

U00A
Department of the Environment

Operating Budget Data

(\$ in Thousands)

| | FY 05 | FY 06 | FY 07 | FY 06-07 | % Change |
|--------------------|----------------------|-----------------------|-------------------------|----------------------|--------------------------|
| | <u>Actual</u> | <u>Working</u> | <u>Allowance</u> | <u>Change</u> | <u>Prior Year</u> |
| General Fund | \$37,171 | \$34,010 | \$36,687 | \$2,677 | 7.9% |
| Special Fund | 23,936 | 31,009 | 36,379 | 5,371 | 17.3% |
| Federal Fund | 26,595 | 28,860 | 27,658 | -1,202 | -4.2% |
| Reimbursable Fund | <u>4,372</u> | <u>4,278</u> | <u>4,252</u> | <u>-27</u> | <u>-0.6%</u> |
| Total Funds | \$92,074 | \$98,157 | \$104,976 | \$6,819 | 6.9% |

- The Maryland Department of the Environment's (MDE) fiscal 2007 allowance totals \$105.0 million. This is \$6.8 million, or 6.9% more than the fiscal 2006 working appropriation. This overall increase in funding reflects significant increases in general and special funds.
- The general fund allowance is \$36.7 million – \$2.7 million, or 7.9% more than the fiscal 2006 working appropriation. The general fund allowance reflects the following increases: \$1.0 million for employee and retiree health insurance, \$716,230 for watershed restoration grants to an unknown river, \$326,000 for wetland and stormwater contracts associated with implementing the State's Tributary Strategy, \$316,829 for salaries and wages, and \$116,666 to move part of the Maryland Geological Survey from the Department of Natural Resources (DNR) to MDE.
- MDE's special fund allowance increases by 17.3%, or \$5.4 million primarily due to the following increases: \$3.3 million in Used Tire Clean-up Fund revenue for two scrap tire clean-up projects, \$553,775 in additional Bay Restoration Fund revenue for administration of wastewater capital projects, \$327,369 for additional lead poisoning prevention grants to local health and environmental departments, \$269,551 in additional Oil Disaster Clean-up Fund revenue for clean-up and restoration projects, and \$236,910 in additional nontidal wetland compensation funds for wetland restoration projects.

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

For further information contact: Amanda M. Mock

Phone: (410) 946-5530

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- MDE’s fiscal 2007 federal fund allowance is \$1.2 million, or 4.2% less than the fiscal 2006 working appropriation. This change reflects an increase of \$1.0 million for implementation of the Enterprise Environmental Management System (EEMS), being offset by decreases in the Brownfields Revolving Loan Fund (\$900,000) and federal grants for a number of water pollution control projects (\$1.6 million).

Personnel Data

| | <u>FY 05</u> <u>Actual</u> | <u>FY 06</u> <u>Working</u> | <u>FY 07</u> <u>Allowance</u> | <u>FY 06-07</u> <u>Change</u> |
|------------------------|---|--|--|--|
| Regular Positions | 954.00 | 949.00 | 952.00 | 3.00 |
| Contractual FTEs | <u>14.00</u> | <u>44.50</u> | <u>34.50</u> | <u>-10.00</u> |
| Total Personnel | 968.00 | 993.50 | 986.50 | -7.00 |

Vacancy Data: Regular Positions

| | | |
|-----------------------------------|-------|-------|
| Turnover, Excluding New Positions | 61.88 | 6.50% |
| Positions Vacant as of 12/31/05 | 74.00 | 7.80% |

- The fiscal 2007 allowance provides for three new positions (two natural resource planners and one water resource engineer) to work on Corsica River restoration efforts and another unidentified watershed restoration project.
- MDE’s budgeted fiscal 2007 turnover rate of 6.5% is approximately 1.3% less, or 12.12 fewer positions, than the current fiscal 2006 vacancy rate.

Analysis in Brief

Issues

EEMS Implementation Schedule Slips: To address data and system inefficiency issues, MDE initiated implementation of an EEMS that will provide on-line permit application, data submission for compliance reporting, permit and process status tracking information, and a single point of reference for environmental information. Several EEMS project management and implementation issues merit attention. **The Department of Legislative Services (DLS) recommends that MDE discuss the status of EEMS project management, whether further delays and additional costs are likely, the status of expected personnel savings, and when an IV&V report is anticipated. Furthermore, DLS recommends budget bill language expressing the General Assembly’s continued intent regarding EEMS implementation and requiring a status report by December 1, 2006.**

Maryland Power Plant Pollution Strategy Shifts: While progress has been made, Maryland’s air quality remains poor; it is characterized by high ozone, high fine particulate levels, and regional haze. Air pollution contributes significantly to Chesapeake Bay pollution and threatens human health. **MDE should be prepared to discuss the estimated short- and long-term costs associated with implementing the Maryland Clean Power Rule versus implementing the Clean Air Interstate Rule (CAIR), Clean Air Mercury Rule, or CAIR-Plus.**

Maryland Geological Survey Move Proposal: The Administration’s fiscal 2007 budget allowance provides a total of \$575,000 in new general funds to move two-thirds of the Maryland Geological Survey from DNR to MDE. There are several issues concerning this proposed move that merit attention. **DLS recommends deleting funding for this proposal and having MDE discuss the potential negative repercussions of not implementing the proposed move.**

Recommended Actions

| | <u>Funds</u> | <u>Positions</u> |
|---|--------------|------------------|
| 1. Delete funding for the proposed Maryland Geological Survey move. | \$ 116,666 | |
| 2. Delete personnel and grant funding for implementation of the Corsica River initiative. | 130,000 | 2.0 |
| 3. Delete personnel and grant funding associated with an unidentified watershed restoration initiative. | 760,000 | 1.0 |
| 4. Delete contractual funds for wetland creation and stormwater management projects on State lands. | 326,000 | |

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| | | | |
|----|--|---------------------|------------|
| 5. | Reduce funding for clean-up of the Garner/Brandywine scrap tire stockpile. | 1,000,000 | |
| 6. | Add budget bill language expressing the General Assembly's intent with regard to implementation of the Enterprise Environmental Management System and requiring a status report. | | |
| | Total Reductions | \$ 2,332,666 | 3.0 |

Updates

2005 Enforcement and Compliance Report: This update summarizes the results of MDE's ninth annual report on all enforcement and compliance programs.

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Operating Budget Analysis

Program Description

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

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

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

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

Performance Analysis: Managing for Results

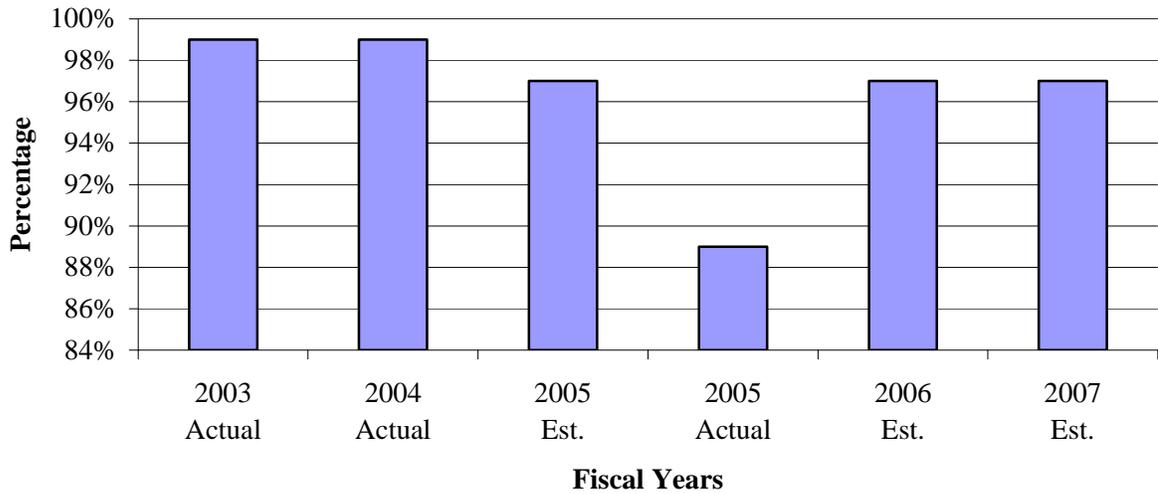
Exhibit 1 provides data on a handful of performance measures that reflect several key program areas. The data provided illustrates continued decreases in the percent of children tested for blood lead with elevated and poisoned levels, but it also indicates that MDE is not achieving its mission in other areas. For example, MDE's performance plan indicates:

- a 10% decrease in Marylanders served by public water systems in compliance with all rules adopted as of 2002;
- 89% of the State's population living in areas not meeting air quality standards; and
- highly optimistic performance estimates for TMDL completions in light of decreases in available program funding.

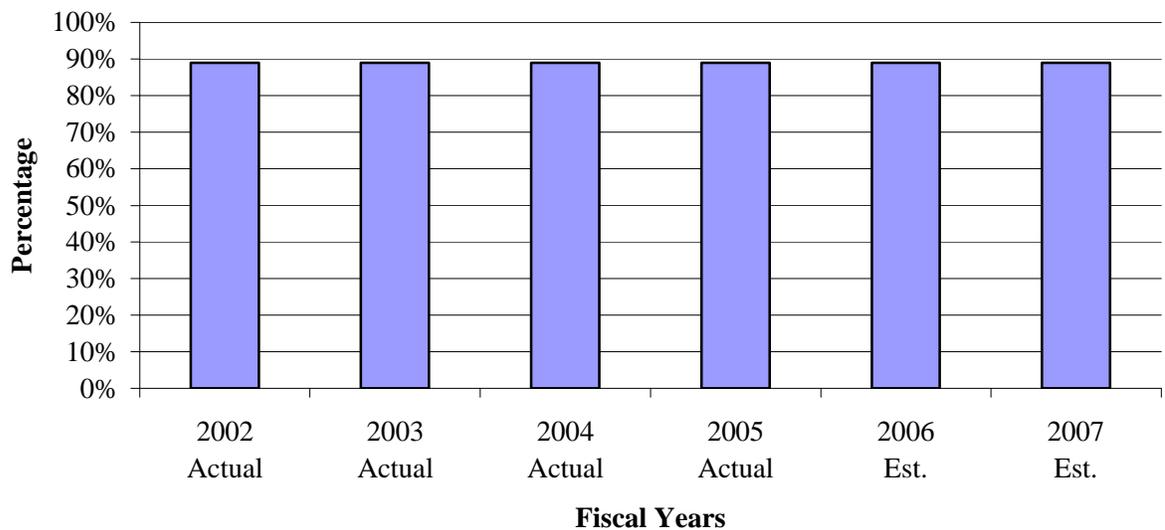
MDE should comment on why there was a significant decrease in public water system compliance in fiscal 2005, and what impact the Administration's newly announced Maryland Clean Power Rule is expected to have on the percentage of the State's population living in areas not meeting air quality standards.

In spite of the inclusion of \$1.2 million in new personnel, contractual, and grant funding for Tributary Strategy implementation and restoration of the Corsica River and another watershed, MDE does not provide performance data to show anticipated progress with these high-priority, new initiatives. **MDE should be prepared to discuss how it intends to measure the success of these initiatives.**

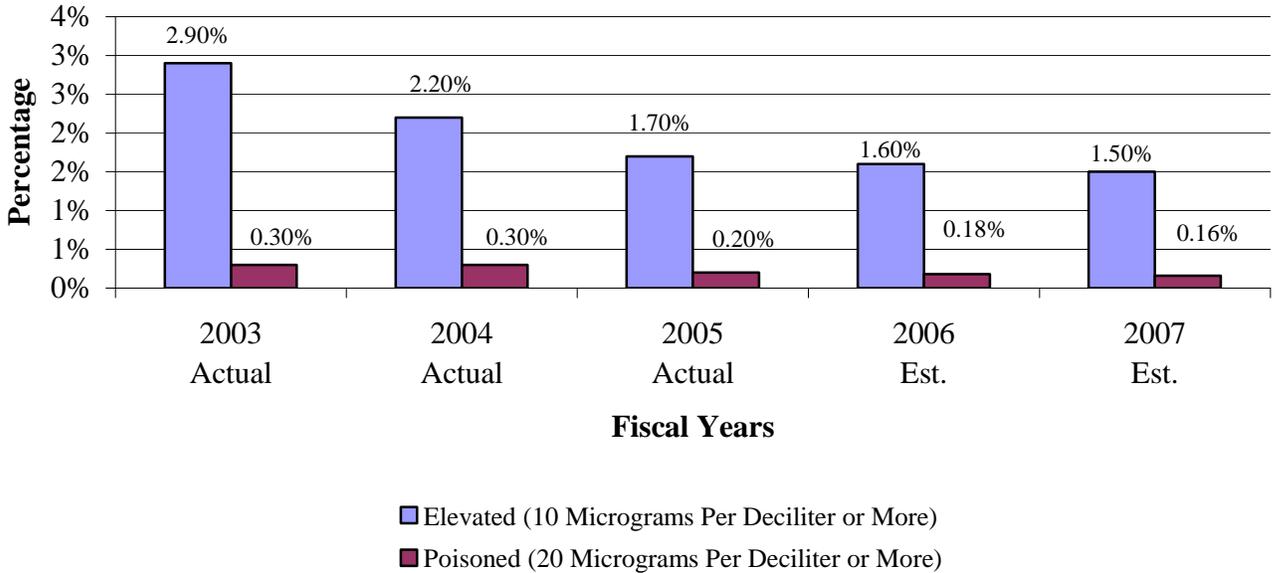
Exhibit 1
Marylanders Served by Public Water Systems in Significant Compliance with All Rules Adopted as of 2002



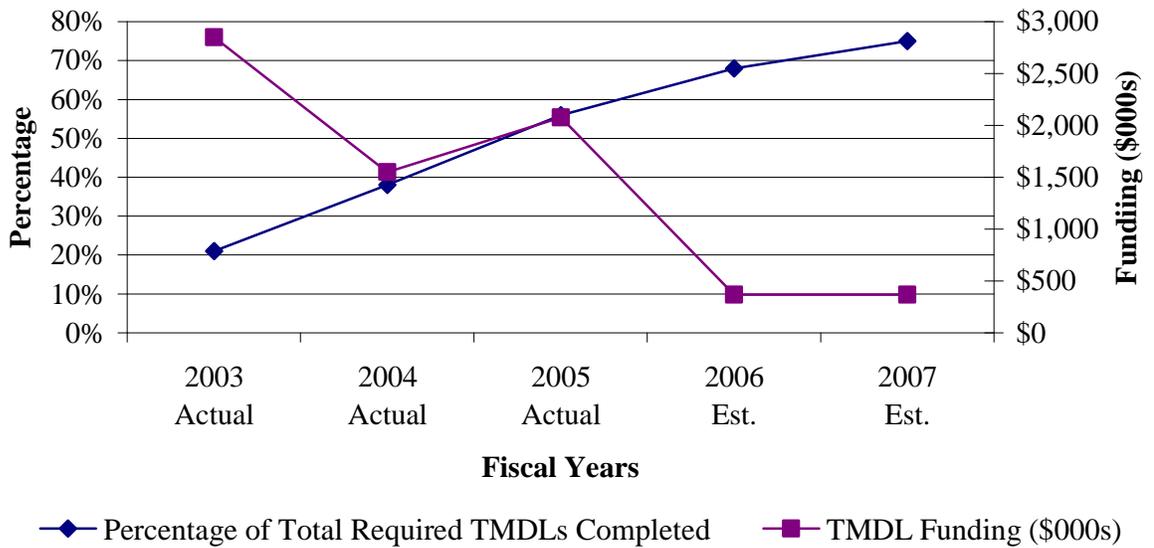
Maryland Population Living in Areas Not Meeting Air Quality Standards



Children Tested for Blood Lead



Total Maximum Daily Loads



Source: Fiscal 2006 and 2007 budget books

Governor’s Proposed Budget

Exhibit 2 indicates that MDE’s fiscal 2007 allowance is \$105.0 million, or 6.9% more than the fiscal 2006 working appropriation. This overall increase in funding reflects significant increases in general and special funds.

The fiscal 2007 allowance provides significant additional funding for personnel expenses, \$3.6 million, or 53% of the total increase over the fiscal 2006 working appropriation. The two largest personnel cost increases are for increments and other compensation (\$1.4 million) and employee and retiree health insurance (\$2.5 million) for 949 existing positions and 3 new positions. These increases are offset by other fringe benefit-related decreases.

2007 Program Funding

The general fund allowance is \$36.7 million – \$2.7 million, or 7.9% more than the fiscal 2006 working appropriation. The general fund allowance reflects the following program increases: \$716,230 for watershed restoration grants to an unknown river, \$326,000 for wetland and stormwater contracts associated with implementing the State’s Tributary Strategy, \$316,829 for salaries and wages, and \$116,666 to move part of the Maryland Geological Survey from the Department of Natural Resources (DNR) to MDE.

MDE’s special fund allowance increases by \$5.4 million, or 17.3% over the fiscal 2006 working appropriation primarily due to the following program increases: \$2.1 million for the Garner/Brandywine scrap tire clean-up project, \$1.1 million for the Morgan/Mechanicsville scrap tire clean-up project, \$553,775 in additional Bay Restoration Fund revenue for administration of wastewater capital projects, \$327,369 for additional lead poisoning prevention grants to local health and environmental departments, \$269,551 in additional Oil Disaster Clean-up Fund revenue for clean-up and restoration projects, and \$236,910 in additional nontidal wetland compensation funds for wetland restoration projects.

MDE’s fiscal 2007 federal fund allowance is \$1.2 million, or 4.2% less than the fiscal 2006 working appropriation. This change reflects an increase of \$1.0 million in grant funds for implementation of the Enterprise Environmental Management System (EEMS), being offset by decreases in the Brownfields Revolving Loan Fund (\$900,000) and federal grants for a number of water pollution control projects (\$1.6 million).

As illustrated in **Exhibit 3**, the vast majority of the increases in the fiscal 2007 allowance occur within the three following categories:

- salaries and wages (Object 1) increase by \$3.6 million, or 5.8%;
- contractual services (Object 8) increase by \$3.2 million, or 28.9%; and
- grants (Object 12) increase by \$2.2 million, or 18.9%.

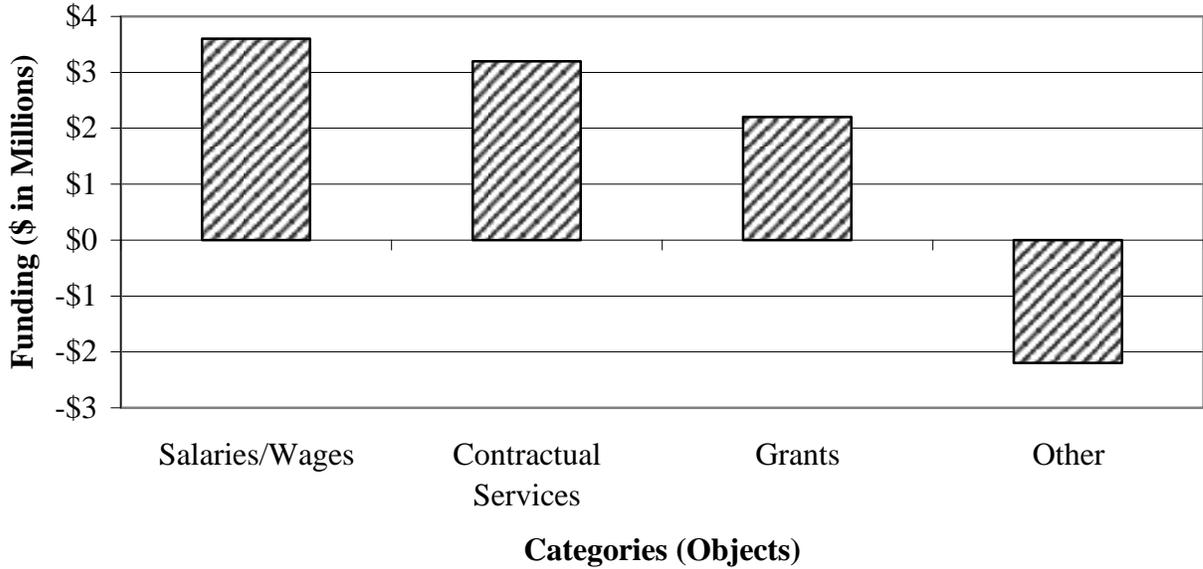
Exhibit 2
Governor's Proposed Budget
Department of the Environment
(\$ in Thousands)

| How Much It Grows: | General Fund | Special Fund | Federal Fund | Reimb. Fund | Total |
|---|-------------------------|-------------------------|-------------------------|------------------------|--------------------|
| 2006 Working Appropriation | \$34,010 | \$31,009 | \$28,860 | \$4,278 | \$98,157 |
| 2007 Governor's Allowance | <u>36,687</u> | <u>36,379</u> | <u>27,658</u> | <u>4,252</u> | <u>104,976</u> |
| Amount Change | \$2,677 | \$5,371 | -\$1,202 | -\$27 | \$6,819 |
| Percent Change | 7.9% | 17.3% | -4.2% | -0.6% | 6.9% |
| Where It Goes: | | | | | |
| Personnel Expenses | | | | | |
| Increments and other compensation..... | | | | | \$1,385 |
| Employee and retiree health insurance | | | | | 2,488 |
| Employee retirement contribution | | | | | 620 |
| Fiscal 2006 personnel funds brought in via budget amendment and not yet distributed among subobjects..... | | | | | -818 |
| Adjustments in turnover and to account for fiscal 2006 health insurance funding transfers..... | | | | | -155 |
| Other fringe benefit adjustments..... | | | | | 128 |
| Other Changes | | | | | |
| <i>Improving and Protecting Maryland's Water Quality</i> | | | | | |
| Contractual funds for wetland and stormwater projects | | | | | 326 |
| Watershed restoration grants for an unknown river | | | | | 716 |
| Corsica River watershed restoration grants..... | | | | | 40 |
| Reduction in federal water pollution control grants..... | | | | | -1,600 |
| <i>Reducing Maryland Citizen's Exposure to Hazards</i> | | | | | |
| Morgan/Mechanicsville used tire clean-up project (St. Mary's County) | | | | | 1,125 |
| Garner/Brandywine used tire clean-up project (Prince George's County)..... | | | | | 2,125 |
| No estimated activity in the Brownfields Revolving Loan Fund..... | | | | | -900 |
| Lead poisoning prevention grants to local jurisdictions | | | | | 327 |
| <i>Other</i> | | | | | |
| Federal grant funds for implementation of EEMS..... | | | | | 1,000 |
| Expenses associated with proposed Maryland Geological Survey move | | | | | 117 |
| Other adjustments | | | | | -105 |
| Total | | | | | \$6,819 |

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

EEMS = Enterprise Environmental Management System

Exhibit 3
Major Categories of Fiscal 2007 Funding Changes
As Compared to Fiscal 2006



Source: Department of Legislative Services

Issues

1. Enterprise Environmental Management System Implementation Schedule Slips

Background

To address data and system inefficiency issues, MDE initiated implementation of an Enterprise Environmental Management System (EEMS) that will provide on-line permit application, data submission for compliance reporting, permit and process status tracking information, and a single point of reference for environmental information. MDE advises that these benefits are anticipated to result in a reduced burden on regulated industries, improved accountability and project management, and better data quality and public access. As shown in **Exhibit 4**, the first two phases of EEMS were completed in mid 2004, and phase three is currently underway.

Exhibit 4 EEMS Project Implementation Schedule (As of December 2005)

| <u>Phase</u> | <u>Release</u> | <u>Cost</u> | <u>Description</u> | <u>Approximate Time Period</u> |
|--------------|----------------|--------------------|---|---------------------------------|
| I | | \$616,157 | System acquisition | February – March 2004 |
| II | | 476,612 | Detailed analysis for program migration and configuration | Spring 2004 |
| III | | *5,358,231 | Program implementation | January 2005 – August 2008 |
| | 1 | 438,280 | <i>Hazardous waste</i> | <i>January – April 2005</i> |
| | 2 | 1,475,100 | <i>Hazardous waste, air, water discharge, and waste</i> | <i>April 2005 – July 2006</i> |
| | 3 | 1,989,873 | <i>Remaining programs</i> | <i>April 2006 – August 2007</i> |
| | 4 | 1,454,978 | <i>Remaining programs</i> | <i>July 2007 – August 2008</i> |
| | | \$6,451,000 | Total | |

Source: Maryland Department of the Environment

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As illustrated in **Exhibit 5**, in fiscal 2004 through 2005, MDE dedicated \$1.5 million to implementation of EEMS. The fiscal 2007 allowance provides \$1.1 million in federal grant funds for EEMS implementation. MDE advises that as part of the fiscal year closeout process, it has been permitted to carry forward \$1.85 million in unexpended federal indirect cost recovery funds. MDE intends to use these funds for fiscal 2007 and 2008 to support portions of the EEMS implementation as necessary. MDE still intends to use federal funds to pay for over 90% of the total \$6.5 million in funding for EEMS.

Exhibit 5
EEMS Funding
As of January 2006

| <u>Fiscal Year</u> | <u>Amount (\$)</u> |
|--------------------|--------------------|
| 2004 Actual | \$1,092,769 |
| 2005 Actual | 438,280 |
| 2006 Working* | 2,819,951 |
| 2007 Allowance | 1,100,000 |
| 2008 Estimated | 1,000,000 |
| Total | \$6,451,000 |

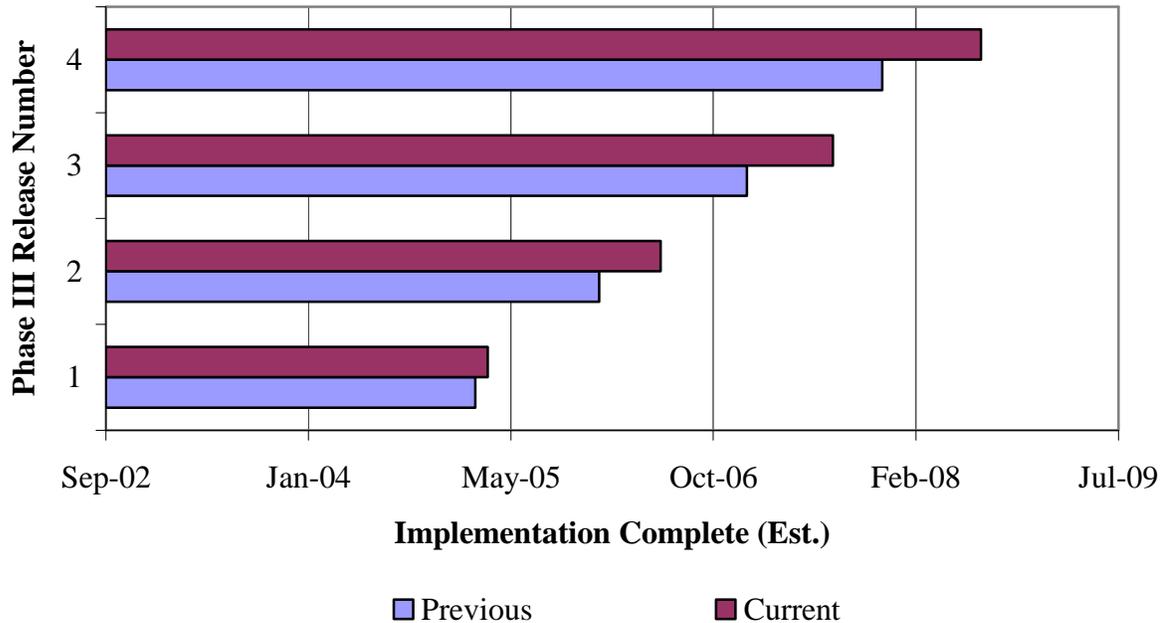
* Reflects availability of encumbered federal indirect cost recovery funds.

Source: Maryland Department of the Environment

Current Status

MDE completed the first release of the Phase III EEMS task order for the Hazardous Waste Program's controlled hazardous substance permitting efforts in winter 2005. MDE is currently implementing the second task order release which includes the following programs: the balance of the Hazardous Waste Program, Air and Radiation Management Administration's Stationary Sources and Monitoring programs, the Water Management Administration's Water Discharge Program, and the Waste Management Administration's Restoration Program. Third and fourth task order releases will address the remainder of the programs. Over the past six months, the project's implementation and payback schedules were extended by approximately one year due to better program migration information and staff salary increases. **Exhibit 6** compares the current and previous release completion schedule for the Phase III program migration.

Exhibit 6
EEMS Phase III Implementation
Schedule Delays



Source: August 2004 and December 2005 Maryland Department of the Environment Enterprise Environmental Management System updates to the budget committees

EEMS Implementation Issues

The issues described below concerning the implementation of EEMS merit attention.

- **Project Implementation Delay:** As discussed earlier, the project timeline has been extended and significant additional work remains. Therefore, it is reasonable to assume that further delays, cost over-runs, and/or reduced cost savings are possible.
- **Personnel Cost Savings Not Realized:** No personnel cost savings have been realized to date due to implementation of EEMS, and future dollar savings do not appear imminent. MDE advises that non-information technology (IT) staff currently performing IT work will return to the program specific functions they were initially hired to do. This seems to contradict earlier assertions from MDE and the Department of Budget and Management (DBM) that the costs of the system would be offset by savings in personnel expenditures and that DBM would track

these personnel savings in order to support EEMS implementation. MDE has lost IT personnel in recent years, though largely due to general statewide cost containment efforts.

- ***Project Management:*** A December 2004 Office of Legislative Audits (OLA) assessment of State IT projects noted that MDE appeared to be implementing best practices for IT project management. Overall, this OLA assessment determined that IT project success is primarily dependent on the quality of the project personnel. Therefore, it is important to note that MDE's IT management team has changed substantially over the past year.
- ***Independent Verification and Validation (IV&V):*** To date, an IV&V assessment has not been completed on the EEMS project. An IV&V would assess the quality of the project deliverables, the performance of the project contractors, and the adequacy of internal project resources and processes. MDE has engaged a contractor to develop an IV&V framework.

DLS recommends that MDE discuss the status of EEMS project management, whether further delays and additional costs are likely, the status of expected personnel savings, and when an IV&V report is anticipated. Furthermore, DLS recommends budget bill language expressing the General Assembly's continued intent regarding EEMS implementation and requiring a status report by December 1, 2006.

2. Maryland Power Plant Pollution Strategy Shifts

Background

Power plants are responsible for a significant portion of the State's overall sulfur dioxide (SO₂) and nitrogen oxide (NO_x) pollution. In November 2005, Governor Robert L. Ehrlich, Jr. proposed to implement a Maryland Clean Power Rule – an effort to cut Maryland power plant emissions up to 85% depending on the pollutant, five years ahead of requirements set by the U.S. Environmental Protection Agency (EPA). To date, this rule has not been proposed in writing in the Maryland Register. The Maryland Clean Power Rule may:

- impose emission rate limits on Maryland's six largest (Brandon Shores, Wagner, C.P. Crane, Morgantown, Chalk Point, and Dickerson) coal-fired electric power plants that contribute to ozone, particle, regional haze, and acid rain pollution¹;
- reduce mercury emissions from Maryland's six largest coal-fired electric power plants; and
- require Maryland power plants to meet State emission rate limits by adding local pollution controls rather than buying out-of-state emissions allowances (trading credits).

¹ Maryland's six largest coal-fired power plants account for an estimated 95% of the air pollution emitted from all of Maryland's coal-fired power plants.

Comparison to Other Air Policy Frameworks

In addition to the anticipated introduction of the Maryland Clean Power Rule, there are three other recent policy frameworks that will impact power plant emissions in Maryland.

- ***Clean Air Interstate Rule (CAIR):*** A federal rule that caps emissions of SO₂ and NO_x in the eastern United States. The rule assigns each state an emissions budget and requires states to achieve certain emissions reductions to meet those budgets by using a U.S. EPA-administered interstate cap-and-trade system or through measures of the state's choosing.
- ***Clean Air Mercury Rule (CAMR):*** A federal rule that permanently caps and reduces mercury emissions from coal-fired power plants.
- ***CAIR-Plus:*** A regional policy proposal that would establish a regional trading program for SO₂ and NO_x and go beyond CAIR for the electrical generating unit and large industrial boiler sectors.

According to MDE, implementation of the Maryland Clean Power Rule would result in greater air pollution reductions over a shorter period of time than the federal CAIR policy, as illustrated in **Exhibit 7**. Generally, MDE advises that it is too difficult to determine how CAIR, CAMR, and CAIR-Plus compare to the Maryland Clean Power Rule because they are all regional programs that currently lack state-by-state allocations. In addition, MDE notes that these regional approaches cannot provide any certainty that emission reductions would occur in Maryland.

MDE should be prepared to discuss the estimated short- and long-term costs associated with implementing the Maryland Clean Power Rule versus implementing CAIR, CAMR, or CAIR-Plus.

**Exhibit 7
Clean Air: Federal Rule vs. Anticipated State Rule**

| | <u>Federal Clean Air Interstate and Clean Air Mercury Rules</u> | <u>Maryland Clean Power Rule</u> |
|-------------------------------------|--|--|
| <i>Pollution Reduction</i> | | |
| Nitrogen Oxide | ↓ 42% ↓ 27,000 tons per year | ↓ 69% ↓ 45,000 tons per year |
| Sulfur Dioxide | ↓ 50% ↓ 120,000 tons per year | ↓ 85% ↓ 205,000 tons per year |
| Mercury | ↓ 46% reduction ↓ 1,090 pounds per year | ↓ 80% in 2010, 90% in 2015 ↓ 1,800 est. pounds per year |
| <i>Timing</i> | Full implementation = 2015 (2018 for Mercury) | Full implementation = 2010 (2015 for Mercury) |
| <i>Regulatory Approach</i> | Continued trading | In-state reductions |
| <i>Power Plants Impacted</i> | All over 25 megawatts | All over 100 megawatts |
| <i># of Plants Impacted</i> | 20 (estimated) | 6 |
| <i>Estimated Cost</i> | Indeterminate | \$1.0 billion in capital costs and \$300.0 million in annual operating costs |

Note: While the federal rules impact a greater number of plants, this chart adjusts the impact of the federal rule to reflect that many of the large plants in Maryland would trade pollution credits with other states, and thus Maryland would not benefit from pollution reduction.

Source: Maryland Department of the Environment

3. Maryland Geological Survey Move Proposal

Background

The mission of DNR's Maryland Geological Survey (MGS) is primarily scientific-investigative with authorization to conduct topographic, geologic, hydrographic, and geophysical surveys; to prepare topographic, geologic, and other types of maps to meet specific needs; to prepare reports on the extent and character of the geology, minerals, and water resources of the State; and to engage in, sponsor, and coordinate archeological research in Maryland. Since 1972, MGS has carried out its mission through three programs:

- **Hydrogeology and Hydrology** conducts hydrogeologic studies, geophysical surveys, and test drilling; assesses streams, springs, and aquifers and their interactions; forecasts the potential effects of water demand and land use; and maintains a statewide water data network in cooperation with the U.S. Geological Survey.
- **Environmental Geology and Mineral Resources** conducts geological investigations and mapping and disseminates earth science information about Maryland.
- **Coastal and Estuarine Geology** investigates and determines the geologic framework of the State's coastal environments by mapping and evaluating the natural resources and providing earth science information for resource management.

MGS is currently located in the Kenneth N. Weaver Building and annex located on St. Paul Street in Baltimore City.

Move to MDE

As illustrated in **Exhibit 8**, the fiscal 2007 allowance includes funding to move two-thirds of MGS from DNR to MDE. The Administration proposes to move all MGS programs except Coastal and Estuarine Geology to MDE's Montgomery Park headquarters in Baltimore City. The Coastal and Estuarine Geology program would relocate to DNR's Tawes headquarters in Annapolis. The fiscal 2007 allowance includes \$575,000 in general funds to implement this move, with \$458,334 in DNR's allowance and \$116,666 in MDE's allowance. This proposal assumes that 16 regular positions and 2 contractual positions would move from DNR to MDE, and the 9 Coastal and Estuarine Geology program positions would remain within DNR. An executive order or legislation effecting this organizational change is anticipated during the 2006 session; however, new fiscal 2007 funding would be required for implementation to take place.

Exhibit 8
Proposed Allocation of MGS Resources

| | <u>DNR</u> | <u>MDE</u> |
|---------------------------------|---|--|
| Programs | <ul style="list-style-type: none">• Coastal and Estuarine Geology | <ul style="list-style-type: none">• Hydrogeology and Hydrology• Environmental Geology |
| Regular positions | 9 | 16 and 2 contractual |
| Program funding allocation | \$1.1 million (estimated) | \$1.6 million (estimated) |
| Proposed fiscal 2007 move funds | \$458,334 | \$116,666 |

Sources: Maryland Department of the Environment; Department of Natural Resources

The rationale for the proposed reorganization is twofold. First, since MGS provides a significant amount of support to MDE’s Public Water Supply and Mining programs, this reorganization would help ensure that both activities and budgets are better aligned with State priorities. Secondly, since MDE requires geology-related support for a variety of programs, MDE may be able to achieve greater workload efficiency with the addition of these new geologists.

There are several practical and fiscal concerns about this proposed move that merit attention. Some of the potential issues are described below.

- ***MGS Workload Would Remain Split Between DNR and MDE:*** MGS currently provides DNR with a significant amount of assistance. The two MGS programs that would transfer to MDE would still be required to provide DNR with groundwater and stream gauging network, and mineral resources assessment and mapping services. Since MGS serves both MDE and DNR, and it does not provide an overwhelming portion of its services to MDE programs, the justification for this move appears weak.
- ***Inefficient to Duplicate Existing Offices:*** Since the Weaver Building and annex are already outfitted with the equipment and facilities MGS staff require, it appears duplicative and unnecessary to dedicate limited State resources to outfitting two new work and lab spaces at the MDE and DNR headquarters buildings.
- ***Unknown Future for DNR’s Weaver Building and Annex:*** If this reorganization is implemented, the future need for and/or use of the Weaver Building and annex is not clear. MDE advises that the Weaver Building would be sold, and the annex would be demolished for safety reasons.

- ***Detrimental Impact on Coastal and Estuarine Geology Program:*** Splitting off the Coastal and Estuarine Geology Program could result in a loss of efficiencies and synergy among the three current MGS programs.

DLS recommends deleting funding for this proposal and having MDE discuss the potential negative repercussions of not implementing the proposed move.

Recommended Actions

| | <u>Amount Reduction</u> | | <u>Position Reduction</u> |
|---|------------------------------------|----|--------------------------------------|
| 1. Delete funding to move the Maryland Geological Survey from the Department of Natural Resources to the Maryland Department of the Environment. This organizational change is not necessary, and the total estimated move cost of \$575,000 is expensive. | \$ 116,666 | GF | |
| 2. Delete personnel and grant funding for implementation of the Corsica River initiative. The Maryland Department of the Environment should dedicate existing program funds to this initiative. Furthermore, the proposed addition of two positions is not consistent with the Spending Affordability Committee’s recommended position limit for fiscal 2007. | 130,000 | GF | 2.0 |
| 3. Delete personnel and grant funding associated with an unidentified watershed restoration initiative. This action deletes funding for one new position and \$716,230 in grant funds to help local governments meet wastewater treatment and/or stormwater management goals. Funding for this effort is premature in fiscal 2007 since a specific watershed has not been identified. Furthermore, the proposed addition of this new position is not consistent with the Spending Affordability Committee’s recommended position limit for fiscal 2007. | 760,000 | GF | 1.0 |
| 4. Delete contractual funds for wetland creation and stormwater management projects on State lands. Existing funds should be dedicated to this type of work. | 326,000 | GF | |
| 5. Reduce funding for clean-up of the Garner/Brandywine scrap tire stockpile. With this reduction, this project would still receive \$1.1 million. This project may be funded over two years. | 1,000,000 | SF | |

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6. Add the following language:

It is the intent of the General Assembly that not more than \$6,451,000 in total may be expended for Enterprise Environmental Management System (EEMS) project implementation. Provided that the Maryland Department of the Environment (MDE) shall not expend funds for the fourth task order release associated with phase three of EEMS implementation until a status report is submitted to the budget committees after completion of the third task order associated with phase three or December 1, 2006, whichever occurs first. The status report should include the latest EEMS implementation budget estimate and schedule, the results of an independent verification and validation report on EEMS, and updated estimates of specific MDE annual operating cost savings resulting from EEMS implementation including the identification of specific personnel savings by position identification number. The budget committees shall have 45 days to review and comment upon the report. Further provided that it is the intent of the General Assembly that not more than \$1,100,000 in federal funds be expended for EEMS in fiscal 2007, unless additional funding is sought via budget amendment or a deficiency budget.

Explanation: This budget bill language expresses the General Assembly’s intent with regard to implementation of EEMS. Specifically, it notes that not more than \$6.5 million in total should be dedicated to EEMS implementation and not more than \$1.1 million in federal funds should be dedicated to EEMS in fiscal 2007, unless funds are brought in via the budget amendment or budget deficiency process. Finally, this language requires MDE to submit a status report on EEMS prior to initiating the fourth task order release associated with the third phase of EEMS implementation, or by December 1, 2006, whichever occurs first.

| Information Request | Authors | Due Date | |
|--------------------------------------|---|--|------------|
| EEMS Status Report | MDE Department of Budget and Management | December 1, 2006, or prior to the fourth task order release | |
| Total Reductions | | \$ 2,332,666 | 3.0 |
| Total General Fund Reductions | | \$ 1,332,666 | |
| Total Special Fund Reductions | | \$ 1,000,000 | |

Updates

1. 2005 Enforcement and Compliance Report

In the fall of 2005, MDE published its ninth annual report on all enforcement and compliance programs in the Air and Radiation, Technical and Regulatory Services, Waste and Water Management Administrations, as well as the Attorney General's Environmental Crimes Unit. This report summarizes MDE's fiscal 2005 enforcement accomplishments and challenges. The report notes that MDE provided regulatory oversight for 187,070 regulated entities – a 5% increase over the fall of 2004. Nearly \$7.8 million was spent on salaries for 144.3 enforcement personnel to provide that oversight. On average, each MDE inspector was responsible for inspecting 1,293 regulated entities – an average annual workload increase of 8%.

Exhibit 9 provides performance data for fiscal 2004 and 2005 that is presented in the report. This data indicates the following changes between 2004 and 2005:

- a 4.1% decrease in the issuance of permits and licenses;
- a 41.2% decrease in the number of compliance assistance actions;
- a 24.8% decrease in the number of enforcement actions; and
- an 8.4% decrease in the amount of penalty revenue collected.

Overall, the enforcement actions and penalties data may indicate increasing compliance in the regulated community.

Exhibit 9
MDE's Enforcement and Compliance Performance

| | <u>Fiscal 2004</u> | <u>Fiscal 2005</u> | <u>% Change</u> |
|--|--------------------|--------------------|-----------------|
| Permitted Sites/Facilities | | | |
| Permits/licenses issued | 11,264 | 10,799 | -4.1% |
| Permits/licenses in effect at year end | 75,729 | 73,155 | -3.4% |
| Inspections | | | |
| Sites inspected | 43,434 | 43,722 | 0.7% |
| Inspections, audits, and spot checks | 106,845 | 103,586 | -3.0% |
| Enforcement Actions | | | |
| Compliance assistance actions rendered | 18,646 | 10,953 | -41.2% |
| Enforcement actions taken | 1,856 | 1,395 | -24.8% |
| Penalty Amount Obtained (\$) | \$1,781,526 | \$1,631,054 | -8.4% |

Source: Maryland Department of the Environment

Current and Prior Year Budgets

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

| | <u>General Fund</u> | <u>Special Fund</u> | <u>Federal Fund</u> | <u>Reimb. Fund</u> | <u>Total</u> |
|----------------------------------|-------------------------|-------------------------|-------------------------|------------------------|-----------------|
| Fiscal 2005 | | | | | |
| Legislative Appropriation | \$36,857 | \$25,519 | \$24,223 | \$4,350 | \$90,949 |
| Deficiency Appropriation | 0 | 0 | 0 | 0 | 0 |
| Budget Amendments | 334 | 4,598 | 7,078 | 265 | 12,275 |
| Reversions and Cancellations | -20 | -6,181 | -4,706 | -243 | -11,150 |
| Actual Expenditures | \$37,171 | \$23,936 | \$26,595 | \$4,372 | \$92,074 |
| Fiscal 2006 | | | | | |
| Legislative Appropriation | \$33,677 | \$30,049 | \$26,047 | \$4,246 | \$94,019 |
| Budget Amendments | 333 | 960 | 2,813 | 32 | 4,138 |
| Working Appropriation | \$34,010 | \$31,009 | \$28,860 | \$4,278 | \$98,157 |

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

Fiscal 2005

MDE's general fund appropriation increased by \$313,778 due to allocation of the cost-of-living adjustment (COLA) general fund appropriation (\$334,430) as authorized in the fiscal 2005 budget bill (Budget Amendment 006-05) as well as the reversion of \$20,652.

Special funds dedicated to operating functions decreased by \$1.6 million. This change was due in part to \$4.6 million in budget amendments, including:

- \$700,000 for salaries and contractual services related to information technology services;
- \$600,000 for contractual services associated with retrofitting diesel-powered school buses in Anne Arundel, Prince George's, and Montgomery counties to reduce pollution;
- \$600,000 for grants to study toxics impairments including Polychlorinated Biphenyls (PCBs) and metals, acid mine drainage, and sediment impairments in relation to the development of TMDL models for various waterways;
- \$600,000 for salary costs for regular employees in the Office of the Secretary (OS) and Administrative and Employee Services Administration (ASEA);
- \$567,289 for salaries, equipment, and grants associated with the Water Quality Infrastructure Program and an interagency agreement with the College of Southern Maryland to provide technical assistance for a clean watersheds needs survey;
- \$421,000 for salaries and fringe benefit costs of employees in the Radiological Health Program;
- \$350,000 for salary and fringe benefit costs of staff performing lead poisoning prevention activities;
- \$240,000 for salaries in the Lead Poisoning Prevention Program to ensure registration and compliance;
- \$150,000 for contracts with the University of Maryland for modeling, forecasting, and ozone research programs; and
- \$120,000 for grants associated with evaluating ecological strategies and conducting environmental assessments of tidal restoration projects in the State.

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These budget amendments were off-set by \$6.2 million in special fund cancellations in the following programs: \$1.4 million in Hazardous and Oil Control, Compliance and Cleanup, \$1.0 million in the Coordinating Offices (CO), \$982,865 in Technical and Regulatory Services Administration (TARSA), \$921,167 in Solid Waste Permitting, Compliance and Enforcement, \$580,036 in Lead Poisoning Prevention Program, \$466,760 in the Air and Radiation Management Administration, \$343,053 in OS, and \$319,721 in Water Pollution Control Program.

Federal funds dedicated to operating functions increased by \$2.4 million. This change was due in part to \$7.1 million in budget amendments, including:

- \$2,597,040 for implementation of Phase III of EEMS;
- \$1,648,351 for salary costs associated with regular employees in OS, AESA, TARSA and CO;
- \$1,070,000 for contractual services associated with increasing local involvement in, and ownership of, the development and maintenance of flood hazard maps produced for the National Flood Insurance Program;
- \$600,000 for grants to study toxics impairments including PCBs and metals, acid mine drainage, and sediment impairments in relation to the development of TMDL models for various waterways;
- \$437,000 for salary costs, grants, and contractual services associated with reducing air pollution by retrofitting heavy duty diesel vehicles and engaging in other activities that help reduce the pollutants associated with the formation of ground-level ozone and fine particulate matter;
- \$200,000 for contractual services associated with the development of EEMS;
- \$110,758 for salaries and fringe benefits for employees working on watershed scale sediment TMDLs;
- \$100,836 for contractual services associated with a water quality beach monitoring program that seeks to protect public health;
- \$62,000 for salaries and fringe benefits for employees working on a water quality project and for travel, supplies, and contractual services associated with conducting water sampling in Pennsylvania;
- \$60,000 for contractual services associated with assessing on-site pollution prevention opportunities at Maryland businesses; and

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- \$47,000 for salaries, fringe benefits, and contractual services related to the Consolidated Park Heights Environmental Project, an effort to increase environmental compliance among small, automotive businesses in western Baltimore City.

These budget amendments were partially off-set by \$4.7 million in cancellations in the following programs: \$1.3 million in Water Pollution Control Program, \$1.2 million in Hazardous and Oil Control, Compliance and Cleanup, \$940,080 in CO, \$378,157 in the Water Supply Program, \$300,056 in the Major Information Technology Development Program, and \$288,113 in OS.

Fiscal 2006

General funds increase by \$333,163 due to allocation of the COLA general fund appropriation to State agencies as authorized in the fiscal 2006 budget bill (Budget Amendment 004-06).

The special fund appropriation has increased by \$960,000 due to the following budget amendments:

- \$485,000 for salaries and fringe benefit costs of employees in the Water Quality Financing Administration;
- \$250,000 for contractual services associated with the initiation of the new statewide Computer Recycling Pilot Program (Chapter 384, Acts of 2005); and
- \$225,000 for contractual services associated with monitoring water and wastewater treatment plant construction projects.

The federal fund appropriation has increased by \$2.8 million due to the following budget amendments:

- \$1,713,036 for grants (\$1.66 million) and administration costs associated with implementation of the Non-point Source Program under the federal Clean Water Act. This program was recently transferred from DNR to MDE. The State may use these funds to support a wide variety of activities including technical assistance, financial assistance, education, training, technology transfer, demonstration projects, and monitoring to assess the success of specific non-point source implementation projects;
- \$900,000 for capitalization of a revolving loan fund in order to make loans and grants for cleanup of brownfield sites; and
- \$200,000 for contractual services associated with updating a geographic information services-hydro software package and providing field data collection services for a floodplain mapping program.

Audit Findings

| | |
|------------------------------|-----------------------------------|
| Audit Period for Last Audit: | September 1, 2001 – June 30, 2004 |
| Issue Date: | April 2005 |
| Number of Findings: | 12 |
| Number of Repeat Findings: | 5 |
| % of Repeat Findings: | 41% |
| Rating: (if applicable) | n/a |

- Finding 1:*** Funds totaling \$7.7 million were improperly retained during the fiscal 2004 budget closeout
- Finding 2:*** **Federal funds totaling \$61 million were not deposited directly in the State Treasury.**
- Finding 3:*** **Insufficient record keeping restricted management’s ability to readily monitor permits, inspections, and penalties.**
- Finding 4:*** System accounts, passwords, and monitoring controls over certain system activities were inadequate.
- Finding 5:*** **Database accounts, passwords, and monitoring controls over certain database activities were inadequate.**
- Finding 6:*** **An adequate information technology disaster recovery plan did not exist.**
- Finding 7:*** Computer network monitoring was not adequate.
- Finding 8:*** **Certain supporting documentation was not obtained for grant payments and contractor invoices.**
- Finding 9:*** Documentation supporting contract awards was not maintained, and certain procurements were not made in accordance with State guidelines.
- Finding 10:*** MDE awarded a contract in an amount that was overstated by \$333,000.
- Finding 11:*** Certain employees earned overtime and compensatory time for time not worked.
- Finding 12:*** MDE did not always take timely action to collect outstanding balances and billing procedures for certain accounts were not adequate.

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

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

| <u>Object/Fund</u> | <u>FY05 Actual</u> | <u>FY06 Working Appropriation</u> | <u>FY07 Allowance</u> | <u>FY06 - FY07 Amount Change</u> | <u>Percent Change</u> |
|---|------------------------|---|---------------------------|--------------------------------------|---------------------------|
| Positions | | | | | |
| 01 Regular | 954.00 | 949.00 | 952.00 | 3.00 | 0.3% |
| 02 Contractual | 14.00 | 44.50 | 34.50 | -10.00 | -22.5% |
| Total Positions | 968.00 | 993.50 | 986.50 | -7.00 | -0.7% |
| Objects | | | | | |
| 01 Salaries and Wages | \$ 59,805,802 | \$ 63,164,922 | \$ 66,813,363 | \$ 3,648,441 | 5.8% |
| 02 Technical & Spec Fees | 558,718 | 1,399,103 | 1,159,181 | -239,922 | -17.1% |
| 03 Communication | 822,667 | 939,606 | 850,381 | -89,225 | -9.5% |
| 04 Travel | 527,234 | 530,775 | 468,197 | -62,578 | -11.8% |
| 06 Fuel & Utilities | 376,807 | 505,671 | 423,725 | -81,946 | -16.2% |
| 07 Motor Vehicles | 1,319,439 | 980,511 | 1,016,321 | 35,810 | 3.7% |
| 08 Contractual Services | 9,151,066 | 10,980,873 | 14,155,687 | 3,174,814 | 28.9% |
| 09 Supplies & Materials | 1,204,663 | 1,182,136 | 1,120,576 | -61,560 | -5.2% |
| 10 Equip - Replacement | 906,807 | 1,004,083 | 642,410 | -361,673 | -36.0% |
| 11 Equip - Additional | 550,720 | 642,769 | 239,019 | -403,750 | -62.8% |
| 12 Grants, Subsidies, and Contributions | 12,678,567 | 11,688,441 | 13,901,441 | 2,213,000 | 18.9% |
| 13 Fixed Charges | 4,171,578 | 4,188,023 | 4,135,236 | -52,787 | -1.3% |
| 14 Land & Structures | 0 | 950,000 | 50,000 | -900,000 | -94.7% |
| Total Objects | \$ 92,074,068 | \$ 98,156,913 | \$ 104,975,537 | \$ 6,818,624 | 6.9% |
| Funds | | | | | |
| 01 General Fund | \$ 37,171,039 | \$ 34,010,201 | \$ 36,687,186 | \$ 2,676,985 | 7.9% |
| 03 Special Fund | 23,936,156 | 31,008,634 | 36,379,174 | 5,370,540 | 17.3% |
| 05 Federal Fund | 26,595,333 | 28,859,737 | 27,657,616 | -1,202,121 | -4.2% |
| 09 Reimbursable Fund | 4,371,540 | 4,278,341 | 4,251,561 | -26,780 | -0.6% |
| Total Funds | \$ 92,074,068 | \$ 98,156,913 | \$ 104,975,537 | \$ 6,818,624 | 6.9% |

Note: The fiscal 2006 appropriation does not include deficiencies, and the fiscal 2007 allowance does not reflect contingent reductions.

**Fiscal Summary
Department of the Environment**

| <u>Program/Unit</u> | <u>FY05 Actual</u> | <u>FY06 Wrk Approp</u> | <u>FY07 Allowance</u> | <u>Change</u> | <u>FY06 - FY07 % Change</u> |
|--|------------------------|----------------------------|---------------------------|---------------------|---------------------------------|
| 01 Office of the Secretary | \$ 1,981,520 | \$ 1,883,669 | \$ 2,065,703 | \$ 182,034 | 9.7% |
| 02 Administrative and Employee Services | 7,212,013 | 7,360,470 | 7,522,136 | 161,666 | 2.2% |
| 01 Water Pollution Control Program | 23,073,057 | 24,737,712 | 24,502,421 | -235,291 | -1.0% |
| 02 Water Supply Program | 4,235,158 | 4,678,570 | 4,909,319 | 230,749 | 4.9% |
| 01 Technical and Regulatory Services | 12,904,206 | 13,032,968 | 15,242,252 | 2,209,284 | 17.0% |
| 01 Solid Waste Permitting, Compliance and Enforcement | 4,012,540 | 6,217,434 | 9,516,775 | 3,299,341 | 53.1% |
| 05 Hazardous and Oil Control, Compliance and Cleanup | 10,978,325 | 14,116,047 | 14,051,855 | -64,192 | -0.5% |
| 07 Lead Poisoning Prevention Program | 3,879,691 | 3,715,593 | 4,103,530 | 387,937 | 10.4% |
| 01 Air and Radiation Management Administration | 13,951,757 | 13,378,667 | 13,860,089 | 481,422 | 3.6% |
| 01 Coordinating Offices | 7,198,817 | 8,935,783 | 8,101,457 | -834,326 | -9.3% |
| 02 Major IT Development Program | 2,646,984 | 100,000 | 1,100,000 | 1,000,000 | 1000.0% |
| Total Expenditures | \$ 92,074,068 | \$ 98,156,913 | \$ 104,975,537 | \$ 6,818,624 | 6.9% |
| General Fund | \$ 37,171,039 | \$ 34,010,201 | \$ 36,687,186 | \$ 2,676,985 | 7.9% |
| Special Fund | 23,936,156 | 31,008,634 | 36,379,174 | 5,370,540 | 17.3% |
| Federal Fund | 26,595,333 | 28,859,737 | 27,657,616 | -1,202,121 | -4.2% |
| Total Appropriations | \$ 87,702,528 | \$ 93,878,572 | \$ 100,723,976 | \$ 6,845,404 | 7.3% |
| Reimbursable Fund | \$ 4,371,540 | \$ 4,278,341 | \$ 4,251,561 | -\$ 26,780 | -0.6% |
| Total Funds | \$ 92,074,068 | \$ 98,156,913 | \$ 104,975,537 | \$ 6,818,624 | 6.9% |

Note: The fiscal 2006 appropriation does not include deficiencies, and the fiscal 2007 allowance does not reflect contingent reductions.