D13A13
Maryland Energy Administration

Operating Budget Data

($ in Thousands)

	FY 11 Actual	FY 12 Working	FY 13 Allowance	FY 12-13 Change	% Change Prior Year
Special Fund	$22,894	$14,147	$14,690	$543	3.8%
Adjusted Special Fund	**$22,894**	**$14,147**	**$14,690**	**$543**	**3.8%**
Federal Fund	33,727	11,766	706	-11,060	-94.0%
Adjusted Federal Fund	**$33,727**	**$11,766**	**$706**	**-$11,060**	**-94.0%**
Reimbursable Fund	122	129	129	0	0.1%
Adjusted Reimbursable Fund	**$122**	**$129**	**$129**	**$0**	**0.1%**
Adjusted Grand Total	**$56,743**	**$26,042**	**$15,525**	**-$10,518**	**-40.4%**

- The fiscal 2013 allowance of the Maryland Energy Administration (MEA) decreases by $10.5 million, or 40.4%, compared to the fiscal 2012 working appropriation.

- The federal fund decrease of $11.1 million, or 94.0%, reflects the decline in funds available from the American Recovery and Reinvestment Act of 2009 (ARRA). Only a small portion of these funds is available for use in fiscal 2013.

- The special fund increase of $542,774, or 3.8%, is primarily due to the increased availability of the Strategic Energy Investment Funds (SEIF), due to anticipated higher revenue from the Regional Greenhouse Gas Initiative (RGGI) carbon dioxide emission allowance auctions, the altered allocation of RGGI auction revenue in the Budget Reconciliation and Financing Act of 2011, and changes in the State priorities for use of the funds.

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

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Personnel Data

	FY 11 Actual	FY 12 Working	FY 13 Allowance	FY 12-13 Change
Regular Positions	28.00	29.00	29.00	0.00
Contractual FTEs	6.00	6.00	3.00	-3.00
Total Personnel	**34.00**	**35.00**	**32.00**	**-3.00**

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions		1.45	5.00%	
Positions and Percentage Vacant as of 12/31/11		n/a	n/a	

- There are no changes in the number of regular positions in the fiscal 2013 allowance. However, 1 position, the Governor's Energy Advisor, was transferred from the Governor's Office to MEA in fiscal 2012.

- Three contractual full-time equivalents (FTE) are eliminated in the fiscal 2013 allowance. These positions worked in the areas of grants administration (1.5 FTE), administrative support (1.0 FTE), and energy regulatory strategist (0.5 FTE). The activities of the positions were related to the ARRA, and as these funds reach an end, the FTEs are eliminated.

- As of December 31, 2011, MEA had no vacant positions. To meet its turnover expectancy of 5.0%, MEA needs to maintain 1.45 vacant positions in fiscal 2013. At the current level of vacancies, MEA may have difficulty meeting its turnover expectancy.

Analysis in Brief

Major Trends

Little Evidence that Maryland Will Meet the Electricity Consumption Goals: Through fiscal 2010, the State has made limited progress in reducing per capita electricity consumption (1.5%) to meet the 15.0% reduction by 2015 goal established under EmPower Maryland. More progress has been made in reducing per capita peak demand through fiscal 2010 (6.2%), which also has a 15.0% reduction goal.

Renewable Energy in Service Increases Dramatically: Between calendar 2010 and 2011, the number of kilowatts of renewable energy in service increased by 55.5% for commercial scale energy and 97.6% for residential and small commercial renewable energy. Although growth is expected to continue through fiscal 2013, the rate of growth is expected to slow.

Issues

SEIF Revenue and Distribution: The SEIF revenue has varied widely in the 14 auctions held through December 2011, with peak revenue of $19.9 million in the March 2009 auction and an all-time low revenue of $2.5 million in the September 2011 auction. Revenue rebounded in the December 2011 auction, but it is unclear whether this higher level of revenue is sustainable or an anomaly. The revenue received from auctions through December 2011 is on target to meet fiscal 2012 projections. The fiscal 2013 allowance assumes $42.0 million will be available from auctions held in that year; nearly all expected revenue is included in the fiscal 2013 allowance.

Memorandum of Understanding with the Maryland Department of the Environment: One of the two findings in the fiscal compliance audit of MEA released by the Office of Legislative Audits in December 2010 related to MEA having insufficient documentation to support payments to the Maryland Department of the Environment (MDE), primarily due to the failure of MEA and MDE to execute a memorandum of understanding (MOU) for the amount, terms, and use of the SEIF by MDE. MEA concurred with the finding and indicated an agreement would be signed by March 31, 2011. As of this writing, no MOU is in place.

Recommended Actions

1. Adopt committee narrative requesting a report on the energy savings achieved through programs and the impact on the EmPower Maryland goals.

2. Add budget bill language to require information on the revenue and use of the Strategic Energy Investment Fund in the fiscal 2014 budget books.

3. Add language withholding funds until a report is submitted on Regional Greenhouse Gas Initiative program changes.

Updates

Status of the American Recovery and Reinvestment Act of 2009 Spending: Of the $73.7 million available from ARRA sources, MEA has spent $53.2 million through January 31, 2012, with an additional $10.9 million encumbered. MEA has fully encumbered or expended ARRA funds for two programs, with the other programs having encumbered or expended between 38.1 and 98.8% of available funds.

Operating Budget Analysis

Program Description

The Maryland Energy Administration (MEA) is an independent unit of State government with a mission of promoting affordable, reliable, and clean energy. Consistent with this mission, MEA conducts planning activities for a variety of energy sources; administers the Strategic Energy Investment Fund (SEIF); administers programs aimed at increasing energy efficiency and increasing the use of renewable and clean energy; and advises the Governor's Office on energy policy and managing energy emergencies and disruptions. MEA's programs affect local and State government, nonprofit organizations, residential consumers, and commercial and industrial consumers.

MEA's key goals include:

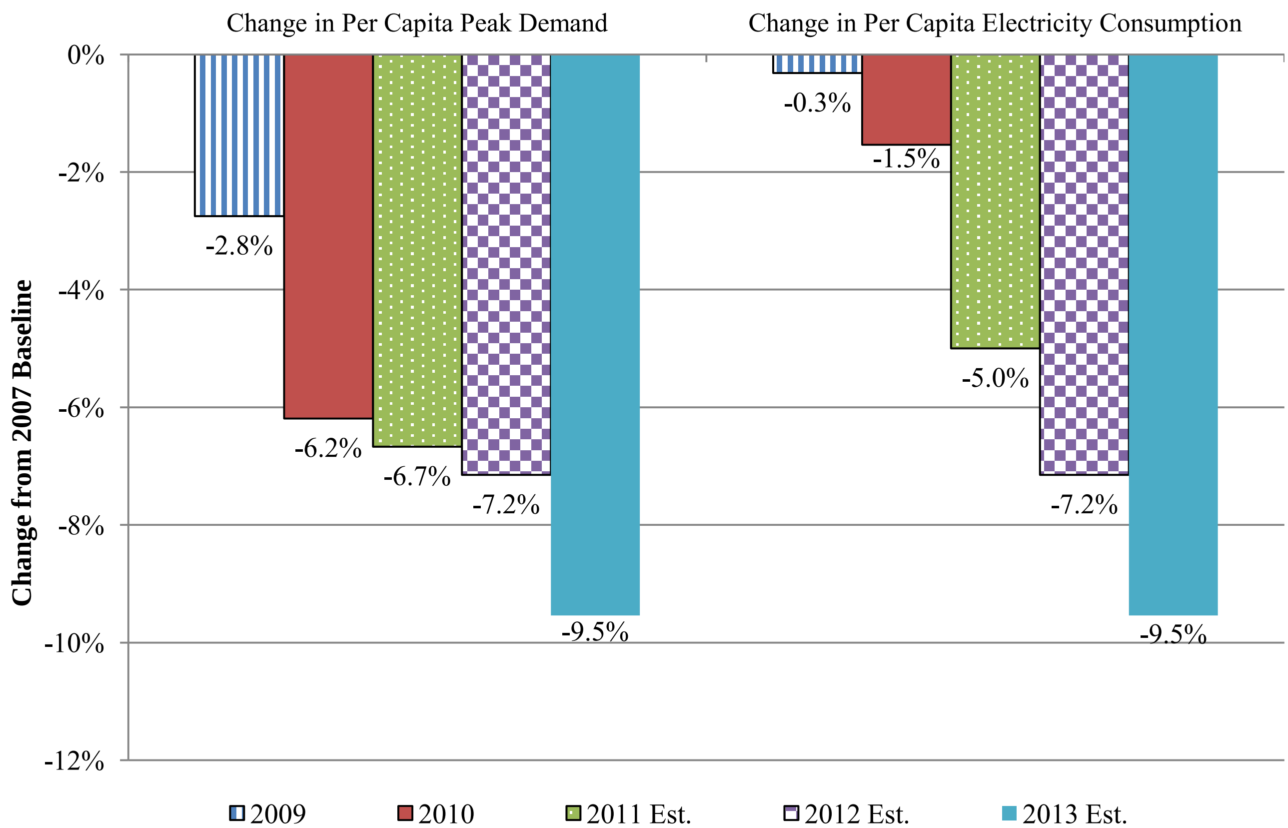
- increasing Maryland's energy efficiency and energy conservation;
- increasing electricity generation fuel diversity, improving air quality, and reducing greenhouse gas emissions through the use of renewable energy; and
- reducing the State's consumption of petroleum fuels through increased use of alternative fuels and advanced transportation technologies.

Performance Analysis: Managing for Results

Chapter 131 of 2008 (EmPower Maryland Energy Efficiency Act) established goals of reducing per capita peak demand and electricity consumption in the State 15% by 2015 with interim goals of a 5% reduction by 2011. MEA's Managing for Results submission contains measures that shows the progress of the State in meeting these goals. These measures reflect activity in the State generally, not only changes relating to MEA's programs, and reflect the cumulative progress over time in meeting these goals. Due to the timing of the release of energy consumption data, the calendar 2011 data are estimates.

As shown in **Exhibit 1**, the reduction in per capita peak demand improved dramatically between fiscal 2009 and 2010 from 2.8 to 6.2% but is expected to slow in fiscal 2011 with an additional increase of 0.5 percentage points. MEA indicates that as the programs mature the easiest households to recruit into demand reduction programs are already participating and the remaining customers will be more difficult to recruit. Through calendar 2010, progress in meeting the reduction in per capita electricity consumption has been limited. For both measures, calendar 2012 and 2013 estimates reflect the level of reductions required to keep the State on target to meet the 2015 goal. **MEA should comment on how the utility EmPower Maryland programs, recently approved by**

Exhibit 1
EmPower Maryland Goal Progress
Calendar 2009-2013



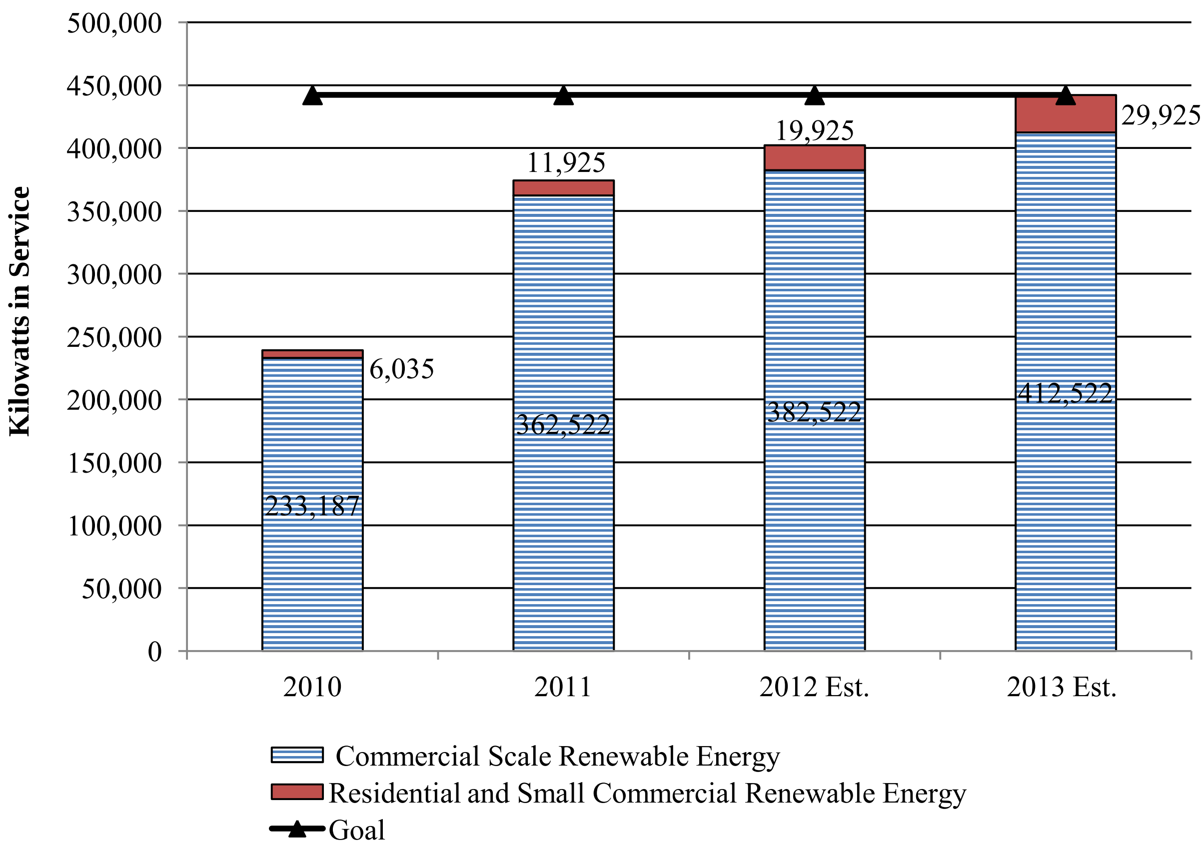
Source: Maryland Energy Administration; Governor's Budget Books

the Public Service Commission (PSC), will assist the State in achieving the electricity consumption reduction goal.

As a result of the actions taken to reduce peak demand and electricity consumption, Maryland avoided $34.3 million in electricity costs in calendar 2009, and $165.0 million in 2010. As the progress continues in reducing per capita peak demand and electricity consumption, the avoided electricity costs in Maryland are expected to increase. If the State meets the anticipated level of reductions in calendar 2013, Maryland will have avoided electricity costs totaling $771.0 million.

MEA has a goal of increasing the electricity generation fuel diversity, improving air quality, and reducing greenhouse gas emissions through the increased use of renewable energy. Calendar 2010 figures have been revised since the 2011 session to include waste-to-energy generation, added as a Tier 1 source in Chapter 690 of 2011, and black liquor, also a Tier 1 source which was previously not included in the calculation. As shown in **Exhibit 2**, the number of commercial scale and residential and small commercial scale renewable energy in service increased substantially between calendar 2010 and 2011, increases of 55.5 and 97.6% respectively. Growth is expected to slow in calendar 2012 and 2013; however, residential and small commercial scale renewable energy is expected to continue to increase by more than 50.0% each year. By calendar 2013, MEA anticipates 442,447 kilowatts (KW) of renewable energy will be in service, most of which will be from commercial scale projects.

Exhibit 2
Renewable Energy in Service
Calendar 2010-2013



Source: Maryland Energy Administration; Governor's Budget Books

Proposed Budget

As shown in **Exhibit 3**, the fiscal 2013 allowance of MEA decreases by $10.5 million. A decrease of $11.1 million in federal funds primarily reflects the decline in American Recovery and Reinvestment Act of 2009 (ARRA) funds in the fiscal 2013 allowance. As discussed further in the Updates section of this analysis, the majority of MEA's ARRA support has either been spent or is required to be spent in fiscal 2012. MEA's fiscal 2012 working appropriation includes $10.3 million from ARRA available to support administrative and programmatic expenditures; however, the fiscal 2013 allowance only includes $220,000 of ARRA funding available from the Energy Efficiency and Conservation Block Grant (EECBG). The fiscal 2013 funds available from EECBG are the result of projects that cost less than originally anticipated and will be reallocated to other projects. The remaining federal fund decrease results from additional State Energy Program (SEP) base grant funds and other grants from the U.S. Department of Energy available in fiscal 2012.

The decrease in federal funds is partially offset by an increase of $542,774 in special funds, primarily from the SEIF which increases by $591,741. The increase occurs as a result of:

- changes in the allocation of the Regional Greenhouse Gas Initiative (RGGI) auction revenue in the Budget Reconciliation and Financing Act (BRFA) of 2011;
- an increase in the revenue anticipated from RGGI auctions; and
- changing State priorities for use of the funds.

While the change in allocation was effective in fiscal 2012, not all of the available revenue for administrative expenditures was appropriated in the budget due to the availability of ARRA funding. The fiscal 2013 allowance reflects the full allocation of RGGI revenue for administrative expenditures.

Exhibit 3
Proposed Budget
Maryland Energy Administration
($ in Thousands)

How Much It Grows:	Special Fund	Federal Fund	Reimb. Fund	Total
2012 Working Appropriation	$14,147	$11,766	$129	$26,042
2013 Allowance	14,690	706	129	15,525
Amount Change	$543	-$11,060	$0	-$10,518
Percent Change	3.8%	-94.0%	0.1%	-40.4%
Contingent Reductions	$0	$0	$0	$0
Adjusted Change	$543	-$11,060	$0	-$10,518
Adjusted Percent Change	3.8%	-94.0%	0.1%	-40.4%

Where It Goes:

Personnel Expenses	
Regular earnings primarily due to a position transferred in fiscal 2012 for which funding has not yet been transferred partially offset by the filling of vacant positions at lower salaries	$104
Employee retirement	35
Social Security contributions and unemployment insurance	8
Employee and retiree health insurance	-5
Turnover adjustments	-7
One-time employee bonus	-23
Residential Rate Relief	
Residential rate relief due to a temporary suspension of allocation in the BRFA of 2011	-1,334
Energy Efficiency and Conservation Program, Low and Moderate Income	
Community grant program due to expected higher SEIF revenue	58
Energy Efficiency and Conservation Program, All Other Sectors	
Business Energy Performance grant program for commercial and industrial customers focused on best practices partially offset by end of previous grant program	550
Advanced energy upgrades grant program for residential and small commercial customers focusing on technologies that achieve greater energy savings	381
Energy Efficiency and Conservation Block Grant as it nears program completion	-421
Federal Save Energy Now Grant for commercial and industrial energy efficiency fully expended in fiscal 2012	-768

Where It Goes:	
Home performance rebate program now incorporated into utility programs	-1,820
Renewable and Clean Energy Programs	
Project Sunburst II to provide engineering technical assistance to State agencies to allow for optimal integration of solar systems into buildings	1,018
Commercial renewable energy grant program	1,000
Clean energy development program funds not utilized and reallocated	-100
Clean energy education programs	-100
Maryland Hybrid Truck Goods Movement Initiative Grant fully expended in fiscal 2012	-823
Residential renewable energy grant program due to elimination of ARRA funding, changes in the use of the SEIF, and elimination of alternative compliance payments	-6,810
Cost Allocations	
DBM paid telecommunications	17
Statewide personnel system allocation	14
Department of Information Technology services allocation	6
Office of Attorney General administrative fee	6
Retirement administrative fee	4
Office of Administrative Hearings	2
Statewide indirect cost allocation due to the end of the ARRA	-88
Administrative Expenses	
Support for study of the feasibility of setting energy savings targets for natural gas companies required under Chapter 131 of 2008	42
Rent expenses which were underfunded in fiscal 2012	37
Cloud technology for energy data management	-23
In-state travel due to the elimination of the ARRA partially offset by increased out-of-state travel for attendance at meetings of national organizations	-61
Elimination of 3 contractual full-time equivalents due to the end of the ARRA	-185
Energy planning activities due to declining funding	-298
Energy security and assurance primarily due to the completion of the ARRA grant partially offset by the availability of the SEIF and other federal funds	-314
Evaluation, measurement, and verification due to reduced activities with the end of the ARRA	-601
Other changes	-18
Total	**-$10,518**

ARRA: American Recovery and Reinvestment Act of 2009
BRFA: Budget Reconciliaiton and Financing Act
DBM: Department of Budget and Management
SEIF: Strategic Energy Investment Fund

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

Personnel

Personnel expenditures in MEA increase by $112,079 in the fiscal 2013 allowance. The majority of this increase occurs among regular earnings ($104,455) primarily as the result of a position transferred from the Governor's Office to MEA in fiscal 2012 for which the associated funding has not been transferred. Other salary adjustments result from the filling of vacant positions at lower salary levels. A decrease of $22,596 results from the removal of the one-time employee bonus. Other personnel changes result from fringe benefit adjustments including employee retirement, employee and retiree health insurance, unemployment compensation, and turnover adjustments.

Rate Relief Credit

As part of the reallocation of RGGI auction revenue contained in the BRFA of 2011, the residential rate relief allocation was temporarily suspended, and no funds are provided in the fiscal 2013 allowance for rate relief. However, the fiscal 2012 appropriation contained $1.3 million in funding for this purpose intended to represent the distribution from the June 2011 auction, which was available under the allocation in effect through fiscal 2011. PSC ordered a residential rate credit of $0.16 per customer for each of three months (September and October 2011, and March 2012) from the June 2011 auction. The Department of Legislative Services (DLS) estimates that residential rate relief credit program provided approximately $38.6 million from these distributions between June 2009 and March 2012.

Changing Priorities

Due to declining funding resulting from the end of most ARRA funding, MEA has altered its suite of programs. In fiscal 2013, MEA is focusing on the most popular programs and on transformative programs that require modest funding. Popular programs that continue in fiscal 2013 include the residential renewable energy grant program ($4.1 million) and community energy grants ($3.0 million). In addition, the commercial renewable energy grant program, which was not funded in fiscal 2012, is planned again for fiscal 2013, with funding of $1.0 million.

MEA also has shifted programs with demonstrated success to other entities. For example, the Home Performance Program provided additional incentives for energy efficiency projects in addition to those provided in utilities programs required under EmPower Maryland (Chapter 131). These larger incentives have now been incorporated into the second phase of utility programs under EmPower Maryland, and no funding is available through MEA for this purpose in fiscal 2013 (a decrease of $1.8 million).

Renewable Energy at State Facilities

The fiscal 2013 allowance includes $1.0 million for the second phase of Project Sunburst. In the first phase, MEA provided a $1,000 rebate per KW of photovoltaic capacity installed, along with technical support to grantees. In the initial phase, funds were available to local and State government entities; MEA reports that 4 State agencies, 2 public higher educational institutions, and 11 local entities received grants. In total, MEA used $9.9 million of ARRA funds for Project Sunburst and State agency renewable energy grants in fiscal 2010 and 2011. No funds are available for this purpose in fiscal 2012.

The second phase of Project Sunburst will support renewable energy in State agencies in a different fashion than the first phase. In the first phase, the Department of General Services received a $120,000 grant, which it used to contract for a Solar Suitability Survey to determine which State buildings would be suitable for solar energy systems. Following the completion of this survey, MEA will begin a competitive solicitation for the second phase of Project Sunburst, in which MEA will provide $20,000 of engineering technical assistance to agencies related to the integration of these systems into buildings.

Offshore Wind Development Fund

On February 17, 2012, PSC conditionally approved a merger between Exelon Corporation (Exelon) and Constellation Energy Group (CEG). One condition of the merger requires Exelon, within 90 days of the close of the merger, to contribute $30.0 million for use by the State in efforts to realize an offshore wind project, including the development of a construction and operations plan. The condition does not specify how those funds would specifically be used, when those funds would be required, or where in the State budget the funds would be appropriated. In testimony before the Senate Finance Committee on February 14, 2012, it was indicated that MEA would receive those funds. **MEA should comment on when the funds would be required and how those funds would be used. MEA should also comment on what the State would use those funds for in the event that the Maryland Offshore Wind Energy Act of 2012 (SB 237/HB 441) is not enacted.**

New Programs

The fiscal 2013 allowance includes funding for two new programs: the Business Energy Performance Program ($700,000) and Advanced Energy Upgrades ($380,709). These programs are expected to demonstrate best practices and new technologies that bring greater energy savings to commercial/industrial customers and residential and small commercial customers, respectively. MEA plans to use these pilot programs to determine the most effective technologies, which it will then propose to be incorporated into the utilities EmPower Maryland programs. This strategy is reflective of MEA's funding strategy as the available funding declines.

Issues

1. SEIF Revenue and Distribution

Chapters 23 and 301 of 2006 (Healthy Air Act of 2006) required the Governor to include the State in RGGI, a coalition created to design a regional cap-and-trade program to reduce emissions from certain power plants in the region. The RGGI carbon dioxide emission allowance auctions began in September 2008. Through December 2011, 14 auctions have been held generating approximately $952.1 million in revenue for the 10 states participating in the program, of which Maryland's share was $180.3 million.

The 14 auctions held through December 2011 were part of the first compliance period, which ended December 31, 2011. A company has until March 1, 2012, to ensure that it holds enough allowances in its compliance account to meet its obligation. The second compliance period begins in 2012, with the first auction to be held in March.

Impact of New Jersey Withdrawal

On May 26, 2011, Governor Chris Christie of New Jersey announced that New Jersey would withdraw from RGGI, although the formal notice was not submitted until November 29, 2011. In the announcement, Governor Christie explained the withdraw was due to a perceived lack of effectiveness of the program in reducing greenhouse gases primarily as a result of the low price level, emissions that are already below the cap, and laws promoting renewable and clean energy generation. The withdrawal is effective with the second compliance period.

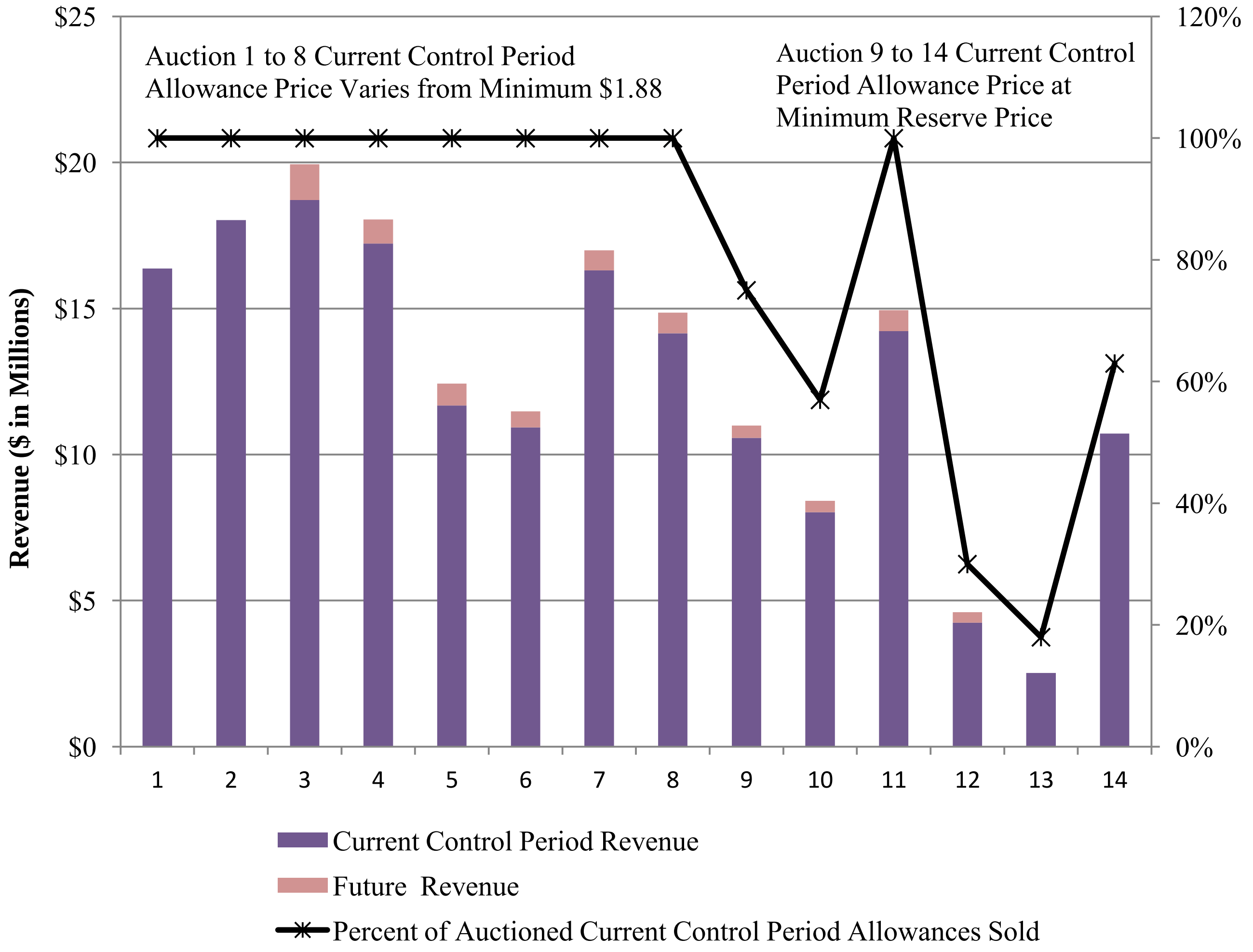
New Jersey's withdraw from RGGI is not expected to have an overall effect on the program (*i.e.,* allowance prices or percent of allowances sold) because the number of allowances will be reduced by New Jersey's allocation. However, the withdrawal of New Jersey from the auction is expected to raise Maryland's share of the administrative costs of RGGI, Inc. Each state shares in the operating cost of the organization based on its share of the allowances relative to the overall cap. However, the fiscal 2013 allowance assumes no increase in Maryland's share of the RGGI operating expenses.

RGGI Revenue

Revenue generated from RGGI auctions has fluctuated significantly in the 14 auctions but has generally trended downward since the third auction due to changing allowance prices and the number of allowances sold. The allowance price in the first RGGI auction was $3.07; the price increased in the second and third auction reaching a high of $3.51. Following the third auction, prices fell in nearly every auction eventually reaching the minimum reserve price.

Through Auction 8 (June 2010), all allowances offered were sold, and variations in revenue primarily resulted from the allowance price and the number of allowances auctioned. As shown in **Exhibit 4**, in five of the six auctions held since that time not all auctioned allowances sold. The percent sold has varied substantially, falling to an all-time low in the September 2011 auction (18%). In the most recent auction held in December 2011, 63% of auctioned allowances were sold, substantially increasing the auction revenue, compared to the September auction. Based on revenue from the auctions through December 2011, Maryland appears to be on track to meet the revenue estimates assumed in the development of the fiscal 2012 budget.

Exhibit 4
RGGI Auction Results for Maryland
Auctions 1-14



RGGI: Regional Greenhouse Gas Initiative

Source: Regional Greenhouse Gas Initiative, Inc.

Causes of Revenue Decline

According to MEA, the revenue decline from RGGI has largely resulted from:

- an overall cap that was to high;
- economic factors;
- initial speculation on federal climate change legislation, which has failed to move forward; and
- fuel switching from coal to natural gas fired generation.

A draft report released by RGGI, Inc., *Relative Effects of Various Factors on RGGI Electricity Sector CO_2 Emissions: 2009 Compared to 2005*, in November 2010, shows that from 2005 (the baseline year) to 2009 carbon dioxide emissions fell largely as a result of fuel switching. Other key factors in the reduction of emissions include weather, the capacity mix, energy efficiency, and customer-sited generation. The report also indicated that, while economic factors played only a small role in the change during the entire time period, if the focus is on the reduction from 2007 to 2009 economic factors play a much larger role.

The future of RGGI revenue is highly uncertain. Entities are allowed to "bank" allowances and thus may have bought allowances needed for the second compliance period already, reducing the amount that would need to be bought in upcoming auctions. In addition, with allowance prices at the floor, entities may be willing to purchase allowances early under the assumption that prices could rise in the future. Additional uncertainty results from the unknown changes that may occur in the second compliance period due to the program review.

Revenue Distribution

The fiscal 2013 budget assumes revenue of $10.5 million in each of the four auctions budgeted in that fiscal year, for total revenue available of $42.0 million. No funds from Alternative Compliance Payments are expected to be available in the SEIF, due to increases in renewable energy in service. The fiscal 2013 allowance assumes an allowance price of $1.89. On January 17, 2012, RGGI Inc. announced that the minimum reserve price will be increased to $1.93 beginning with the March 2012 auction. The reserve price is adjusted each calendar year based on the consumer price index. The higher minimum reserve price than was assumed in budget development provides some cushion in the event that the number of allowances actually sold are lower than expected.

Historically, the budget as introduced contains only revenue expected to be available from auctions held in that year. The allocation of revenue from RGGI auctions has been altered twice since the initial allocation was developed in Chapters 127 and 128 of 2011. No changes have been proposed to the revenue allocation for fiscal 2013; the fiscal 2013 allowance largely conforms to the revenue allocation approved in the BRFA of 2011, as shown in **Exhibit 5.** The only significant

Exhibit 5
RGGI Revenue Distributions and Deviations from Statutory Allocations
Fiscal 2013 Allowance

Revenue Estimate	$42,000,000			
RGGI dues	450,000			
Electric Vehicle Tax Credits	1,687,000			
Revenue Available for Distribution	**$39,863,000**			
	Allocation	**Distribution as Determined by Statute**		**Difference from Statutory Authority**
Energy Assistance	**$19,931,500**	**50%**	**$19,931,500**	**$0**
Department of Human Resources	19,931,500			
Residential Rate Relief	**$0**	**0%**	**$0**	**$0**
Low and Moderate Income Energy Efficiency	**$2,986,300**	**10%**	**$3,986,300**	**-$1,000,000**
Maryland Energy Administration	2,986,300			
Department of Housing and Community Development	$0			
Energy Efficiency in all Sectors	**$3,986,300**	**10%**	**$3,986,300**	**$0**
Maryland Energy Administration	1,080,709			
Department of General Services	420,619			
Department of Health and Mental Hygiene	2,484,972			
Department of Public Safety and Correctional Services	0			
Renewable Energy, Climate Change	**$7,972,600**	**20%**	**$7,972,600**	**$0**
Maryland Energy Administration	6,164,857			
Maryland Department of the Environment	1,807,743			
Administration	**$3,999,836**	**10%**	**$3,986,300**	**$13,536**
Maryland Energy Administration	3,999,836			
Total	**$38,876,536**		**$39,863,000**	**-$986,464**

RGGI: Regional Greenhouse Gas Initiative

Source: Chapters 127 and 128 of 2008; Chapter 487 of 2009; Chapter 397 of 2011

variation is the failure to include the full amount of funding that would have been available to the Energy Efficiency and Conservation Program, Low and Moderate Income Sector. MEA did not provide an allocation of the SEIF for the Department of Housing and Community Development pending the outcome of the Exelon and CEG merger. Under a proposed settlement in the merger, the weatherization assistance program in Maryland would have received a cumulative $50.0 million contribution over a four-year period ($12.5 million per calendar year). Funds from the merger for this purpose are not certain and will be determined at a future date by PSC. **Although not included in the allowance, the additional $1.0 million would be available for use in fiscal 2013; MEA should discuss how and when the unallocated SEIF revenue will be used.**

Fund Balance

The SEIF is tracked in separate accounts based on the statutory allocations, *i.e.*, Electric Universal Service Program, residential rate relief, low- and moderate-income energy efficiency, energy efficiency all other sectors, renewable and clean energy and climate change programs, and administration. Alternative compliance payments from the renewable portfolio standard available in the SEIF are also accounted for separately. As shown in **Exhibit 6**, unencumbered fund balances of more than $1.0 million were available in nearly all accounts of the SEIF at the close of fiscal 2011. A portion of the fund balance can be attributed to the auction held in June 2011, which was appropriated in fiscal 2012 in some areas of the budget. Fund balance is also available from lower than expected expenditures in prior years, in part, due to the availability of funding from ARRA. In addition, interest from the fund accrues to the administration account but is not assumed in the budget development process. These fund balances can serve to cushion revenue shortfalls in future years. However, as noted earlier, through December 2011, the revenue received from auctions budgeted in fiscal 2012 appears to be on track to meet the amount assumed during budget development.

At the close of fiscal 2011, the administration portion of the SEIF had an unencumbered fund balance of $3.68 million. The fiscal 2012 working appropriation, as discussed earlier, does not include the full allocation of revenue expected to be available from the administration allocation of RGGI auction revenue in that year. Auctions held through December 2011 have provided nearly all of the funds required to support administrative expenses from the SEIF in fiscal 2012, $1.46 million of the $1.7 million appropriated. Additional revenue received in fiscal 2012 will increase the administrative account balance in the SEIF. Only $13,536 of fund balance from the administration account fund balance in the SEIF is included in the fiscal 2013 allowance.

As available funding for energy assistance has declined recently and, in general, applications submitted increased, the Department of Human Resources (DHR) has adjusted benefit levels for energy assistance to remain within its funding level. In fiscal 2012, applications have unexpectedly decreased likely due to mild winter weather. As a result, in fiscal 2012, DHR is likely to have sufficient funding to support the program. However, the fiscal 2013 allowance includes more federal funding than is likely to be available to the program; for example, $18.5 million more in federal funds is included in the allowance than was allocated to Maryland in fiscal 2012, creating pressure on the program. **DLS recommends an amendment to the BRFA of 2012 to provide an additional $4.0 million for energy assistance from the balance of the administrative expense account of the SEIF for use in fiscal 2013. This transfer would still allow for a balance in the administration account to cushion any revenue shortfalls in fiscal 2013.**

Exhibit 6
Unencumbered SEIF Fund Balance
($ in Millions)

	EUSP	Rate Relief	Energy Efficiency and Conservation, Low- and Moderate-income Program	Energy Efficiency and Conservation, All Other Sectors	Renewable and Clean Energy, Climate Change Programs	RPS	Administration	Total
Unencumbered Fund Balance as of June 30, 2011	$4.0	$1.1	$2.9	$1.2	$0.0	$1.2	$3.7	**$14.0**
Estimated Available Revenue for auctions held in Fiscal 2012*	17.9	0.0	3.6	3.6	7.2	n/a	3.6	**$35.9**
Fiscal 2012 Appropriation	17.1	1.3	3.9	3.4	7.2	1.0	1.7	**$35.7**
Estimated Fund Balance June 30, 2012	4.8	0.0	2.5	1.3	0.0	0.2	5.6	**$14.1**

EUSP: Electric Universal Service Program
RPS: Renewable Portfolio Standard
SEIF: Strategic Energy Investment Funds

* Revenue is actual for September and December 2011 auctions and estimates for March and June 2012 auctions.

Notes: Residential rate relief is determined after auction revenue is known. Therefore, negative fund balance will not occur despite a higher appropriaton than revenue received.

Source: Governor's Office; Governor's Budget Books; Department of Legislative Services

Program Changes

States had the option at the end of the first compliance period to determine how to proceed with the unsold allowances for the first compliance period. On January 17, 2012, RGGI, Inc. announced that six states (Connecticut, Delaware, Massachusetts, New York, Rhode Island, and Vermont) would retire these allowances consistent with state laws and processes. The Maryland Department of the Environment (MDE) is in the process of changing State regulations related to RGGI, which would include providing Maryland the option of retiring unsold allowances. According to RGGI, Inc., approximately 19.8 million Maryland allowances were offered but not sold during the first compliance period. A decision on retiring allowances would ultimately be made in conjunction with PSC and MEA. No impact is expected on future auctions simply as a result of retirements without other changes to the program.

RGGI is also undergoing a program review which began in calendar 2010 that is expected to continue into summer 2012. As part of the review, a study was conducted of carbon dioxide emissions and anticipated allowance prices. The study determined that under most scenarios carbon dioxide emissions would remain below the RGGI cap and as result the RGGI allowance price would remain at the minimum reserve price throughout the timeframe of the analysis.

The program review provides an opportunity to consider program changes. States are expected to develop recommendations for consideration during the summer of 2012. Following approval of any changes, states may need to make statutory or legislative changes to implement the program changes. At this time, any recommendations for program changes are unknown, contributing to the uncertainty about program revenue moving forward. **DLS recommends budget bill language restricting funds in MEA, PSC, and MDE until a report is submitted on any program changes approved by the participating states or RGGI, Inc. for the current compliance period including any regulatory or legislative changes that will be required in the 2013 session.**

2. Memorandum of Understanding with the Maryland Department of the Environment

Chapters 127 and 128 of 2008 established the SEIF to receive funds from RGGI and established a distribution of RGGI revenue. Under this legislation renewable and clean energy programs, energy education and outreach, and climate change programs received a single statutory allocation (up to 10.5%). The share of revenue provided for this purpose has been altered twice and through fiscal 2014 is at least 20.0%. The specific amount available for climate change programs, which in practice has been provided to MDE, is not specified in statute. Costs paid by participating states to cover the operating expenses of RGGI, Inc. have also been provided to MDE.

The SEIF received by MDE has typically become part of the Maryland Clean Air Fund and has been appropriated in the State budget as such, pursuant to Section 2-107 of the Environment Article. This makes it difficult to discern the amount of the SEIF being used for climate change purposes and to support RGGI, Inc. expenses. Section 46 of the fiscal 2012 budget bill required reporting on the SEIF revenue assumptions and expenditures in an appendix in the Governor's budget books allowing for some increased transparency in the funds available to MDE from the SEIF. The fiscal 2013 budget began to report the amount of the SEIF used in MDE separate from the Maryland Clean Air Fund. The fiscal 2013 allowance for MDE contains $2.3 million from the SEIF, including funds for both climate change programs and RGGI, Inc. operating expenses, an increase of $753,520 compared to the fiscal 2012 working appropriation.

Audit

In December 2010, the Office of Legislative Audits released a fiscal compliance audit for MEA covering the period November 5, 2007, to May 31, 2010, including two findings. One of the findings stated that there was insufficient documentation to support payments in fiscal 2009 and 2010 totaling $3.2 million to MDE from the SEIF. Specifically, the finding noted that there was not a memorandum of understanding between MEA and MDE to support the payments, and that based on a verbal agreement of the amount of funds MDE would receive, MEA would pay annual invoices.

The audit explained that there should be a formal written agreement regarding the amount, terms, and use of the SEIF transferred to MDE. The audit recommended that MEA have a written agreement to support all the SEIF expenditures. MEA concurred with the finding and indicated an agreement would be in place by March 31, 2011. As of this writing, no agreement has been executed between MDE and MEA regarding the use of the SEIF. **MEA should explain to the budget committees why no agreement has been executed nearly a year after the agency originally planned to have an agreement in place.**

Recommended Actions

1. Adopt the following narrative:

Energy Savings: The Maryland Energy Administration (MEA) had $73.7 million available from the American Recovery and Reinvestment Act of 2009 (ARRA), of which $64.1 million has been expended or encumbered through January 31, 2012. The remainder of the funds will be expended by the end of calendar 2012. In addition, MEA has dedicated additional funds available from the Strategic Energy Investment Fund (SEIF) to energy efficiency and renewable energy activities since the program's implementation. The committees request that MEA provide a report on the energy savings achieved through the ARRA and SEIF investments of the agency from fiscal 2010 to 2013 and how the programs have furthered the State's efforts in achieving the EmPower Maryland goals. MEA should also discuss further efforts that may need to be undertaken by the agency and utilities to ensure that Maryland reaches the EmPower Maryland goals.

Information Request	**Author**	**Due Date**
Report on energy savings and the EmPower Maryland goals	MEA	December 1, 2012

2. Add the following section:

<u>Section XX. AND BE IT FURTHER ENACTED, That the Department of Budget and Management shall provide an annual report on the Strategic Energy Investment Fund (SEIF) to the General Assembly in conjunction with submission of the fiscal 2014 budget and annually thereafter as an appendix to the Governor's budget books. This report shall include information for the actual fiscal 2012 budget, fiscal 2013 working appropriation, and fiscal 2014 allowance. The report shall detail revenue assumptions used to calculate the available SEIF for each fiscal year including:</u>

<u>(1) the number of auctions;</u>

<u>(2) the number of allowances sold;</u>

<u>(3) the allowance price for both the current and future control period allowances sold in each auction;</u>

<u>(4) alternative compliance payments; and</u>

<u>(5) fund balance used to support the appropriation.</u>

<u>The report shall also include detail on the amount of the SEIF available to each agency that receives funding through each required allocation:</u>

(1) energy assistance;

(2) energy efficiency and conservation programs, low-and moderate-income sector;

(3) energy efficiency and conservation programs, all other sectors;

(4) renewable and clean energy programs and initiatives, education, and climate change programs;

(5) administrative expenditures;

(6) dues owed to the Regional Greenhouse Gas Initiative, Inc.; and

(7) transfers made to other funds.

Explanation: This language requires the Department of Budget and Management (DBM) to include as an appendix in the Governor's budget books for fiscal 2014 detail on the revenue assumptions used to determine the amount of the SEIF available for use in each year as well as how those revenues will be distributed to various agencies. This information increases transparency and the understanding of the use of the SEIF by the General Assembly. Similar language was first included in the fiscal 2012 budget bill.

Information Request	**Author**	**Due Date**
Report on revenue assumptions and use of the SEIF	DBM	With submission of the Governor's fiscal 2014 budget books and annually thereafter

3. Add the following section:

SECTION XX. AND BE IT FURTHER ENACTED, That $250,000 of the special fund appropriation made for the purpose of administrative expenditures in the Maryland Energy Administration (MEA), $250,000 of the special fund appropriation made for the purpose of administrative expenditures of the Public Service Commission (PSC), and $250,000 of the general fund appropriation made for the purpose of administrative expenditures in the Maryland Department of the Environment (MDE) may not be expended until MEA, PSC, and MDE submit a report to the Senate Finance Committee, Senate Education, Health, and Environmental Affairs Committee, Senate Budget and Taxation Committee, House Economic Matters Committee, and House Appropriations Committee on changes made to the Regional Greenhouse Gas Initiative and related carbon dioxide emission allowance auctions as a result of the comprehensive program review and any regulatory or statutory changes that are required as a result of the program changes. The report shall be submitted by October 1, 2012, and the budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall be reverted or cancelled if the report is not submitted to the budget committees.

Explanation: The Regional Greenhouse Gas Initiative (RGGI) is undergoing a comprehensive program review, which is not expected to be completed until summer 2012. In order to fully understand the impact on the Strategic Energy Investment Fund and actions that will be required of Maryland as a result of these changes, the language restricts $250,000 of the special fund appropriation of MEA and PSC, and $250,000 of the general fund appropriation of MDE until the agencies submit a report on the changes made to the program as a result of the review and any regulatory or statutory changes required.

Information Request	**Authors**	**Due Date**
Report on RGGI program changes	MEA PSC MDE	October 1, 2012

Updates

1. Status of the American Recovery and Reinvestment Act of 2009 Spending

MEA was awarded $73.7 million of funding from six separate programs through the ARRA. Some of these grants could only be used for specific purposes. For example, the EECBG funds were intended to provide funding for energy efficiency projects for local governments that did not receive these funds directly from the U.S. Department of Energy and the Appliance Rebate funds could only be used for appliance rebates although states had discretion over the operation of the program.

The SEP funds, by contrast, could be used on a wider variety of projects as approved by the U.S. Department of Energy (DOE). MEA was, therefore, able to use the SEP funds on various projects including:

- support for the State Agency Loan Program, providing zero-interest loans to State agencies for energy conservation efforts;
- residential renewable energy grants;
- renewable energy activities for local and State government agencies (through Project Sunburst);
- multi-family housing unit energy efficiency project in conjunction with the Department of Housing and Community Development;
- workforce training programs;
- the Home Performance rebate program; and
- programs in conjunction with the Maryland Clean Energy Center.

For each program, DOE provided a date by which all funds were/are required to be expended. MEA has successfully encumbered and expended all funds available for the two programs for which the funds have already expired (the Save Energy Now Grant and the Appliance Rebate Program). **Exhibit 7** provides information on the required end date, dollar amount available, dollar amount expended and encumbered, the unexpended and unencumbered balance, and percent expended as of January 31, 2012.

Exhibit 7
American Recovery and Reinvestment Act of 2009 Spending Status
January 31, 2012

ARRA of 2009 Award	Completion Date	Dollar Value of Award	Expended	Encumbered	Percent Expended or Encumbered	Balance
State Energy Program	April 30, 2012 extension requested until December 30, 2012	$51,746,000	$38,814,681	$9,708,427	93.8%	$3,222,892
Energy Efficiency and Conservation Block Grant	September 13, 2012	9,593,500	3,652,522	0	38.1%	5,940,978
Maryland Hybrid Truck Goods Movement Initiative	December 21, 2013	5,924,190	4,664,089	1,186,594	98.8%	73,507
Appliance Rebate Program	February 17, 2012	5,405,000	5,405,000	0	100.0%	0
Energy Assurance Grant	August 14, 2012	716,898	302,089	0	42.1%	414,809
Save Energy Now Grant	June 30, 2011	350,000	350,000	0	100.0%	0
Total		**$73,735,588**	**$53,188,381**	**$10,895,021**	**86.9%**	**$9,652,186**

ARRA: American Recovery and Reinvestment Act

Source: Maryland Energy Administration

As shown in Exhibit 6, MEA has encumbered and expended 86.9% of the ARRA funds available to the agency through January 31, 2012. MEA indicates it is undertaking a process to develop strategies to ensure all funds are spent by the required expenditure date. MEA has expended or encumbered 93.8% of the SEP funds, the largest ARRA allocation in the agency. Of the $3.2 million of unencumbered and unexpended funds, MEA reports $2.5 million are committed to specific projects in the home performance rebate program, residential and commercial renewable energy grant programs, and the multi-family energy efficiency program. MEA also indicates that it has requested an extension for the required end date for the SEP, which is required to be expended by April 30, 2012, until December 30, 2012. However, as of this writing, a decision on this request has not been announced.

MEA has spent or encumbered less than 50% of the available funding for two programs, despite being required to have completed these programs by August and September 2012, respectively. MEA explained that $5.7 million of the $5.9 million balance of unencumbered/unexpended EECBG funds has been committed to projects, but the funds are not actually expended until the project is completed and certain other steps are completed. MEA anticipates that the construction for these projects will be completed by June 1 and that these funds will be expended in August 2012. As noted earlier, the fiscal 2013 allowance includes $220,000 of funds to be reallocated from projects that cost less than originally anticipated.

Appendix 1

Current and Prior Year Budgets

Current and Prior Year Budgets
Maryland Energy Administration
($ in Thousands)

	General Fund	Special Fund	Federal Fund	Reimb. Fund	Total
Fiscal 2011					
Legislative Appropriation	$0	$27,678	$20,042	$122	$47,842
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	0	18,306	0	18,306
Reversions and Cancellations	0	-4,784	-4,621	0	-9,404
Actual Expenditures	**$0**	**$22,894**	**$33,727**	**$122**	**$56,743**
Fiscal 2012					
Legislative Appropriation	$0	$14,124	$5,142	$129	$19,396
Budget Amendments	0	23	6,624	0	6,647
Working Appropriation	**$0**	**$14,147**	**$11,766**	**$129**	**$26,042**

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

Fiscal 2011

MEA's fiscal 2011 expenditures were approximately $8.9 million higher than the legislative appropriation. Increases totaling $18.3 million recognized funding available from the ARRA from funds cancelled in fiscal 2010 due to project delays. The additional funds were expected to be used in the following areas:

- residential clean energy grants ($5.8 million);
- the Maryland Hybrid Truck Goods Movement Initiative from the Clean Cities Grant ($5.4 million);
- assistance for local governments that did not receive funds from the EECBG directly from DOE as well as technical assistance for local governments ($4.6 million);
- Project Sunburst, which supports renewable energy on government buildings, and mid-size renewable energy projects ($2.4 million); and
- multi-family housing retrofit program ($58,243).

These increases were partially offset by cancellations totaling $9.4 million. The special fund cancellation of $4.8 million was largely the result of lower than anticipated revenue from RGGI auctions. The federal fund cancellation of $4.6 million primarily occurred in the renewable and clean energy program and was largely the result of the timing of grant disbursements. These ARRA funds will instead be expended in fiscal 2012.

Fiscal 2012

MEA's fiscal 2012 appropriation has increased by $22,596 in special funds due to the distribution of funds centrally budgeted to support the $750 bonus provided to employees.

In addition, the fiscal 2012 federal fund appropriation of MEA has increased by a net of $6.6 million. Increases totaling $7.5 million are the result of funding available from the ARRA that were unexpended or not appropriated in prior years. These increases occur in the areas of:

- the Residential Clean Energy Grant Program ($4.0 million);
- the Maryland Hybrid Truck Goods Movement Initiative ($823,000);
- administrative expenses related to the Energy Assurance Grant and EECBG ($762,000);

- the Home Performance Program ($603,000);

- technical assistance and grants to local governments that did not receive funds directly from DOE through the EECBG ($591,000); and

- a second phase of the Save Energy Now Grant for energy efficiency projects in industrial and manufacturing facilities ($384,000).

An increase of $338,000 is available as a result of a higher than anticipated allocation of the SEP base formula grant to be used for contractual services in the administration program of MEA. These increases are partially offset by decreases totaling $869,000 in the administration program of MEA. These funds will instead be used for energy efficiency programs.

Appendix 2

Audit Findings

Audit Period for Last Audit:	November 5, 2007 – May 31, 2010
Issue Date:	December 2010
Number of Findings:	2
Number of Repeat Findings:	0
% of Repeat Findings:	0%
Rating: (if applicable)	n/a

Finding 1: There was insufficient documentation to support $3.2 million in payments to MDE from the SEIF.

Finding 2: Adequate controls were not established to ensure that cash receipts were deposited timely.

MDE: Maryland Department of the Environment
SEIF: Strategic Energy Investment Funds

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

Object/Fund Difference Report
Maryland Energy Administration

Object/Fund	FY 11 Actual	FY 12 Working Appropriation	FY 13 Allowance	FY 12 - FY 13 Amount Change	Percent Change
Positions					
01 Regular	28.00	29.00	29.00	0.00	0%
02 Contractual	6.00	6.00	3.00	-3.00	-50.0%
Total Positions	**34.00**	**35.00**	**32.00**	**-3.00**	**-8.6%**
Objects					
01 Salaries and Wages	$ 2,637,256	$ 2,729,054	$ 2,841,133	$ 112,079	4.1%
02 Technical and Spec. Fees	405,686	417,175	232,219	-184,956	-44.3%
03 Communication	54,464	52,077	65,643	13,566	26.0%
04 Travel	44,114	97,064	35,625	-61,439	-63.3%
07 Motor Vehicles	1,173	3,930	4,970	1,040	26.5%
08 Contractual Services	8,982,977	3,484,754	1,957,959	-1,526,795	-43.8%
09 Supplies and Materials	22,723	24,308	18,900	-5,408	-22.2%
10 Equipment – Replacement	1,818	15,320	18,010	2,690	17.6%
11 Equipment – Additional	8,115	10,868	0	-10,868	-100.0%
12 Grants, Subsidies, and Contributions	44,259,784	18,923,666	10,026,874	-8,896,792	-47.0%
13 Fixed Charges	325,320	284,178	323,545	39,367	13.9%
Total Objects	**$ 56,743,430**	**$ 26,042,394**	**$ 15,524,878**	**-$ 10,517,516**	**-40.4%**
Funds					
03 Special Fund	$ 22,893,872	$ 14,146,947	$ 14,689,721	$ 542,774	3.8%
05 Federal Fund	33,727,423	11,766,457	706,000	-11,060,457	-94.0%
09 Reimbursable Fund	122,135	128,990	129,157	167	0.1%
Total Funds	**$ 56,743,430**	**$ 26,042,394**	**$ 15,524,878**	**-$ 10,517,516**	**-40.4%**

Note: The fiscal 2012 appropriation does not include deficiencies.

Fiscal Summary
Maryland Energy Administration

Program/Unit	FY 11 Actual	FY 12 Wrk Approp	FY 13 Allowance	Change	FY 12 - FY 13 % Change
01 General Administration	$ 4,347,961	$ 6,420,691	$ 5,073,012	-$ 1,347,679	-21.0%
05 Residential Electricity Rate Relief Program	14,001,602	1,334,000	0	-1,334,000	-100.0%
06 Energy Efficiency and Conservation Programs, Low and Moderate Income Residential Sector	5,323,376	2,928,540	2,986,300	57,760	2.0%
07 Energy Efficiency and Conservation Programs, All Other Sectors	12,661,871	3,379,306	1,300,709	-2,078,597	-61.5%
08 Renewable and Clean Energy Programs and Initiatives	20,408,620	11,979,857	6,164,857	-5,815,000	-48.5%
Total Expenditures	**$ 56,743,430**	**$ 26,042,394**	**$ 15,524,878**	**-$ 10,517,516**	**-40.4%**
Special Fund	$ 22,893,872	$ 14,146,947	$ 14,689,721	$ 542,774	3.8%
Federal Fund	33,727,423	11,766,457	706,000	-11,060,457	-94.0%
Total Appropriations	**$ 56,621,295**	**$ 25,913,404**	**$ 15,395,721**	**-$ 10,517,683**	**-40.6%**
Reimbursable Fund	$ 122,135	$ 128,990	$ 129,157	$ 167	0.1%
Total Funds	**$ 56,743,430**	**$ 26,042,394**	**$ 15,524,878**	**-$ 10,517,516**	**-40.4%**

Note: The fiscal 2012 appropriation does not include deficiencies.

Appendix 4