ 139,390,641</b>	<b>\$ 160,170,022</b>	<b>\$ 168,874,591</b>	<b>\$ 8,704,569</b>	<b>5.4%</b>
General Fund	\$ 31,717,337	\$ 30,508,846	\$ 29,544,182	-\$ 964,664	-3.2%
Special Fund	74,347,204	89,162,774	103,770,575	14,607,801	16.4%
Federal Fund	29,916,328	33,805,986	31,662,103	-2,143,883	-6.3%
<b>Total Appropriations</b>	<b>\$ 135,980,869</b>	<b>\$ 153,477,606</b>	<b>\$ 164,976,860</b>	<b>\$ 11,499,254</b>	<b>7.5%</b>
Reimbursable Fund	\$ 3,409,772	\$ 6,692,416	\$ 3,897,731	-\$ 2,794,685	-41.8%
<b>Total Funds</b>	<b>\$ 139,390,641</b>	<b>\$ 160,170,022</b>	<b>\$ 168,874,591</b>	<b>\$ 8,704,569</b>	<b>5.4%</b>

Note: Does not include targeted reversions, deficiencies, and contingent reductions.

U00A – Department of the Environment