

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

***Executive Summary***

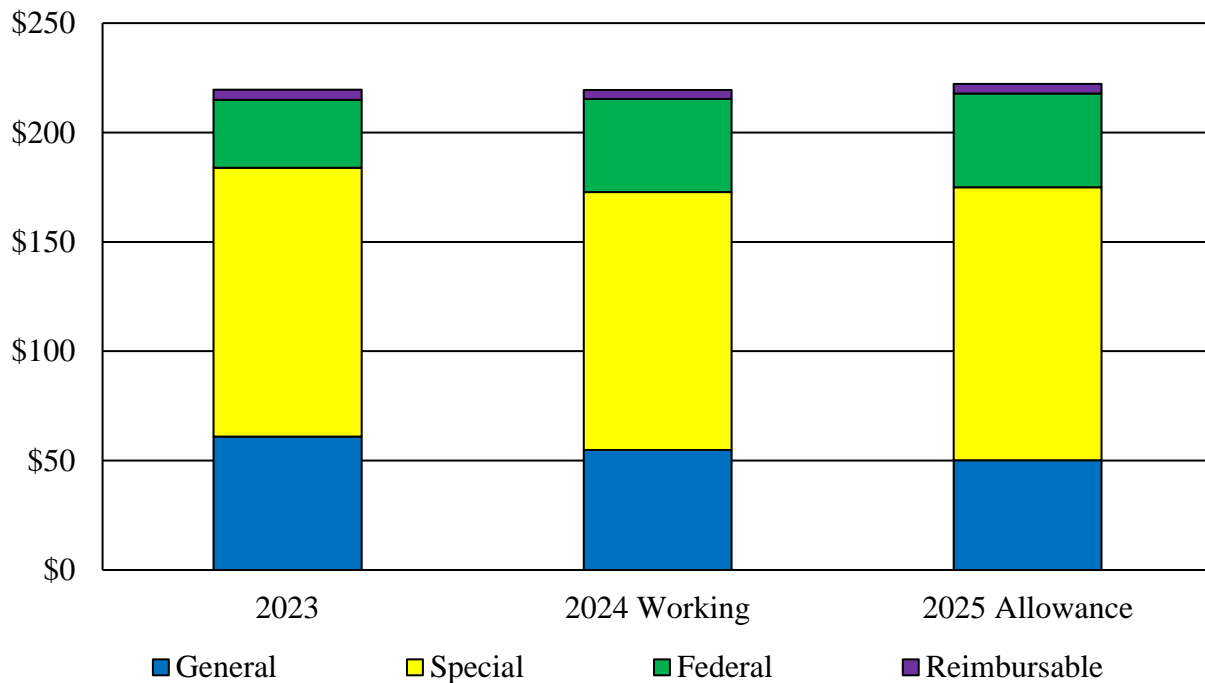
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The Maryland Department of the Environment (MDE) was created to protect and restore the quality of the State’s land, air, and water resources and safeguard citizens from health risks associated with pollution. It is responsible for planning, monitoring, 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.

***Operating Budget Summary***

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**Fiscal 2025 Budget Increases \$2.8 Million, or 1.3%, to \$222.2 Million  
(\$ in Millions)**



Note: The fiscal 2024 working appropriation includes deficiencies. The fiscal 2025 allowance accounts for contingent reductions. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency’s budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency’s budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency’s budget.

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*U00A – Department of the Environment*

- Significant funding changes in the fiscal 2025 allowance include increases of \$4.3 million for personnel expenditures and \$3.1 million for stockpiled tire cleanups. Decreases include a total reduction of \$3.5 million contingent on fee increases in the Air and Radiation Administration, the Coordinating Offices, the Water and Science Administration, and the Land and Materials Administration. In addition, there are reductions of \$1.8 million for federal Mining Program contracts and \$1.0 million for one-time deficiency funding for a contract to conduct a comprehensive Statewide recycling needs assessment.

## ***Key Observations***

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- ***Managing for Results (MFR):*** The MDE MFR measures show that (1) the ozone eight-hour standard is finally met, meaning that all national ambient air quality standards (NAAQS) are met by Maryland; (2) child blood lead levels increased in calendar 2021 despite a decrease in child blood lead testing; and (3) the Public Information Act (PIA) responses decreased between fiscal 2022 and 2023, while no new data was available for permit processing.
- ***Prior Year Actual Personnel Expenditures Not Budgeted as Requested Again:*** For the third year in a row, MDE’s most recent actual fiscal year budget data incorrectly reflects the allocation of funding for personnel expenditures.
- ***Tree Solutions Now Act:*** Chapter 645 of 2021 (Tree Solutions Now Act) established a new policy of the State to support and encourage public and private tree-planting efforts, with the goal of planting and helping to maintain 5,000,000 sustainable native trees in the State by the end of calendar 2031. To reach the goal, approximately 650,000 trees would have to be planted each year for the next seven fiscal years.
- ***General Permit for Discharges of Stormwater Associated with Construction Activity:*** Recent changes in MDE’s General Permit for Discharges of Stormwater Associated with Construction Activity process may increase the number of individual discharge permits being issued. Therefore, the General Assembly adopted fiscal 2024 Budget Bill language restricting funding for 1 of the regular positions budgeted to address Chapter 22 of 2022 (Environment – Discharge Permits – Inspections and Administrative Continuations) to be used instead (1) to assist with the implementation of the General Permit for Discharges of Stormwater Associated with Construction Activity and (2) to ensure the permit is renewed in a timely manner in fiscal 2028. The permit became effective on April 1, 2023, with a September 30, 2023 deadline for applicants to register under the new permit. However, MDE has not indicated whether it has complied with the restriction of funding for the position to assist with implementation.
- ***MDE-supported Climate Change Actions Not Fully Funded:*** Chapter 38 of 2022 made broad changes to the State’s approach to reducing statewide greenhouse gas emissions and

*U00A – Department of the Environment*

addressing climate change, which increased MDE’s workload substantially. MDE notes that additional funding is needed to implement the Building Energy Performance Standards regulations – both \$1.0 million for an online reporting system and ongoing compliance staffing needs. Separately, new regulations have yet to be proposed for Clean Heat Standards and Zero-Emission Heating Equipment Standards.

- ***Compliance and Enforcement Position Quarterly Reports:*** Budget bill language in the fiscal 2024 operating budget restricted funding pending the submission of quarterly reports from MDE and the Maryland Department of Agriculture (MDA) on compliance and enforcement inspections and positions. The first quarterly report was submitted on July 1, 2023, with a resubmission on August 11, 2023, to provide information inadvertently omitted. The remaining three quarterly reports will be submitted as a single report by April 1, 2024. The July 2023 report includes enforcement data and summary of federal performance evaluations from January through June 2023.
- ***Revised Fee, Fine, and Penalty Structures Report and Legislation:*** Fiscal 2023 general fund deficiency appropriations of \$1.5 million were budgeted in each of the Water and Science Administration, the Land and Materials Administration, and the Air and Radiation Administration to counter declining special fund revenue. This was the fourth fiscal year in which funding was provided for declining special fund revenue in at least one of MDE’s administrations. Therefore, budget bill language restricted funding pending the submission of a report on revised fee, fine, and penalty structures with the goal of ensuring that the special funds can adequately support the administrations and thereby reduce the need for general fund support. The report notes the decline of special fund revenues, the increase in program costs and complexity, and the challenge of revenues being tied to regulated entities that are either in compliance or go out of business. HB 245 (Department of the Environment – Fees, Penalties, Funding, and Regulation) has been introduced in the 2024 session to increase fees attributable to a number of funds and is accompanied by general fund reductions contingent on the enactment of HB 245. However, the contingent reductions do not appear to be calibrated to the amount of projected special fund fee revenue that would be received by each unit.
- ***Report on Dam Safety Program Funding Needed for Oversight of Privately Owned Dams:*** The committees were concerned that there is no dedicated special fund to support the Dam Safety Program and no fines or penalties are authorized to hold private dam owners accountable for a failing dam prior to a dam’s failure. Therefore, the committees requested that MDE submit a report on the fees, fines, and penalties necessary for a new dedicated special fund supporting the Dam Safety Program to ensure oversight of privately owned dams for public safety. The submitted report includes the recommendation to establish a dam repair fund and loan program for private dam owners with funding sources from revenues generated from dam owner registration fees and dam safety permits with a set-aside for Dam Safety Program operations. HB 245 would establish the dam repair fund.

- ***Maryland Used Tire Cleanup and Recycling Fund Annual Report Submitted:*** The fiscal 2024 Budget Bill restricted \$200,000 in general fund appropriation for MDE pending the submission of the annual Maryland Scrap Tire report. Section 9-275(c) of the Environment Article specifies that an annual status report is due on or before November 1 of each year. The fiscal 2023 annual report was submitted on December 11, 2023.
- ***Requested Federal Funding and Permit Violation Supporting Documents Information Not Reported:*** The budget committees requested that MDE post on its website federal funding and permit violation supporting documents and submit a report summarizing the federal funding information and a confirmatory letter that the documents were posted. To date, the requested information does not appear to be reflected on MDE’s website, and the requested federal funding report and permit violation supporting documents confirmatory letter have not been submitted.

## **Operating Budget Recommended Actions**

1. Add budget bill language restricting funding pending the submission of the Maryland Scrap Tire Report annual report.
2. Add budget bill language restricting funding pending the submission of a confirmatory letter that personnel expenditures are properly budgeted.
3. Adopt committee narrative on an enforcement and inspection position strength assessment.

## **Updates**

- ***Report on Per- and Polyfluoroalkyl Substances (PFAS) Monitoring in Publicly Owned Treatment Works:*** The committees were interested in the PFAS levels associated with publicly owned treatment works and requested that MDE submit a report on the actions and associated timeline needed to expand testing efforts to include monitoring PFAS levels in effluent, influent, and biosolids at publicly owned treatment works.
- ***Intent Concerning Controlling Authority for Multi-use Residential Sewerage Systems and Permit Approval Report:*** The committees expressed the intent that MDE clarify in regulation that a controlling authority is not required for multi-use residential sewerage systems in jurisdictions where certain conditions hold. In addition, the committees requested that MDE submit a report on the average and maximum time for onsite sewage disposal system permit approval and the number and nature of any onsite sewage disposal system permit appeals to MDE.
- ***Ambient Air Monitoring Report:*** The committees were interested in what is needed to deploy an ambient air monitoring network across the State and how this would improve

*U00A – Department of the Environment*

public health and requested that MDE submit a report on what is needed to deploy an ambient air monitoring network across the State. In addition, the report was to include information on how the data collected from a network would mitigate exposure to toxic pollutants, inform permit decision-making processes, and help reduce the cumulative impacts of pollutants such as particulate matter and fine particulate matter.

- ***Text Alert System for Environmental Accidents:*** The committees were concerned that affected parties are not notified of environmental accidents, such as the release of hazardous materials or illegal discharges from wastewater treatment plants (WWTP), in a timely manner. Therefore, the committees requested that MDE and the Maryland Department of Emergency Management (MDEM) conduct a study to determine the feasibility and cost of implementing a text alert system for environmental accidents along the lines of the current weather and AMBER alert systems. The study was required to include information about the relevancy of the national Emergency Alert System to the proposed text alert system and an evaluation of the type of environmental events or accidents that would be most beneficial to include in such a system.

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

***Operating Budget Analysis***

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**Program Description**

MDE was created 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 six major administrative units.

- ***Office of the Secretary:*** This office provides direction and establishes State environmental policies to be implemented by the operating units.
- ***Operational Services Administration:*** This administration provides general administrative and fiscal services to the department.
- ***Water and Science Administration:*** This administration administers the State's water pollution control and drinking water protection activities, implements Total Maximum Daily Loads (TMDL) for pollutants in impaired waterways, regulates industrial/municipal wastewater and stormwater discharge, develops and promulgates water quality standards, provides technical support and analysis for TMDLs, monitors shellfish, develops environmental and public health risk assessments, implements nonpoint source pollution programs, and develops and issues fish advisories.
- ***Land and Materials Administration:*** This administration ensures that all types of hazardous and nonhazardous solid wastes are managed in a manner that protects public health and the environment. It regulates solid waste management facilities, scrap tire recycling facilities, above- and below-ground petroleum storage facilities, petroleum distribution, hazardous waste transportation, mining, and both concentrated animal feeding operations and Maryland animal feeding operations. In addition, this administration coordinates lead poisoning prevention efforts.
- ***Air and Radiation Administration:*** This administration ensures that air quality and radiation levels in Maryland sustain public health, safety, and the environment. It operates an air-monitoring network, licenses asbestos removal contractors, provides oversight of the Vehicle Emissions Inspection Program, and monitors radiation use. Climate change initiatives are a relatively new component of its operations.
- ***Coordinating Offices:*** This office manages budget matters, the Water Quality and Drinking Water Revolving Loan funds and other water pollution control program capital projects, and Board of Public Works (BPW) activities; coordinates public information and

*U00A – Department of the Environment*

outreach; provides hazardous chemical and oil spill emergency response services; provides legal advice; and provides information technology (IT) services.

MDE’s mission is to protect and restore the environment for the health and wellbeing of all Marylanders. MDE’s vision is for healthy, vibrant, and sustainable communities and ecosystems in Maryland. MDE has reorganized its five goals into four goals in order to align with the priorities of the Governor and the Secretary of the Environment. The goals are consistent with efforts to protect and preserve Maryland’s natural resources. The goals are as follows.

- **Goal 1: Equity:** Increase investments and reduce pollution below federal standards in overburdened communities, aiming to positively influence health.
- **Goal 2: Climate Change:** Protect all Marylanders from the extremes of climate change by leading the nation with ambitious policies and investments.
- **Goal 3: Organizational Excellence:** Reduce pollution through aggressive and transparent enforcement, permitting, and regulatory actions, aiming to make Maryland the greenest and bluest state.
- **Goal 4: Chesapeake Bay:** Accelerate the restoration of the Chesapeake Bay, Atlantic Coastal Bays and local watersheds to ensure that all Marylanders have clean water.

For illustrative purposes, MDE’s goals identified in the 2023 session were as follows: **Goal 1:** Provide excellent customer service and community outreach; **Goal 2:** Manage air quality and emissions for maximum protection of human health and the environment; **Goal 3:** Reduce Maryland citizens’ exposure to hazards; **Goal 4:** Protect water resources and ensure safe and sustainable supplies of drinking water; and **Goal 5:** Reduce waste and promote sustainable materials management.

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

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The MDE MFR measures show that (1) the ozone eight-hour standard is finally met, meaning that all NAAQS are met by Maryland; (2) child blood lead levels increased in calendar 2021 despite a decrease in child blood lead testing; and (3) the PIA responses decreased between fiscal 2022 and 2023, while no new data was available for permit processing.

### **1. All National Ambient Air Quality Standards Now Met by Maryland**

MDE’s second goal is climate change: protect all Marylanders from the extremes of climate change by leading the nation with ambitious policies and investments. MDE’s 2023 Clean Air Progress Report reflects the progress that Maryland has made in managing six air pollutant and time period combinations relative to NAAQS for each pollutant. As seen in **Exhibit 1**, the lines reflect how far above (not meeting the relevant NAAQS) and below (meeting the relevant

*U00A – Department of the Environment*

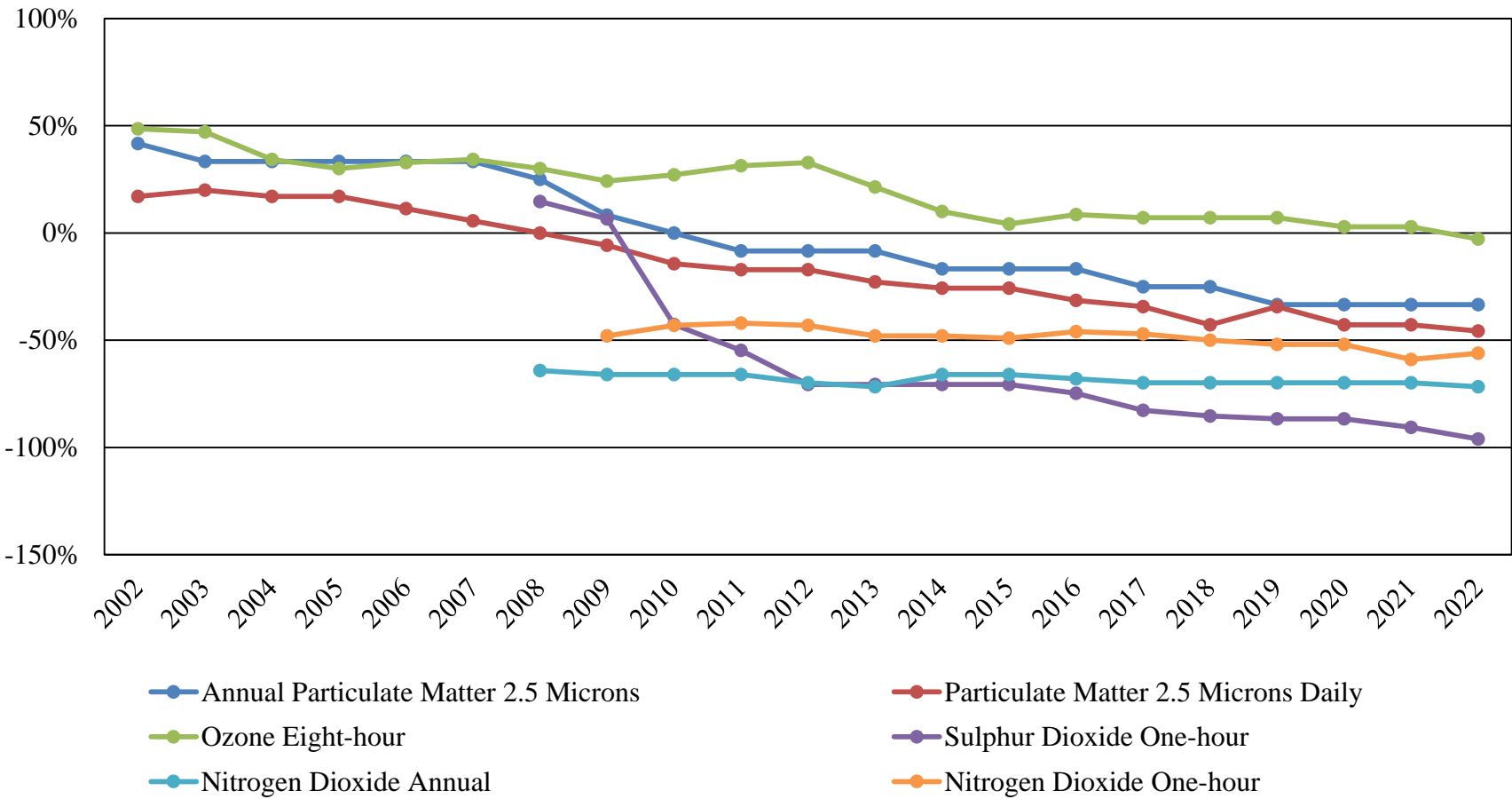
NAAQS) the x-axis each of the six pollutants is in percentages. For the first time, Maryland has met all NAAQS standards, including for the ozone eight-hour standard, which was the last standard to be met. In fact, MDE notes that the Washington, D.C. area has submitted a request to the U.S. Environmental Protection Agency (EPA) for a Clean Data Determination for the 2015 ozone eight-hour standard, which is the first step in being redesignated from nonattainment to attainment, meaning the area is at or below the 70 parts per billion ozone standard. MDE further notes that the Baltimore region will be eligible for a Clean Data Determination in the near future if the area continues to stay at or below the ozone standard. Substantial improvements are also reflected over the period shown for ozone eight-hour, daily particulate matter 2.5 microns, annual particulate matter 2.5 microns, and sulfur dioxide one-hour standards. While meeting their respective NAAQS, there has been less progress on nitrogen dioxide one-hour and nitrogen dioxide annual.

Maryland continues to press for air quality improvements both within the State and in the larger airshed – a part of the atmosphere that behaves in a coherent way with respect to the dispersion of emissions – of which Maryland is a part and that impacts Maryland’s air quality. Despite the failure of petition actions with EPA and the Ozone Transport Commission requiring power plants in upwind states to reduce emissions by optimizing their operations, EPA has developed a Federal Implementation Plan (also known as a Good Neighbor Federal Implementation Plan) to limit upwind ozone emissions. The Federal Implementation Plan uses many of the recommendations on how to reduce upwind emissions from MDE’s petition actions. The Transportation Climate Initiative Program – a multistate effort to curb emissions from motor vehicles – appears to be defunct after several states left the program; Maryland is no longer actively involved.

In terms of actions within the State, MDE adopted final regulations for clean cars and clean trucks by incorporating by reference the California Air Resources Board’s Advanced Clean Cars II regulations on August 22, 2023, which became effective September 18, 2023, and the California Air Resources Board’s Advanced Clean Trucks regulations on November 28, 2023, which became effective on December 25, 2023. MDE’s MFR goal change from a focus on improving air quality and emissions to protecting Marylanders from the extremes of climate change reflects the impact of climate change on air quality. In addition, MDE is also concerned about the impact of air quality on areas overburdened by industry and the cumulative impacts of various pollutants.



**Exhibit 1**  
**Maryland Air Pollutant Trends Relative to Air Quality Standards**  
**Calendar 2002-2022**

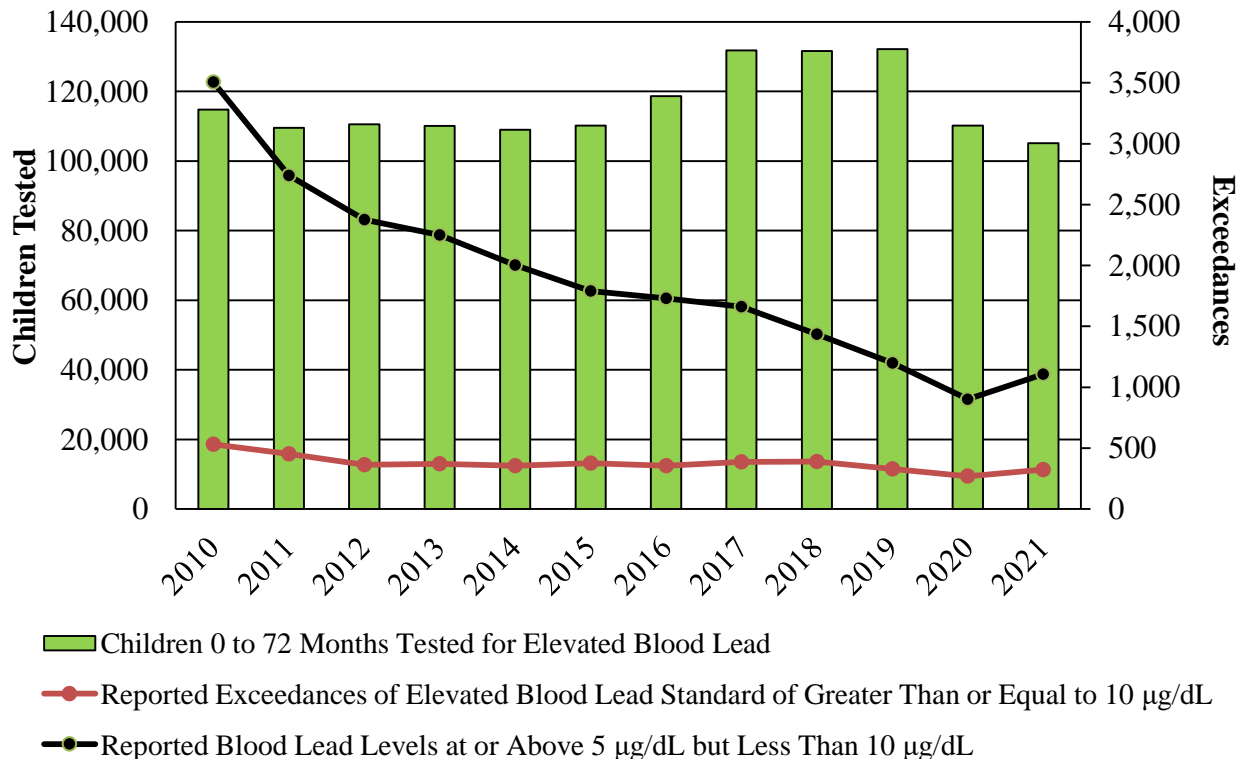


Source: Maryland Department of the Environment

## 2. Child Blood Lead Levels Increase in Calendar 2021 Despite Decrease in Child Blood Lead Testing

MDE’s third goal is organizational excellence: reduce pollution through aggressive and transparent enforcement, permitting, and regulatory actions, aiming to make Maryland the greenest and bluest state. In the past, MDE had the objective to reduce the number of child blood lead levels over 10 micrograms per deciliter found and the number of blood lead levels between 5 and 10 micrograms per deciliter by 10% annually. **Exhibit 2** shows that the number of children between the age of 0 and 72 months tested for elevated blood lead generally has risen over the time period shown, but there was a substantial decrease from 132,224 children tested in calendar 2019 to 110,158 children tested in calendar 2020, which decreased again to 105,143 children tested in calendar 2021 – the lowest level since calendar 2006. MDE’s *Childhood Blood Lead Surveillance in Maryland 2021* annual report notes that this is due to the impact of COVID-19 closures, which reduced in-person health services.

**Exhibit 2**  
**Child Blood Lead Status**  
**Calendar 2010-2021**



µg/dL: micrograms of lead per deciliter of blood

Source: Maryland Department of the Environment

The 2022 annual report, which typically would be released in fall 2023, has not been released. Therefore, data on the number of children between the age of 0 and 72 months tested for elevated blood lead in that year, and the outcomes of that testing are not shown. MDE notes that the report will not be available until March 2024. This is because MDE found errors in the work of the contractor putting together the 2021 and 2022 reports, which led MDE to validate all data inhouse, thus delaying the release of the 2021 and 2022 reports. MDE notes that it has developed a system to ensure the accuracy and timeliness of the *Childhood Blood Lead Surveillance in Maryland* annual reports in the future.

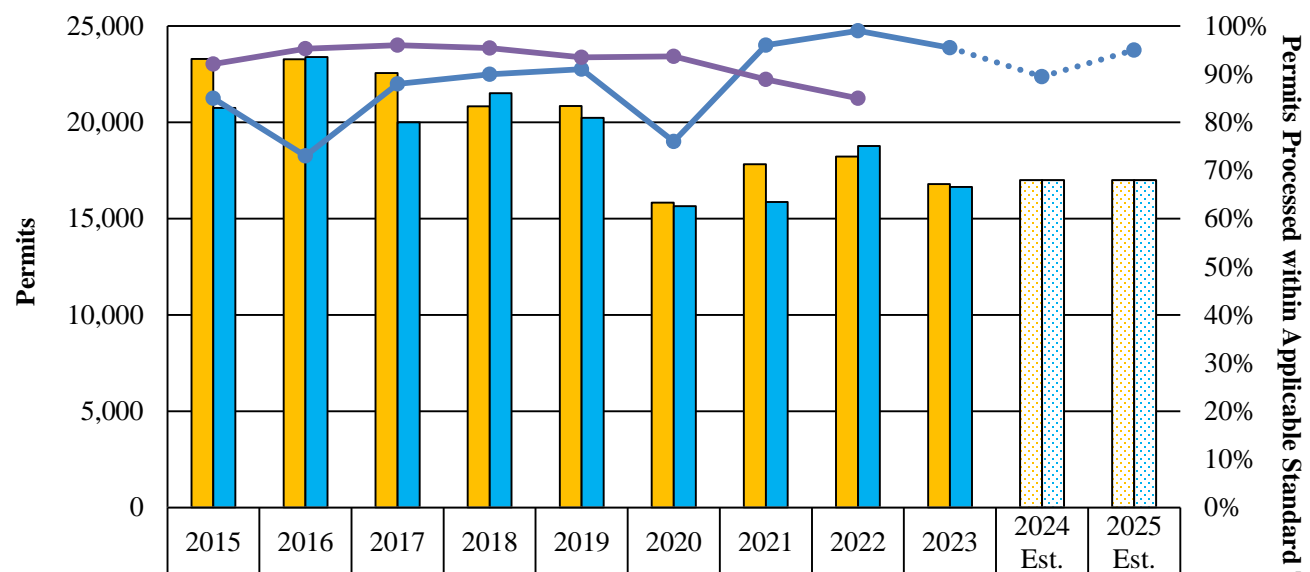
The reported exceedances of the elevated blood lead standard of between 5 and 10 micrograms per deciliter – the most stringent standard for child blood lead levels – had been falling up to calendar 2020, but this trend was reversed in calendar 2021. The number of children between 0 and 72 months identified with a blood lead level between 5 and 9 micrograms per deciliter increased from 901 in calendar 2020 to 1,107 in calendar 2021. In addition, the number of children between 0 and 72 months identified with a blood lead level greater than 10 micrograms per deciliter increased from 270 in calendar 2020 to 323 in 2021. MDE notes that the increase in the number of children between 0 and 72 months identified with a blood lead level greater than 10 micrograms per deciliter could be the result of increased outreach efforts in calendar 2021 because the outreach efforts were focused on more high-risk populations. Of note, the previous Administration announced on October 24, 2022, that the blood lead level trigger notification was reduced from 5 to 3.5 micrograms/deciliter in line with U.S. Centers for Disease Control guidance.

Preliminary data for 2022, covering January 1, 2022, through June 30, 2022, indicates that 56,942 children between 0 and 72 months were tested. Of these children, 565 were identified with a blood lead level between 5 and 9 micrograms per deciliter, and 133 were identified with a blood lead level greater than 10 micrograms per deciliter. **The Department of Legislative Services (DLS) recommends that MDE comment on the system that it has developed to ensure the accuracy and timeliness of *Childhood Blood Lead Surveillance in Maryland* annual reports. In addition, DLS recommends that MDE comment on whether there is any way to account for sampling bias due to increased outreach to high-risk populations.**

### **3. PIA Responses Decreased in Fiscal 2023; No New Data Was Provided About Permit Processing**

MDE's third goal is organizational excellence: reduce pollution through aggressive and transparent enforcement, permitting, and regulatory actions, aiming to make Maryland the greenest and bluest state. Previously, MDE's first goal was to provide excellent customer service and community outreach. Under this goal were two objectives: respond to 80% of PIA requests within 30 days of receipt; and meet permit turnaround times for 90% of the permits processed. As shown in **Exhibit 3**, the percentage of PIA responses issued within 30 days decreased from 99% in fiscal 2022 to 95% in fiscal 2023. This reversed an improving trend that began in fiscal 2021. MDE noted that the substantial improvement between fiscal 2020 and 2022 was due to MDE making the PIA responses issued within 30 days a key focus area for executive management and implementing process improvements. Of note, the fiscal 2024 estimate reflects the data as of January 31, 2024.

**Exhibit 3  
PIA and Permit Data  
Fiscal 2015-2025 Estimated**



	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 Est.	2025 Est.
Permit Applications Received	23,288	23,266	22,560	20,832	20,844	15,833	17,821	18,216	16,791	17,000	17,000
Permits Issued	20,751	23,396	20,000	21,515	20,237	15,649	15,856	18,767	16,644	17,000	17,000
% of PIA Responses Issued within 30 Days	85%	73%	88%	90%	91%	76%	96%	99%	95%	89%	95%
Permits Processed within Applicable Standard Time	92.1%	95.3%	96.0%	95.4%	93.5%	93.7%	88.9%	85.0%			
Violations Over 12 Months Old for Which No Enforcement Action Has Been Taken						1,324	1,198	1,144			

PIA: Public Information Act

Note: The fiscal 2024 data for the percent of PIA responses issued within 30 days reflects the data as of January 31, 2024.

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

The percentage of permits processed within the applicable standard time decreased from 94% in fiscal 2020 to 89% in fiscal 2021 and then decreased again to 85% in fiscal 2022. No new data was provided for the fiscal 2023 actual and the fiscal 2024 and 2025 estimates. **DLS recommends that MDE comment on why the response to PIA requests within 30 days of receipt measure decreased between fiscal 2022 and 2023. DLS also recommends that MDE comment on why the percentage of permits processed within the applicable standard time data is not available and the reason for any trends in the data that is available.**

## **Fiscal 2024**

### **Proposed Deficiency**

Deficiency appropriations for the fiscal 2024 operating budget would increase MDE's general fund appropriation by \$1.6 million. Of note, this is the first year since fiscal 2020 that general fund deficiencies have not been budgeted for one of MDE's administrations to counter declining special fund revenue.

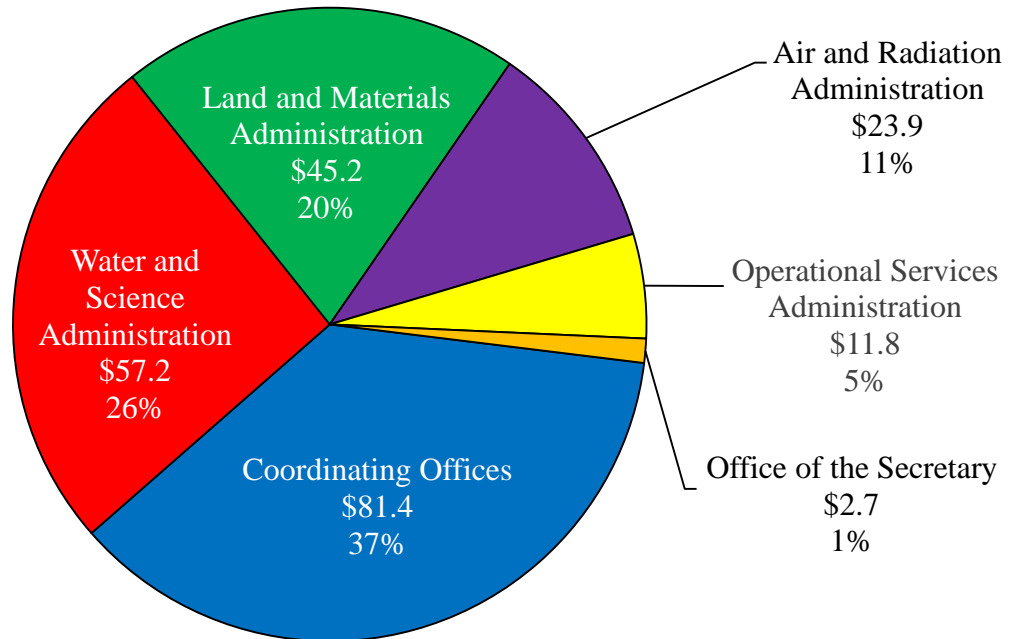
The fiscal 2024 changes are as follows.

- ***Land and Materials Administration:*** an increase of \$1.0 million for a third-party contractor to conduct a comprehensive Statewide recycling needs assessment. The Office of Recycling must report the results of the assessment to the Governor and the General Assembly by July 30, 2024. MDE notes that the request for proposals for the comprehensive Statewide recycling needs assessment will be posted in February 2024. However, there is not enough time to meet the July 30, 2024 deadline, which the department communicated to the General Assembly.
- ***Water and Science Administration:*** an increase of \$0.3 million to purchase two shellfish monitoring boats needed for emergency replacement. The two boats that need to be replaced are 27 years old, and MDE has determined the boats to be safety risks.
- ***Air and Radiation Administration:*** an increase of \$0.3 million for development of a needs assessment and deployment plan for implementation of the Advanced Clean Trucks regulations.

## **Fiscal 2025 Overview of Agency Spending**

MDE is organized into six administrative units. **Exhibit 4** reflects the \$222.2 million fiscal 2025 spending breakdown for the six units as follows.

**Exhibit 4**  
**Overview of Agency Spending**  
**Fiscal 2025 Allowance**  
**(\$ in Millions)**



Note: The fiscal 2025 allowance accounts for contingent reductions. The fiscal 2025 statewide salary adjustments are centrally budgeted in the Department of Budget and Management and are not included in this agency’s budget.

Source: Department of Budget and Management; Department of Legislative Services

- **Coordinating Offices (\$81.4 Million, 37%):** The primary funding is \$28.0 million for debt service on Bay Restoration Fund revenue bonds; \$20.0 million for Chapters 694 and 695 of 2021 (Clean Water Commerce Act); \$13.1 million for regular positions; \$11.0 million for operations and maintenance grants for WWTP upgraded to enhanced nutrient removal technology; \$4.9 million for the Department of Information Technology (DoIT) services allocation; \$1.5 million for agreements with local jurisdictions to administer septic system upgrade grants and regulations; and \$0.4 million for applications software maintenance contracts.
- **Water and Science Administration (\$57.2 Million, 26%):** The primary funding is \$44.6 million for regular positions; \$5.1 million for grants comprised of \$1.6 million in the Integrated Water Planning Program, \$1.5 million for the Water Supply program, \$1.4 million in the Wetlands and Waterways program, and \$0.5 million for annual dues to

*U00A – Department of the Environment*

the Interstate Commission on the Potomac River Basin and the Susquehanna River Basin Commission; \$5.3 million for contracts, including \$1.3 million in the Wetlands and Waterways program, \$1.0 million for Sediment, Stormwater, and Dam Safety, and \$1.6 million for the Water Supply program; and \$1.4 million for contractual full-time equivalents (FTE).

- ***Land and Materials Administration (\$45.2 Million, 20%):*** The primary funding is \$29.1 million for regular positions; \$12.5 million for contracts, of which \$5.3 million is in the Mining Program, \$4.4 million is in Waste Diversion and Utilization, and \$1.4 million is in the Oil Control Program; and \$1.4 million for grants for lead preventive services, site rehabilitation cost reimbursement for underground storage tanks, and lead poisoning prevention case management.
- ***Air and Radiation Administration (\$23.9 Million, 11%):*** The primary funding is \$21.3 million for regular positions and \$3.2 million for contracts for implementing Chapter 38 (Climate Solutions Now Act), participation in the multistate Regional Greenhouse Gas Initiative, modeling to ensure compliance with federal ambient air quality standards, technical analyses by the University of Maryland required under the Clean Air Act, and implementation of various diesel retrofit projects by the Maryland Energy Administration (MEA).
- ***Operational Services Administration (\$11.8 Million, 5%):*** The primary funding is \$6.0 million for rent and \$5.0 million for regular positions.
- ***Office of the Secretary (\$2.7 Million, 1%):*** The primary funding is \$2.1 million for regular positions and \$0.5 million for contractual services.

## **Proposed Budget Change**

The MDE fiscal 2025 allowance increases by \$2.8 million, or 1.3%, relative to the fiscal 2024 working appropriation, as shown in **Exhibit 5**. The general fund decrease primarily reflects the \$3.5 million in reductions contingent on HB 245 increasing fees and \$1.6 million in one-time deficiency funding. The special fund increase primarily reflects an increase of \$3.1 million for stockpiled tire cleanups and \$2.2 million for salaries. The federal fund increase primarily reflects an increase of approximately \$1.2 million for regular earnings, which is offset partially by a decrease in funding for contracts.

**Exhibit 5**  
**Proposed Budget**  
**Department of the Environment**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
Fiscal 2023 Actual	\$61,062	\$122,818	\$31,064	\$4,681	\$219,625
Fiscal 2024 Working Appropriation	54,830	117,929	42,543	4,180	219,482
Fiscal 2025 Allowance	<u>50,179</u>	<u>124,790</u>	<u>42,919</u>	<u>4,347</u>	<u>222,234</u>
Fiscal 2024-2025 Amount Change	-\$4,652	\$6,861	\$376	\$167	\$2,752
Fiscal 2024-2025 Percent Change	-8.5%	5.8%	0.9%	4.0%	1.3%

<b>Where It Goes:</b>	<b><u>Change</u></b>
<b>Personnel Expenses</b>	
Salary increases and associated fringe benefits including fiscal 2024 COLA and increments.....	\$4,343
Cost associated with 12 new positions and 11 positions created through BPW action in fiscal 2024 not yet reflected in the budget.....	864
Overtime earnings .....	75
Reclassification .....	2
Transferred position to Governor’s Office to be the chief sustainability officer .....	-96
Turnover rate increases from 5.66% to 6.58% .....	-855
<b>Other Changes</b>	
<i>Environmental Policy</i>	
Stockpiled tire cleanups .....	3,128
Federal Water Supply Program contracts .....	774
Integrated Water Planning Program contracts .....	530
Maryland Center for Environmental Training project oversight grant .....	350
Chesapeake Bay Trust memorandum of understanding for nontidal wetland projects .....	350
Integrated Water Planning Program grants increase, primarily due to SAV survey.....	131
Maryland Geological Survey monitoring well and stream gage data collection.....	90
Mine safety training grant .....	-75
Firefighting foam mandate.....	-500
Mining Program contracts for reclamation projects, site mapping, and expert witness ....	-1,752



*U00A – Department of the Environment*

<b>Where It Goes:</b>	<b><u>Change</u></b>
<b><i>One-time Deficiency Funding</i></b>	
Needs assessment and plan for Advanced Clean Trucks regulations .....	-250
Purchase two shellfish monitoring boats needed for emergency replacement.....	-320
Contractor to conduct a comprehensive statewide recycling needs assessment .....	-1,000
<b><i>Reductions Contingent on HB 245 Fee Increases</i></b>	
Voluntary Cleanup Program fee increase in Land and Materials Administration .....	-275
Wetlands and waterways fees increase in Water and Science Administration .....	-330
Minerals, oils, and gas mining fee increase in Coordinating Offices .....	-600
Clean air emissions fee increase in Air and Radiation Administration .....	-2,250
<b><i>Routine Operations</i></b>	
Department of Information Technology services allocation fee .....	614
Rent increase in the Operational Services Administration .....	190
Supplies increase in the Mining Program .....	181
Application software maintenance agreements.....	109
Regional Greenhouse Gas Initiative participation fee .....	100
Supplies increase in the Office of Emergency Preparedness and Planning .....	70
Training in Office of Emergency Preparedness and Planning .....	39
Fuel and utilities, primarily in Operational Services Administration .....	28
Computer replacement in the Mining Program.....	10
Motor vehicle decreases .....	-502
Contractual full-time equivalents decrease due to contractual conversions .....	-652
Other.....	230
<b>Total</b>	<b>\$2,752</b>

BPW: Board of Public Works  
 COLA: cost-of-living adjustment  
 SAV: submerged aquatic vegetation

Note: Numbers may not sum to total due to rounding. The fiscal 2024 working appropriation includes deficiencies. The fiscal 2025 allowance accounts for contingent reductions. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency’s budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency’s budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency’s budget.

## **Infrastructure Investment and Jobs Act and Inflation Reduction Act Funding**

MDE has focused on the federal funding available through the Infrastructure Investment and Jobs Act (IIJA) available to its pay-as-you-go (PAYGO) programs noted in the PAYGO capital analysis for UA01 – MDE. The only funding explicitly noted as IIJA funding in MDE’s operating budget is \$350,000 in both fiscal 2024 and 2025 in the Water Supply Program for grants to local capital projects that address emerging contaminants, which are defined as pollutants that may cause environmental or human health impacts but are not regulated under current federal environmental laws.

**Exhibit 6** shows the federal funding MDE is pursuing both through the IIJA as well as the Inflation Reduction Act (IRA) as reflected in the Department of Budget and Management’s (DBM) January 2024 competitive grant application summary report. MDE either has been awarded or an award is pending for \$3.9 million, which would require a match of \$0.8 million. Flood mitigation assistance funding is the single largest category of funding for which MDE has applied. **DLS recommends that MDE discuss the status, allocation, budgeted funding, timing of budgeted funds, and planned uses for all IIJA and IRA funding.**

**Exhibit 6**  
**MDE Competitive IIJA and IRA Funding**  
**January 2024**

<u>Federal Program</u>	<u>Fund Source</u>	<u>Status</u>	<u>Amount</u>	<u>Period</u>	<u>State Match</u>	<u>Estimated Match</u>	<u>% Match</u>
Environmental and Climate Justice Block Grants: The Environmental Justice Government-to-Government Program	IRA	Awarded	\$1,000,000	12/1/2023 – 12/1/2026	No	n/a	n/a
Pollution Prevention Grant: Environmental Justice Through Safer and More Sustainable Products	IIJA	Awarded	425,000	1/2/2024 – 3/31/2026	No	n/a	n/a
Fiscal 2022 Flood Mitigation Assistance	IIJA	Pending	792,000	10/1/2023 – 9/30/2026	Yes	\$248,000	31%
Fiscal 2022 Flood Mitigation Assistance	IIJA	Pending	878,250	10/1/2023 – 9/30/2026	Yes	276,750	31%
Fiscal 2022 Flood Mitigation Assistance	IIJA	Pending	790,500	10/1/2023 – 9/30/2026	Yes	247,500	31%
Consumer Recycling Education and Outreach Program	IIJA	Not Awarded	1,698,051	n/a	n/a	n/a	n/a
<b>Total</b>			<b>\$5,583,801</b>			<b>\$772,250</b>	

IIJA: Infrastructure Investment and Jobs Act  
 IRA: Inflation Reduction Act  
 MDE: Maryland Department of the Environment  
 Source: Department of Budget and Management

## **Personnel**

MDE's overall personnel expenditures increase by \$4.3 million in the fiscal 2025 allowance. The largest increase between the adjusted fiscal 2024 working appropriation and the fiscal 2025 allowance is \$4.3 million for salary increases and associated fringe benefits. This accounts for the fiscal 2024 cost-of-living adjustment and increments. The second largest increase is \$0.9 million for 12 new positions and 11 positions created through BPW action and not yet reflected in the budget. In terms of reductions, the turnover rate increases from 5.66% to 6.58%, which accounts for a decrease of \$0.9 million.

The fiscal 2025 allowance reflects the first time that MDE did not budget a portion of personnel funding in the miscellaneous adjustments subobject, which is a positive step toward personnel expenditures transparency. However, for the third year in a row, MDE's most recent actual fiscal budget data incorrectly reflects the allocation of funding for personnel expenditures. Fiscal 2024 Budget Bill language again restricted funding pending the submission of a confirmatory letter with the fiscal 2025 budget submission indicating that MDE's fiscal 2023 actual and fiscal 2024 working appropriation personnel expenditures were budgeted in the correct statewide subobjects. MDE budgets fringe benefit expenditures – health insurance, pension contributions, and turnover adjustments, among others – almost entirely as Social Security contributions, which makes it difficult to do historical data comparisons. To date, the confirmatory letter has not been submitted, and the fiscal 2025 budget submission again does not properly budget the prior year actual personnel expenditures. **DLS recommends that budget bill language be added to restrict funding pending the proper budgeting of personnel expenditures for the fiscal 2024 actual in the correct statewide subobjects with the fiscal 2026 budget submission.**

## **Other Changes**

Overall, the nonpersonnel portion of the MDE fiscal 2025 allowance decreases by \$1.6 million. The areas of change may be broadly categorized as environmental policy, one-time deficiency funding, reductions contingent on HB 245 fee increases, and routine operations.

## **Environmental Policy**

The largest change under the category of general environmental policy is an increase of \$3.1 million in special funds for the stockpiled tire cleanup contract with the Maryland Environmental Service (MES). This reflects a precautionary measure in case the State needs to fund the removal of a scrap tire stockpile in Western Maryland. There is also an increase of \$0.8 million in federal funds for Water Supply Program contracts. The Water Supply Program contract increase reflects \$0.4 million in IJA funding for grants to local capital projects that address emerging contaminants, \$0.3 million for a Maryland Geological Survey project documenting ambient groundwater quality, and \$0.2 million for upgrades to the Mining Permits Database. Integrated Water Planning Program contracts increase by \$0.5 million, comprised of \$0.3 million in federal funds to monitor State waters to determine whether they are meeting water quality standards in the Integrated Report of Surface Water Quality, \$0.2 million in special funds

*U00A – Department of the Environment*

for the Beaches Program for lab analysis, public notification, and monitoring, and \$0.1 million in special funds for water quality monitoring to support the development of TMDLs.

There are three smaller grant increases and a small contract increase in the fiscal 2025 allowance under the environmental policy category. The Maryland Center for Environmental Training project oversight grant increases by \$0.4 million in special funds. The center is part of the College of Southern Maryland and provides oversight of water and wastewater capital construction projects. Tidal wetland project funding increases by \$0.4 million in special funds – although, it remains to be seen whether there will be sufficient special fund revenue to support the appropriation – and Integrated Water Planning Program grants increase by \$0.1 million, primarily due to a submerged aquatic vegetation survey. The small contract increase is for \$0.1 million for Maryland Geological Survey monitoring well and stream gage data collection.

In terms of environmental policy decreases, there is a \$1.8 million reduction in federal funds for Mining Program contracts, primarily related to abandoned mine reclamation projects. There is also a decrease of \$0.5 million in general funds in the Land and Materials Administration for PFAS chemicals take back.

**Reductions Contingent on HB 245 Fee Increases**

The fiscal 2024 budget plan included fiscal 2023 general fund deficiency appropriations of \$1.5 million that were budgeted in each of the Water and Science Administration, the Land and Materials Administration, and the Air and Radiation Administration to counter declining special fund revenue. This was the fourth fiscal year in which funding was provided for declining special fund revenue in at least one of MDE’s administrations. The special fund revenue was declining because of outdated fee, fine, and penalty structures for the special funds supporting the three administrations: the Maryland Clean Water Fund; the Lead Poisoning Prevention Fund; and the Maryland Clean Air Fund. Therefore, the General Assembly added budget bill language restricting funding pending the submission of a report on revised fee, fine, and penalty structures for the three special funds supporting these three administrations with the goal of ensuring that the special funds can adequately support the administrations and thereby reduce the need for general fund support. The submitted report is discussed further in Issue 5 of this analysis.

The fiscal 2025 budget plan appears to reflect that the declining special fund revenue is being addressed. The fiscal 2025 budget includes general fund reductions contingent on fee increases introduced in HB 245, a departmental bill that increases several fees and penalties that support various programs and special funds within MDE. The general fund reductions in the fiscal 2025 budget contingent on HB 245 are as follows: Air and Radiation Administration – clean air emissions fee increase (\$2.3 million); Coordinating Offices – minerals, oils, and gas mining fee increase (\$0.6 million); Water and Science Administration – wetlands and waterways fee increases (\$0.3 million); and Land and Materials Administration – Voluntary Cleanup Program fee increase (\$0.3 million).

**Routine Operations**

There are a number of changes in the category of routine operations. In terms of the larger increases, there is an increase of \$0.6 million for DoIT services allocation fee as well as a \$0.2 million increase for rent. In terms of decreases, there is a reduction of \$0.7 million for FTE funding and a decrease of \$0.5 million for motor vehicle expenses, primarily in the Water and Science Administration and Land and Materials Administration.

***Personnel Data***

	<b><u>FY 23 Actual</u></b>	<b><u>FY 24 Working</u></b>	<b><u>FY 25 Allowance</u></b>	<b><u>FY 24-25 Change</u></b>
Regular Positions	890.00	970.00	981.00	11.00
Contractual FTEs	<u>63.60</u>	<u>87.50</u>	<u>80.50</u>	<u>-7.00</u>
<b>Total Personnel</b>	<b>953.60</b>	<b>1,057.50</b>	<b>1,061.50</b>	<b>4.00</b>

***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	64.59	6.58%
Positions and Percentage Vacant as of 12/31/23	128.00	13.20%
Vacancies Above Turnover	65.06	

- The fiscal 2024 working appropriation reflects 970.0 total positions, which includes 11.0 positions created by BPW in January 2024. The fiscal 2025 allowance reflects 981.0 positions, an increase of 11.0 positions relative to the fiscal 2024 working appropriation. The Administration plans to bring in 5.0 positions in the Water and Science Administration – Dam Safety Program in a supplemental budget item; these positions are not included in the fiscal 2025 allowance. The positions were intended for inclusion in the fiscal 2025 allowance contingent upon establishing a private dam repair fund. A provision in HB 245 would create this fund.
- The 11 new positions created by BPW are supported by \$1.0 million in federal funds as authorized by Section 34 of the fiscal 2024 Budget Bill. The positions are allocated to the Land and Materials Administration and Air and Radiation Administration.
- MDE’s position count increases by a net of 11.0 regular positions – 12.0 new positions and 1.0 transferred position to the Governor’s Office to be the chief sustainability officer – between the adjusted fiscal 2024 working appropriation and the fiscal 2025 allowance. Of the new positions, 7.0 are contractual conversions allocated to various administrations, and 5.0 are intended to implement building energy performance standards being developed by

*U00A – Department of the Environment*

MDE as required by Chapter 38 (Climate Solutions Now Act). The transferred position currently is an administrator II in the Office of the Secretary.

- As of December 31, 2023, MDE had 128.0 vacant positions. Of those positions, 61.0 positions have been vacant for more than a year. However, 50.0 positions are coded as being vacant since January 1, 2001, which suggests a coding error. The positions vacant for more than a year are spread across the agency.
- MDE contractual FTEs decrease by a net of 7.0 in the fiscal 2025 allowance, primarily due to the contractual conversions.
- The MDE turnover rate increased from 5.66% in the fiscal 2024 working appropriation to 6.58% in the fiscal 2025 allowance. Therefore, MDE must hold open 64.59 positions in fiscal 2025.

## ***Issues***

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### **1. Tree Solutions Now Act**

Chapter 645 established a new policy of the State to support and encourage public and private tree-planting efforts, with the goal of planting and helping to maintain 5,000,000 sustainable native trees in the State by the end of calendar 2031. The Act provides that it is the intent of the General Assembly that at least 500,000 of those trees be planted in underserved areas. The intent is for the trees to help the State meet its greenhouse gas reduction goal of net zero greenhouse gas emissions by calendar 2045.

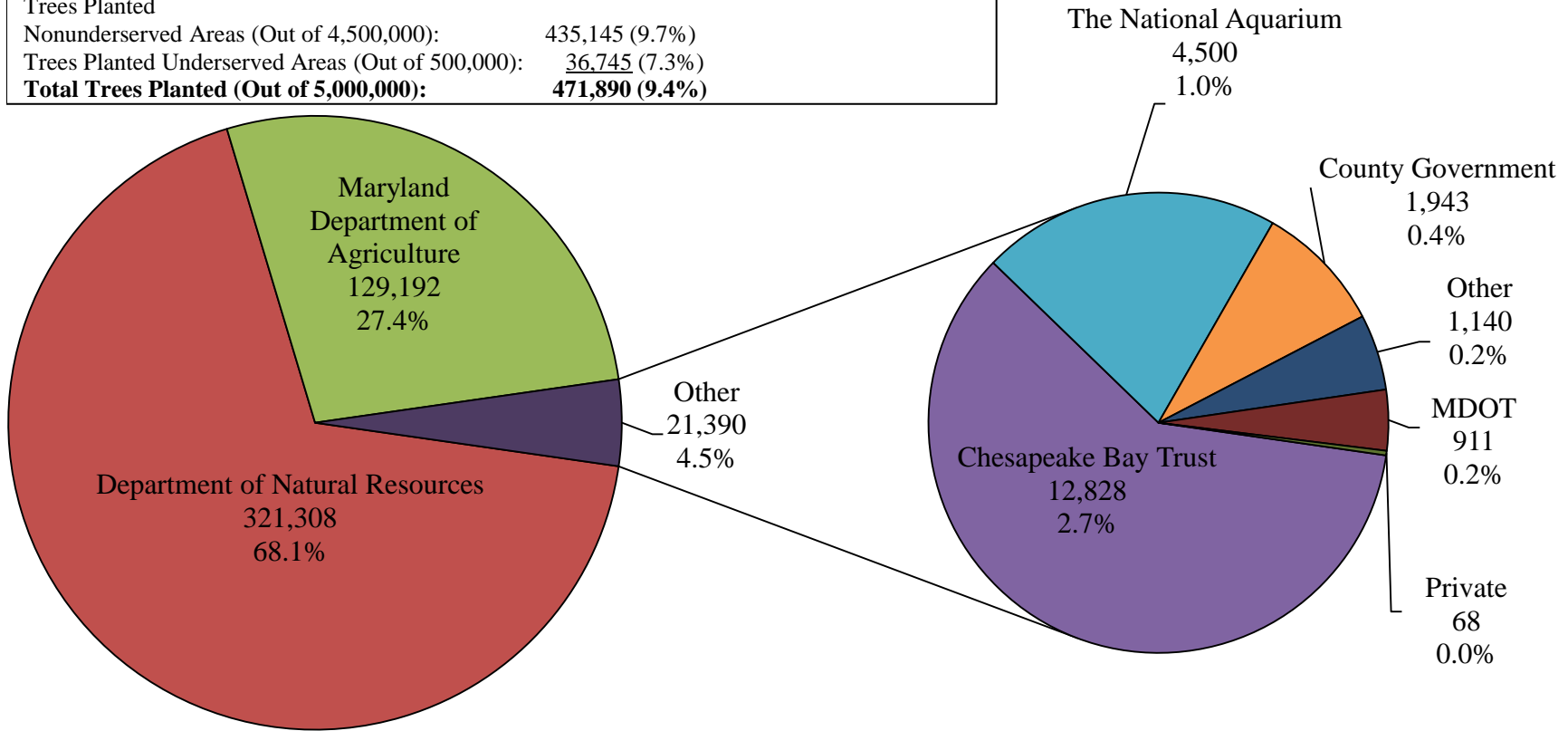
Chapter 645 also requires that for fiscal 2023 through 2031, \$1.25 million from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund be used to fund a tree program coordinator position in MDE, which is budgeted at \$0.2 million in fiscal 2025, and 13 contractor positions, which are budgeted at \$1.0 million in fiscal 2025, within the Department of Natural Resources' (DNR) Forest Service to provide technical assistance, planning, and coordination related to tree plantings, tree buffer management, and forest management.

The dynamic data from MDE's Maryland's Five Million Trees Initiative website provides an update of the progress toward the 5,000,000 tree goal, as of October 26, 2023. The data is gathered from a number of different sources, including other State agencies and private planting organizations and thus does not necessarily reflect consistent totals when the data is parsed in different ways. The overall number of trees shown as planted is 471,980 as of October 26, 2023. **Exhibit 7** reflects the breakdown of these trees by program. The majority of the trees have been planted through DNR and, combined, DNR and MDA account for 95% of the trees planted so far. Of note, the 4,500,000 goal of trees planted in nonunderserved areas (9.7% completed) is slightly further along than the 500,000 goal for trees planted in underserved areas (7.3% completed). Overall, 9.4% of the 5,000,000 tree goal has been completed.



**Exhibit 7**  
**Trees Planted by Program**  
 Data as of October 26, 2023

Trees Planted	
Nonunderserved Areas (Out of 4,500,000):	435,145 (9.7%)
Trees Planted Underserved Areas (Out of 500,000):	<u>36,745</u> (7.3%)
<b>Total Trees Planted (Out of 5,000,000):</b>	<b>471,890 (9.4%)</b>



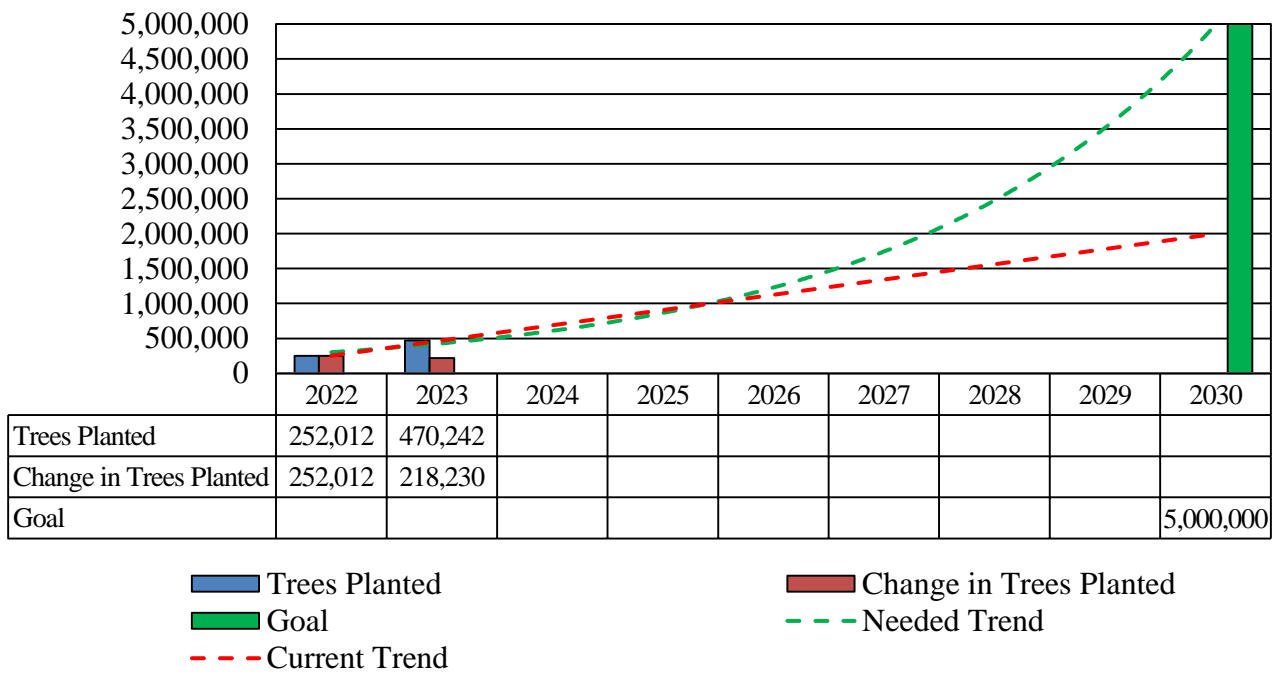
MDOT: Maryland Department of Transportation

Note: The Department of Natural Resources' numbers reflect 56 trees planted with the Chesapeake Bay Trust.

Source: Maryland Department of the Environment

The current trend and needed trend for trees planted toward the 5,000,000 tree goal is shown in **Exhibit 8**. Based on the current annual average of 235,000 trees planted, the trend is for approximately 2.1 million trees to be planted by calendar 2031. To reach the 5,000,000 tree goal, approximately 650,000 trees would have to be planted each year for the next seven fiscal years. Of note, there were fewer trees planted in fiscal 2023 than in fiscal 2022, which is not a sustainable trend if the calendar 2031 goal is to be met.

**Exhibit 8**  
**Trees Planted Current Trend versus Needed Trend**  
**Fiscal 2022-2030**



Source: Maryland Department of the Environment

MDE notes that DNR and the Chesapeake Bay Trust have been able to leverage more than \$33 million in federal funding as a result of the coordination among State agencies. The intent is for this federal funding to help expand programs and exponentially scale progress toward the calendar 2031 goal. In addition, MDE is investing in outreach efforts to spread the word about existing tree planting programs. **DLS recommends that MDE comment on the sources, uses, and timeframes of the \$33 million in federal funding leveraged by the Chesapeake Bay Trust and DNR, whether MDE has seen the start of the needed exponential increase in tree plantings in fiscal 2024, how much available public versus private land is available for the tree plantings relative to the need, and what the overall plan is to reach the calendar 2031 goal.**

## **2. General Permit for Discharges of Stormwater Associated with Construction Activity**

Recent changes in MDE’s General Permit for Discharges of Stormwater Associated with Construction Activity process may increase the number of individual discharge permits being issued. Therefore, the General Assembly adopted fiscal 2024 Budget Bill language restricting funding for 1 of the regular positions budgeted to address Chapter 22 to be used instead (1) to assist with the implementation of the General Permit for Discharges of Stormwater Associated with Construction Activity and (2) ensure the permit is renewed in a timely manner in fiscal 2028.

MDE notes that it published the final determination permit for the General Permit for Discharges from Stormwater Associated with Construction Activity on December 30, 2022. The permit became effective on April 1, 2023, with a September 30, 2023 deadline for applicants to register under the new permit. MDE also notes that it held over 25 outreach efforts to alert the public and the regulated community about the permit issuance, deadlines, and training. **DLS recommends that MDE comment on the status of the position and associated funding restricted for the purpose of assisting with the implementation of the new General Permit for Discharges of Stormwater Associated with Construction Activity. In addition, DLS recommends that MDE comment on the rate of individual discharge permits being issued under the new permit relative to the old permit.**

## **3. MDE-supported Climate Change Actions Not Fully Funded**

Chapter 38 made broad changes to the State’s approach to reducing statewide greenhouse gas emissions and addressing climate change. MDE’s workload under Chapter 38 expanded substantially. The fiscal note for the legislation noted that MDE anticipated establishing a new unit to develop the required building energy performance standards for covered buildings. The modifications to the Greenhouse Gas Emissions Reductions Act also resulted in significant contractual costs for MDE to develop new plans. Further, MDE needed contractual assistance and additional staff to support various new commissions and task forces and to meet new study and reporting requirements.

MDE estimated that its administrative costs resulting from the Act totaled \$3.2 million in fiscal 2023, with ongoing costs of at least \$1.9 million annually. While MDE’s estimate could not be independently verified, the fiscal note indicated that the Act established significant new responsibilities for MDE and that MDE would likely incur significant costs to hire staff and consultants.

### **Implementation Status**

The status of MDE’s work under Chapter 38 is as follows:

- ***Building Energy Performance Standards Regulations:*** MDE was required to adopt final Building Energy Performance Standards by June 1, 2023, to meet several requirements, including (1) establish energy use intensity targets by building type; (2) provide maximum flexibility to the owners of covered buildings; (3) include an alternative compliance pathway allowing the owner to pay a fee for greenhouse gas emissions attributable to the building’s failure to meet direct greenhouse gas emissions reduction targets; and (4) to the extent authorized by law, include financial incentives recommended by the Building Energy Transition Implementation Task Force. MDE estimates that it is on track to adopt final regulations by June 2024, pending the outcome of an additional review by the Joint Committee on Administrative, Executive, and Legislative Review of the proposed regulations. Of note, MDE originally estimated several thousand buildings would be considered covered buildings under the regulations. The supporting materials for the proposed regulations reflect 9,259 potentially covered buildings. The proposed regulations provided more specificity on the alternative compliance fee that building owners may pay for the greenhouse gas emissions in excess of the net direct emissions standards. The regulation establishes the fee per metric ton of excess carbon dioxide equivalent for each year, calendar 2030 through 2040, and establishes that the fee rate increases by \$4 per metric ton of carbon dioxide equivalent each calendar year beginning in calendar 2041.
- ***Final Greenhouse Gas Emission Reduction Plan:*** MDE was required to submit a proposed plan by June 30, 2023, to the Governor and the General Assembly that reduces statewide greenhouse gas emissions by 60% from 2006 levels by 2031. By December 31, 2023, MDE was required to adopt a final plan to meet the 2031 goal and that set the State on a path toward achieving net-zero statewide greenhouse gas emissions by calendar 2045. MDE adopted a final plan on December 28, 2023.
- ***Building Energy Transition Implementation Task Force:*** MDE was required to staff the Building Energy Transition Implementation Task Force and produce a final report by December 1, 2023. MDE, with MEA as a co-chair, submitted a final report in January 2024.
- ***Maryland Commission on Climate Change Working Groups:*** MDE was required to staff four new working groups and produce a final report for each new working group by December 2023. MDE notes that it sought and received an extension for each of the working group reports to December 2024 due to the lack of staff capacity and financial resources to run the new working groups in calendar 2023.

### **Additional Funding Needs**

MDE notes that it was able to use leveraged technical assistance from the federal government and its available budget to complete most of the contractual services required in Chapter 38. This included completing the following projects: emissions, economic modeling, and measure-by-measure analysis for the climate plan; and policy analysis for the Building Energy

Transition Implementation Task Force. Ongoing projects that are funded include research and staffing support for the four new working groups added by Chapter 38.

MDE notes that additional funding is needed to implement the Building Energy Performance Standards regulations and, separately, new regulations that have yet to be proposed. MDE may need up to \$1.0 million to develop the Building Energy Performance Standards online reporting system and, while 5 positions are budgeted in fiscal 2025 for MDE’s Compliance Program, more positions will likely be needed beyond fiscal 2025 to develop and approve individualized compliance plans and in the event the proposed regulations are modified. Managing compliance with the performance standards will increase position needs further beginning in fiscal 2030. In addition to the existing regulations, MDE committed to implementing regulations for Clean Heat Standards and Zero-Emission Heating Equipment Standards, which will increase position needs in the Climate Change Program and Compliance Program beginning in fiscal 2026.

**DLS recommends that MDE comment on what federal and State funding in its budget it leveraged to complete the contractual services in Chapter 38 and the funding it is using in fiscal 2024 and 2025 to staff the four new climate change working groups, given that MDE recently requested an extension for the four groups to produce final reports due to the lack of staff capacity and financial resources in calendar 2023. In addition, DLS recommends that MDE comment on how the increase in the estimate for the number of buildings covered by the Building Energy Performance Standards regulations — from several thousand to 9,259 potentially covered buildings — impacts its funding needs in the future, an estimate on the amount and anticipated use of alternative compliance fee revenues, and whether there is an opportunity to use the alternative compliance fee revenues to defray the ongoing costs of implementing the Building Energy Performance Standards.**

#### **4. Compliance and Enforcement Position Quarterly Reports**

Budget bill language in the fiscal 2024 operating budget restricted funding pending the submission of quarterly reports from MDE and MDA on compliance and enforcement inspections and positions. The language then further restricted the funding for filling vacant compliance and enforcement positions. The reports were required to include an evaluation of the adequacy of Maryland’s current authorized compliance and enforcement positions; a comparison of the size, roles, responsibilities, and inspection workload of the departments’ compliance and enforcement positions to neighboring or similar states; a list of all inspection activities in certain programs; staffing and funding levels for fiscal 2024 and 2025; and a description of the use and outcomes from any next generation compliance techniques to increase compliance with Maryland’s environmental regulations.

The first quarterly report was submitted on July 1, 2023, with a resubmission on August 11, 2023, to provide information inadvertently omitted. Subsequently, an evaluation determined that the remaining three quarterly reports should be submitted together, and the budget committees wrote a letter to MDA and MDE on September 15, 2023, authorizing that a single final report covering the second, third, and fourth quarterly reports be submitted by April 1, 2024.

The report submitted in July 2023 notes that there is a link provided for the OpenMDE website, which provides information on inspection reports and enforcement documents. In addition, MDE provided separate documents on enforcement data and a summary of federal performance evaluations from January through June 2023. The enforcement data is through fiscal 2022 and has yet to be updated to reflect fiscal 2023 actuals. The federal performance evaluation summary notes that the following programs/activities received reviews:

- ***National Pollutant Discharge Elimination System Electronic Reporting Rule (eRule) Phase 2:*** As of April 2023, MDE had not submitted the updated plan for implementation but planned to do so by the 2025 deadline.
- ***Annual Review of the Public Water Supply Supervision Program:*** As of January 2023, it was determined that MDE should retain primacy over the Public Water Supply Supervision Program and continue to provide updates on Action Plan implementation. This resulted in MDE submitting semiannual reports to EPA about public water systems without certified operators.
- ***Triennial Review of Water Quality Standards:*** As of June 2023, EPA approved Maryland’s Triennial Review, although MDE staff found misinterpretations in proposed regulations for freshwater ammonia water quality criteria that still need to be reviewed by EPA.
- ***Midyear Program Performance Assessment, Resource Conservation and Recovery Act Subtitle C Hazardous Waste Activities, Solid Waste Program:*** As of May 2023, EPA found MDE’s achievements and efforts related to hazardous waste activities acceptable. Presently, MDE is taking steps to mitigate the departure of 2 inspectors, so it does not inhibit its ability to meet grant commitments by the end of the fiscal year.

**DLS recommends that committee narrative be adopted requesting the compliance and enforcement inspections and positions information by January 1, 2025. The report is requested to include an evaluation of the adequacy of Maryland’s current authorized compliance and enforcement positions; a comparison of the size, roles, responsibilities, and inspection workload of the departments’ compliance and enforcement positions to neighboring or similar states; a list of all inspection activities in certain programs; staffing and funding levels for fiscal 2024 and 2025; and a description of the use and outcomes from any next-generation compliance techniques to increase compliance with Maryland’s environmental regulations.**

## **5. Revised Fee, Fine, and Penalty Structures Report and Legislation**

Fiscal 2023 general fund deficiency appropriations of \$1.5 million were budgeted in each of the Water and Science Administration, the Land and Materials Administration, and the Air and Radiation Administration to counter declining special fund revenue. This was the fourth fiscal year

in which funding was provided for declining special fund revenue in at least one of the MDE’s administrations. According to the polluter pays principle, a core tenant of environmental law and environmental economics, social welfare is maximized when all costs – environmental, social, and actual – are reflected in prices. This is not occurring because of outdated fee, fine, and penalty structures for the special funds supporting the three administrations: the Maryland Clean Water Fund; the Lead Poisoning Prevention Fund; and the Maryland Clean Air Fund. Therefore, the General Assembly added budget bill language restricting funds pending the submission of a report on revised fee, fine, and penalty structures for the three special funds supporting these administrations with the goal of ensuring that the special funds can adequately support the administrations and thereby reduce the need for general fund support.

### **Revised Fee, Fine, and Penalty Structures Report**

The report was required to be submitted by September 29, 2023, and was required to include the following: (1) a description of who pays each fee, fine, and penalty; (2) a description of how the revenue for each fee, fine, and penalty is used; (3) whether each fee is recurring or one time; (4) the volume of payors and revenue for each year since each fee, fine, and penalty was last increased; (5) an explanation for any significant changes in the revenues received from each fee, fine, and penalty, including, but not limited to, changes in the number of payors or amount paid by each payor; (6) a comparison of Maryland to other peer states in terms of how the functions supported by each fee, fine, and penalty are handled; (7) the size of each of the special fund shortfalls now and a projection of each of the special fund shortfalls into the future; and (8) an analysis of how much of each of the special fund shortfalls would have been addressed by indexing each fee, fine, and penalty to inflation.

Of note, the budget committees wrote a letter to MDE on September 8, 2023, authorizing MDE to include in its revised fees, fines, and penalties report an additional focus on the agency’s long-term goals, particularly with respect to potential fee increases. The submitted report notes the following:

- ***Water and Science Administration/Maryland Clean Water Fund:*** stormwater fees in particular have declined, penalties and enforcement fees in general declined during the COVID-19 pandemic, the Water Supply Program is not supporting its safe drinking water activities with fees, there were one-time Conowingo Dam settlement funds in fiscal 2021, and legislation enacted since fiscal 2015 has increased workload without any adjustment in fees;
- ***Land and Materials Administration/Lead Poisoning Prevention Fund:*** fees are not sufficient to support the program and have not been changed since 1994 (lead-free certificate) and 2012 (registration fee), more strict blood lead reference values are increasing the need for investigations, and increasing numbers of lead-free properties are exempt from registration fees, which reduces revenues; and

- ***Air and Radiation Administration/Maryland Clean Air Fund:*** fee and penalty revenue has declined with the exception of Volkswagen settlement funding in fiscal 2018 and Fiat/Chrysler/Bosch settlement funding in fiscal 2019, large facilities are closing, Title V Operating Permit and State Operating Permit fees have not increased over the past decade, and the Maryland Clean Air Fund is statutorily capped at \$2 million in penalty funds, which could be reconsidered.

The report notes that MDE planned to do the following: (1) assess maximum penalties to the extent of the law for entities that purposely violate environmental laws; (2) revise fee structures based on the experience of other states and revenues needed to support programs with proposed regulatory changes to address fee deficiencies during the 2024 session; (3) determine whether fees should be levied on entities provided free environmental services; and (4) develop a long-term strategy for funding environmental services by responsible parties.

## **Legislation**

HB 245 is a departmental bill that would increase fees attributable to a number of funds. As shown in **Exhibit 9**, the fiscal note estimate for the total fee revenues in fiscal 2025 is \$11.3 million, which grows to \$12.4 million by fiscal 2029. Of the \$11.3 million in estimated fiscal 2025 fee revenue, \$10.7 million is associated with existing special fund programs; the remainder is associated with the Private Dam Repair Fund created by HB 245. Of note, MDE indicates that four special fund appropriations in the fiscal 2025 allowance affected by the bills – Maryland Clean Air Fund, Surface Mined Land Reclamation Fund, Brownfields Voluntary Clean-Up Fund, and Wetlands and Waterways Program Fund – are higher than the fiscal 2024 special fund appropriations, which would allow MDE to use some of the projected additional revenues in fiscal 2025 without the need for a budget amendment.



**Exhibit 9**  
**Projected Additional Special Fund Fee Revenues**  
**Fiscal 2025-2029**

<b><u>Special Fund</u></b>	<b><u>2025</u></b>	<b><u>2026</u></b>	<b><u>2027</u></b>	<b><u>2028</u></b>	<b><u>2029</u></b>
Maryland Clean Air Fund	\$2.3	\$2.3	\$2.4	\$2.4	\$2.5
Maryland Clean Water Fund	0.4	0.4	0.4	0.4	0.4
Oil Disaster Containment, Clean-Up and Contingency Fund	2.0	2.7	2.7	2.7	2.7
Wetlands And Waterways Program Fund	0.5	0.5	0.5	0.5	0.5
Lead Poisoning Prevention Fund	3.1	3.1	3.1	3.1	3.1
Brownfields Voluntary Clean-Up Fund	0.3	0.3	0.3	0.3	0.3
Coal Combustion By-Product Fund	1.0	1.0	1.1	1.1	1.1
Surface Mined Land Reclamation Fund	1.2	1.2	1.2	1.2	1.2
<b><i>Subtotal</i></b>	<b><i>\$10.7</i></b>	<b><i>\$11.5</i></b>	<b><i>\$11.6</i></b>	<b><i>\$11.7</i></b>	<b><i>\$11.7</i></b>
Private Dam Repair Fund	\$0.6	\$0.6	\$0.6	\$0.6	\$0.6
<b><i>Subtotal</i></b>	<b><i>\$0.6</i></b>	<b><i>\$0.6</i></b>	<b><i>\$0.6</i></b>	<b><i>\$0.6</i></b>	<b><i>\$0.6</i></b>
<b>Total</b>	<b>\$11.3</b>	<b>\$12.1</b>	<b>\$12.2</b>	<b>\$12.3</b>	<b>\$12.4</b>

Source: Maryland Department of the Environment; Department of Legislative Services

The fiscal 2025 allowance includes contingent general fund reductions for the four MDE units supported by the special fund fee increases. However, the contingent reductions do not appear to be calibrated to the amount of projected special fund fee revenue that would be received by each unit. As shown in **Exhibit 10**, when the projected fee revenue is allocated based on the percentage of the special fund allocation received by each MDE unit in the fiscal 2025 allowance, the contingent reductions are \$7.3 million less than the projected revenue allocation. This is particularly pronounced for the Land and Materials Administration, which would receive \$6.9 million after the contingent reduction. In contrast, the Coordinating Offices would have a shortfall of \$0.3 million after the contingent reduction. The only administration that appears to have a contingent reduction calibrated to its estimated revenue under HB 245 is the Air and Radiation Administration.

**Exhibit 10**  
**Allocation of Projected Fiscal 2025 Fee Revenues**  
**Based on Percentage of Special Fund Allocation Received by MDE Unit**  
**Fiscal 2025**  
**(\$ in Millions)**

<b><u>Special Fund</u></b>	<b><u>Water and Science Administration</u></b>	<b><u>Land and Materials Administration</u></b>	<b><u>Air and Radiation Administration</u></b>	<b><u>Coordinating Offices</u></b>	<b><u>Total</u></b>
Maryland Clean Air Fund	\$0.0	\$0.0	\$2.3	\$0.0	\$2.3
Maryland Clean Water Fund	0.3	0.1	0.0	0.0	0.4
Oil Disaster Containment, Clean-Up and Contingency Fund	0.1	1.6	0.0	0.3	2.0
Lead Poisoning Prevention Fund	0.0	3.1	0.0	0.0	3.1
Surface Mined Land Reclamation Fund	0.0	1.2	0.0	0.0	1.2
Brownfields Voluntary Clean-Up Fund	0.0	0.3	0.0	0.0	0.3
Wetlands and Waterways Program Fund	0.5	0.0	0.0	0.0	0.5
Coal Combustion By-Product Fund	0.0	1.0	0.0	0.0	1.0
<b>Total Projected Revenues</b>	<b>\$0.9</b>	<b>\$7.2</b>	<b>\$2.3</b>	<b>\$0.3</b>	<b>\$10.7</b>
<b>Contingent Reduction</b>	<b>\$0.3</b>	<b>\$0.3</b>	<b>\$2.3</b>	<b>\$0.6</b>	<b>\$3.5</b>
<b>Difference</b>	<b>\$0.6</b>	<b>\$6.9</b>	<b>\$0.0</b>	<b>-\$0.3</b>	<b>\$7.3</b>

MDE: Maryland Department of the Environment

Source: Department of Budget and Management; Department of Legislative Services

The wide range of net projected revenues after the contingent reductions raises the question of how the contingent reductions were derived. In the case of the Air and Radiation Administration, for example, it appears that the intent of the contingent reduction was a one-to-one swap of special funds for general funds. For the Land and Materials Administration, the intent appears to be to allow for expanded operations. The contingent reductions are only budgeted for fiscal 2025 at this point, which leaves open the question about future general fund support for MDE's units funded by the HB 245 fee increases. MDE notes that the contingent reduction in the Coordinating Offices, which appears to leave a funding shortfall, was intended to be in the Land and Materials Administration and will be fixed through a supplemental budget.

**DLS recommends that the \$100,000 in general funds restricted in MDE's fiscal 2024 budget be released. DLS also recommends that MDE comment on what balance was struck between covering existing general fund costs versus expanding program operations using additional special funds supported with the revenues provided by HB 245, why there is more revenue reflected in the fiscal note than the value of the contingent reductions, whether indexing for inflation was considered, and how increasing compliance by regulated entities or regulated entities going out of business will be addressed going forward given that both situations will reduce revenue despite MDE's ongoing operational funding needs.**

## **6. Report on Dam Safety Program Funding Needed for Oversight of Privately Owned Dams**

The committees were concerned that there is no dedicated special fund to support the Dam Safety Program and no fine or penalties are authorized to hold private dam owners accountable for a failing dam prior to a dam's failure. Therefore, the committees requested that MDE submit a report on the fees, fines, and penalties necessary for a new dedicated special fund supporting the Dam Safety Program to ensure oversight of privately owned dams for public safety. The report was requested to be submitted by September 29, 2023.

### **Report on Dam Safety Program**

The submitted report notes that Maryland has 557 active dams, of which 162 are currently listed as either in need of repair or unsafe. Of these 162 dams, 76 are privately owned with a cost to repair of \$54.6 million for the privately owned high hazard dams and \$90.4 million for the privately owned low hazard dams. Failure of any high hazard dams could result in human health, infrastructure, and environmental impacts. Dam owners are responsible for ensuring the safety of their dams, but few private dam owners can afford the necessary repair costs, let alone respond to an emergency. Therefore, a private dam repair fund is needed. Of the 50 states, 19 have an emergency dam repair fund, with budgets ranging from \$0.9 million to \$13.0 million.

The report includes the following recommendations: (1) establish a dam repair fund and loan program for private dam owners with funding sources from revenues generated from dam owner registration fees and dam safety permits with a set-aside for Dam Safety Program operations; (2) assist public dam owners in pursuing Federal Emergency Management Agency

High Hazard Potential Dam grant funding; and (3) increase operational capabilities in the short-term using IJA funding with a handoff to a dedicated special fund once it is created.

## **Legislation**

HB 245 alters and enhances the regulatory framework governing the construction, reconstruction, repair, removal, modification, and operation of dams by, among other things, (1) requiring dam owners to annually register with MDE; (2) establishing a new special fund and related fees; and (3) expanding MDE’s authority to take emergency action if a dam is in imminent danger of failing. The fiscal note also reflects that MDE needs to hire (1) 5 dam engineers on January 1, 2025 (fiscal 2025) and (2) 1 underwriter and 1 senior funding coordinator on July 1, 2027 (fiscal 2028), which is when MDE plans to begin issuing loans from the Private Dam Repair Fund. The fiscal 2025 budget as introduced includes a special fund appropriation to MDE of \$260,362, contingent on the enactment of legislation to establish a private dam repair fund; the budgeted amount reflects the 5 engineers needed by MDE. The Administration plans to bring in the 5 regular positions for the new Dam Program in a supplemental budget.

**DLS recommends that MDE comment on the plans for the Dam Safety Program; what strategies will be used to reduce the risk from public and private dams in Maryland; the plans for the loan program for private dam owners proposed in HB 245; the status of assisting public dam owners in pursuing federal grant funding; and how federal IJA funding is being used in the fiscal 2024 working appropriation and fiscal 2025 allowance to increase the operational capabilities of the Dam Safety Program in the short term.**

## **7. Maryland Used Tire Cleanup and Recycling Fund Annual Report Submitted**

The fiscal 2024 Budget Bill restricted \$200,000 in general fund appropriation for MDE pending the submission of the annual Maryland Scrap Tire report. Section 9-275(c) of the Environment Article specifies that an annual status report is due on or before November 1 of each year. This required annual report was not consistently submitted by MDE prior to the introduction of annual budget bill language. The fiscal 2023 annual report was submitted on December 11, 2023. The report notes that, in fiscal 2023 (1) the Scrap Tire Program continues to oversee the cleanup and recovery of 307,676 scrap tires identified in illegal stockpiles at the end of fiscal 2022; (2) there were three newly identified illegal scrap tire stockpiles; and (3) the successful cleanup of three illegal scrap tire stockpiles, consisting of approximately 1,518 scrap tires, was conducted by the responsible parties without using the Maryland Used Tire Cleanup and Recycling Fund. In addition to illegal scrap tire stockpile cleanups, MDE, in cooperation with MES and the Maryland Farm Bureau, conducted regional Agricultural Scrap Tire Drop-off Events in 16 counties collecting 2,195 tons of agricultural scrap tires, which is equivalent to approximately 219,500 passenger tires.

For fiscal 2024, MDE anticipates continuing or completing the cleanup on 39 illegal scrap tire stockpile sites, mostly funded by responsible parties. The largest pending or ongoing stockpile is the Foys Salvage/Greensboro site in Caroline County with approximately 400,000 scrap tires.

**DLS recommends that the \$200,000 in general funds restricted in MDE’s fiscal 2024 budget be released. In addition, DLS recommends that language be added to restrict funding pending the submission of the Maryland Scrap Tire annual report on November 1, 2024.**

## **8. Requested Information Not Reported**

The budget committees requested that MDE post on its website the following information and then submit a report summarizing the information or confirming that the information was posted as follows.

- ***Posting of Federal Funding Online and a Report:*** The budget committees requested that MDE post information monthly on its website about federal IIA and IRA discretionary grant funding by piece of federal legislation; federal assistance listing number; MDE program; MDE project; and both State and federal fiscal year as follows: (1) applied for but not awarded; (2) applied for and federal review is pending; (3) awarded but not yet budgeted; (4) budgeted but not yet completed; and (5) completed. In addition, the committees requested that MDE summarize the information from these monthly posts in a report to be submitted by December 31, 2023.
- ***Posting of Permit Violation Supporting Documents on the Open MDE Website:*** The budget committees requested that MDE begin posting permit violation supporting documents – enforcement documents, settlement agreements, and consent decrees – on the Open MDE website and submit a letter confirming that change has been implemented by December 1, 2023.

To date, the requested information does not appear to be reflected on MDE’s website, and the requested federal funding report and permit violation supporting documents confirmatory letter have not been submitted. **DLS recommends that MDE comment on why it has not complied with the budget committees’ requests.**

## Operating Budget Recommended Actions

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

Further provided that \$200,000 of this appropriation made for the purpose of general administrative expenses in the Land and Materials Administration may not be expended pending the submission of the Maryland Scrap Tire annual report. The requested report shall be submitted no later than November 1, 2024. The budget committees shall have 45 days from the date of the receipt of the report to review and comment. Funds restricted pending the receipt of the report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

**Explanation:** This action restricts funding pending the submission by November 1, 2024, of the Maryland Scrap Tire Annual Report. Section 9-275(c) of the Environment Article specifies that an annual status report is due on or before November 1 of each year, which was not consistently met before the inclusion of annual budget bill language.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Maryland Used Tire Cleanup and Recycling Fund annual report	Maryland Department of the Environment	November 1, 2024

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

Further provided that \$200,000 of this appropriation made for the purpose of general administrative expenses may not be expended until the Maryland Department of the Environment (MDE), in cooperation with the Department of Budget and Management, submits a confirmatory letter to the budget committees indicating that MDE’s fiscal 2024 actual personnel expenditures and the fiscal 2025 working appropriation personnel expenditures are budgeted in the correct statewide subobjects. The confirmatory letter shall be submitted with the fiscal 2026 budget submission, and the budget committees shall have 45 days from the date of the receipt of the confirmatory letter to review and comment. Funds restricted pending the receipt of a confirmatory letter may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the confirmatory letter is not submitted to the budget committees.

**Explanation:** MDE incorrectly reflects fringe benefit expenditures – health insurance, pension contributions, and turnover adjustments, among others – almost entirely as Social Security contributions, which makes it difficult to do historical data comparisons. Therefore, funding is restricted until MDE and the Department of Budget and Management (DBM) submit a confirmatory letter with the fiscal 2026 budget submission, indicating that

*U00A – Department of the Environment*

fiscal 2024 actual personnel expenditures and fiscal 2025 working appropriation personnel expenditures are budgeted in the correct statewide subobjects.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Budgeting of fiscal 2024 actual and fiscal 2025 working appropriation personnel expenditures	MDE DBM	Fiscal 2026 budget submission

3. Adopt the following narrative:

**Enforcement and Inspection Position Strength Assessment:** The committees are interested in the enforcement and inspection positions strength of the Maryland Department of the Environment (MDE) and the Maryland Department of Agriculture (MDA). Therefore, the committees request that MDE and MDA a report on the following:

- an evaluation of the adequacy of Maryland’s current authorized compliance and enforcement positions in the departments. In completing the assessment, the departments shall provide information on the delegation of authority by the federal government to the departments, including any evaluations of this delegated authority, and on the delegation of authority by the departments to other entities; and assess the impact of the role that technology has played on compliance and enforcement responsibilities;
- a comparison of the size, roles, responsibilities, and inspection workload of the departments’ compliance and enforcement positions to neighboring or similar states;
- a list of all inspection activities conducted by the MDE Water and Science Administration, the Land and Materials Administration, the Air and Radiation Administration, and the MDA Office of Resource Conservation;
- the number of regular positions and contractual full-time equivalents associated with the inspections, including the number of vacancies for fiscal 2013 through 2024 actuals, and fiscal 2025 current and fiscal 2026 estimated appropriations; and
- a description of the use of and outcomes from any next generation compliance techniques to increase compliance with Maryland’s environmental regulations.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Enforcement and inspection position strength assessment	MDA MDE	January 1, 2025

## ***Updates***

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### **1. Report on PFAS Monitoring in Publicly Owned Treatment Works**

The committees were interested in the PFAS levels associated with publicly owned treatment works. Therefore, the committees requested that MDE submit a report on the actions and associated timeline needed to expand testing efforts to include monitoring PFAS levels in effluent, influent, and biosolids at publicly owned treatment works. The committees requested that the report be submitted by September 29, 2023.

The report notes that PFAS chemicals can enter WWTPs and the environment through industrial discharge, domestic and commercial sources, and stormwater runoff and may not be effectively removed by WWTPs. In turn, PFAS contamination from WWTPs can result in environmental and public health risks such as environmental contamination, bioaccumulation, drinking water source contamination, and human exposure. MDE has conducted voluntary (calendar 2020 onward) and directed (calendar 2022 through 2023) surveys of 40 PFAS chemicals at 102 Publicly Owned Treatment Works and divided the resulting data into baseline tiers of twenty-fifth percentile, median, seventy-fifth percentile, and maximum values with a focus on facilities with PFAS chemicals exceeding the median tier level. Potential “hot spots” in waterways and communities will also be evaluated with data from ambient water quality and fish tissue surveys. The survey results will be posted on the Wastewater Pollution Prevention and Reclamation Program’s website by spring 2024. MDE has issued 13 National Pollutant Discharge Elimination System municipal discharge permits with PFAS monitoring and source tracking requirements with more to come.

The report concludes that the Publicly Owned Treatment Works PFAS survey – conducted between calendar 2022 and 2023 – enabled MDE’s National Pollutant Discharge Elimination System municipal permit division to identify facilities with elevated PFAS levels in their effluent/biosolids and impose additional permit requirements, including monitoring and source tracking, via 13 National Pollutant Discharge Elimination System municipal discharge permits with more to come. However, it appears that MDE is focused on two particular PFAS family chemicals – PFOA and PFOS – while there are much higher levels of 5-3FTCA-FPePA and 7-3FTCA-FHpPA, especially in biosolids. In addition, the report notes that the PFAS Action Plan required to be submitted in December 2023 would provide additional information about WWTPs. The PFAS Action Plan has been submitted and is available on the DLS Library website.



## **2. Intent Concerning Controlling Authority for Multi-use Residential Sewerage Systems and Permit Approval Report**

The committees expressed the intent that MDE clarify in regulation that a controlling authority is not required for multi-use residential sewerage systems in jurisdictions where the following condition holds: local regulations for the oversight of multi-use residential sewerage systems have been adopted that (1) do not define the role of a controlling authority or (2) do not assign any specific responsibilities to a controlling authority in the oversight of a multi-use facility. In addition, the committees requested that MDE submit a report on the average and maximum time for onsite sewage disposal system permit approval and the number and nature of any onsite sewage disposal system permit appeals to MDE. The committees requested that the report be submitted by September 29, 2023.

The report notes that many county governments are not willing to be the controlling authority for shared facility sewages systems due to the challenge of coordinating the operation and maintenance responsibility of multiple property owners. There are 11 counties that do not have or restrict shared facilities within the county, including Allegany, Baltimore, Calvert, Caroline, Cecil, Frederick, Harford, Montgomery, Queen Anne’s, Somerset, and Washington counties. The remaining counties have 10 or less shared facilities with the exception of Howard County, with 23 shared facilities and Dorchester County with 47 shared facilities. The report also notes that designating a controlling authority to a shared facility is important, especially when a homeowner’s association is the owner of the sewerage system, because such systems begin to age and may develop compliance issues if not properly maintained and may pose a risk to public health and the environment. Should a shared facility fail, then a proper controlling authority should take control of the sewerage system. MDE has experienced failures of proper controlling authority designation multiple times in Dorchester, Howard, and Kent counties. In terms of permit approval, the report notes that the average processing times, based on survey responses from the county approving authorities, was 22 days to receive a sewage disposal permit. This does not distinguish between new development versus repair or replacement permits, which will be addressed in the future.

The report concludes that multi-use shared facilities should not be exempted from the requirements of a controlling authority and that MDE is working on ways to improve processing times for sewage disposal permits, including the inclusion of a tracking and reporting schedule for delegation of authority agreements. To improve processing times, the report also notes that additional staff, training, and investment in the workforce should be considered.

## **3. Ambient Air Monitoring Report**

The committees were interested in what is needed to deploy an ambient air monitoring network across the State and how this would improve public health. Therefore, the committees requested that MDE submit a report on what is needed to deploy an ambient air monitoring network across the State. In addition, the report was requested to include information on how the data collected from a network would mitigate exposure to toxic pollutants, inform permit decision making processes, and help reduce the cumulative impacts of pollutants such as particulate matter

and fine particulate matter. The report was requested to be submitted to the committees by December 31, 2023.

The submitted report notes that MDE’s existing air quality surveillance system is a network of State and local air monitoring stations. There are 24 air monitoring sites around the State, and the overall value of the equipment is \$6 million. In terms of ozone, the report notes, over time, Maryland has shifted from a pattern of large areas of the State with frequent high pollution levels to smaller areas with infrequent high pollution levels. To address some of these smaller areas, MDE has partnered on three local air sensor networks in the overburdened communities of Cheverly, Curtis Bay, and Turner Station, where MDE is partnering with the University of Maryland on an EPA grant funding air monitoring. MDE is also partnering with the Keith Campbell Foundation for the Environment, the Delmarva Chicken Association, and the University of Maryland Eastern Shore on an ambient air monitoring study of poultry houses on the lower Eastern Shore. In terms of expanding low-cost sensor monitoring in Maryland, the report notes that MDE could be provided more funding and positions to partner with universities and communities running hyperlocal air monitoring networks and more opportunities could be created for counties and universities to take the lead on local monitoring projects.

#### **4. Text Alert System for Environmental Accidents**

The committees were concerned that affected parties are not notified of environmental accidents, such as the release of hazardous materials or illegal discharges from WWTPs, in a timely manner. Therefore, the committees requested that MDE and MDEM conduct a study to determine the feasibility and cost of implementing a text alert system for environmental accidents along the lines of the current weather and AMBER alert systems. The study was required to include information about the relevancy of the national Emergency Alert System to the proposed text alert system and an evaluation of the type of environmental events or accidents that would be most beneficial to include in such a system. The report was requested to be submitted by September 29, 2023.

The report notes that there are multiple pathways to alert the public: National Wireless Emergency Alerts, MdReady/MdListo, and local government systems. Each system has its advantages and disadvantages. For instance, National Wireless Emergency Alerts – AMBER alerts are a part of this system – are geographically targeted and do not have a cost to the State but the message text length is limited, foreign language implementation is limited, and phone users may opt out of receiving messages. MdReady/MdListo alerts are subscription-based and thus are not limited to people in the geographic area, which is both an advantage because the alerts reach family and friends and a disadvantage because of message fatigue and there is a cost to the system. The county systems are subscriber-based and thus have the same advantages and disadvantages of MdReady/MdListo.

The report concludes that MDEM and MDE have agreed to similar triggers for use of National Wireless Emergency Alerts, MdReady/MdListo, and local government systems, including boil water advisories and other environmental hazards requiring protective actions. However, a timeline for development of the triggers was not provided.

**Appendix 1**  
**2023 Joint Chairmen’s Report Responses from Agency**

The 2023 JCR requested that MDE prepare 15 reports. Electronic copies of the full JCR responses can be found on the DLS website.

- ***Summary of Chesapeake Bay Restoration Spending:*** The budget committees requested that DBM, DNR, and MDE provide a report on Chesapeake Bay restoration spending. Further discussion of this data can be found in the analysis for CHESBAY – Chesapeake Bay Overview.
- ***Historical and Projected Chesapeake Bay Restoration:*** The budget committees requested that the Maryland Department of Planning, DNR, MDA, MDE, and DBM submit a report on historical and projected Chesapeake Bay restoration spending and associated impacts and the overall framework needed to meet the calendar 2025 requirement of having all best management practices in place to meet water quality standards for restoring the Chesapeake Bay. Further discussion of this data can be found in the analysis for CHESBAY – Chesapeake Bay Overview.
- ***Federal Emerging Contaminants Funding Allocation and Award Report:*** The budget committees requested that MDE submit a report that details the process and criteria under which MDE is allocating the State’s share of federal funds received through the IJA specifically designated to address emerging contaminants. The report was requested to provide detailed applicant information including project scope, schedule, and comprehensive funding plan and to be submitted to the budget committees by December 31, 2023. Further discussion of this data can be found in the capital analysis of UA01 – MDE.
- ***PFAS Monitoring in Publicly Owned Treatment Works:*** The budget committees requested that MDE submit a report on the actions and associated timeline needed to expand testing efforts to include monitoring PFAS levels in effluent, influent, and biosolids at publicly owned treatment works. Further discussion of this data can be found in Update 1 of this analysis.
- ***Intent Concerning Controlling Authority for Multi-use Residential Sewerage Systems and Permit Approval Report:*** The budget committees expressed the intent that MDE clarify in regulation that a controlling authority is not required for multi-use residential sewerage systems in jurisdictions where the following condition holds: local regulations for the oversight of multi-use residential sewerage systems have been adopted that (1) do not define the role of a controlling authority or (2) do not assign any specific responsibilities to a controlling authority in the oversight of a multi-use facility. In addition, the committees requested that MDE submit a report on the average and maximum time for onsite sewage disposal system permit approval and the number and nature of any onsite

sewage disposal system permit appeals to MDE. Further discussion of this data can be found in Update 2 of this analysis.

- ***Report on Dam Safety Program Funding Needed for Oversight of Privately Owned Dams:*** The budget committees requested MDE submit a report on the fees, fines, and penalties necessary for a new dedicated special fund supporting the Dam Safety Program to ensure oversight of privately owned dams for public safety. Further discussion of this data can be found in Issue 6 of this analysis.
- ***Back River and Patapsco Wastewater Treatment Plant Monthly Status Reports:*** The budget committees requested that MDE, in consultation with MES, continue to submit monthly reports on the Back River and Patapsco WWTP. The monthly reports were requested to include a comprehensive evaluation and assessment of the status of the Back River and Patapsco WWTPs' operation, maintenance, staffing, and equipment – including a comprehensive list of needed improvements, ranked by their impact on compliance with discharge permit effluent limitations, and the status of compliance with all applicable State permits. The reports were requested to be submitted monthly beginning July 1, 2023, with postings on MDE's website by the close of business of the next Friday. Further discussion of this data can be found in the analysis for CHESBAY – Chesapeake Bay Overview.
- ***Maryland Used Tire Cleanup and Recycling Fund Annual Report:*** The fiscal 2024 Budget Bill restricted \$200,000 in general fund appropriation for MDE pending the submission of the annual Maryland Scrap Tire report. Section 9-275(c) of the Environment Article specifies that an annual status report is due on or before November 1 of each year. This required annual report was not consistently submitted by MDE prior to the introduction of annual budget bill language. Further discussion of this data can be found in Issue 7 of this analysis.
- ***Ambient Air Monitoring Report:*** The budget committees requested that MDE submit a report on what is needed to deploy an ambient air monitoring network across the State. In addition, the report was requested to include information on how the data collected from a network would mitigate exposure to toxic pollutants, inform permit decision-making processes, and help reduce the cumulative impacts of pollutants such as particulate matter and fine particulate matter. Further discussion of this data can be found in Update 3 of this analysis.
- ***Budgeting of Fiscal 2023 Actual and Fiscal 2024 Working Appropriation Personnel Expenditures:*** The fiscal 2024 Budget Bill restricted \$100,000 in general funds within MDE's Coordinating Offices until MDE and DBM submitted a confirmatory letter with the fiscal 2025 budget submission indicating that fiscal 2023 actual personnel expenditures and fiscal 2024 working appropriation personnel expenditures were budgeted in the correct statewide subobjects. Further discussion of this data can be found in the personnel funding subsection of the Proposed Budget Change section of this analysis.

*U00A – Department of the Environment*

- ***Revised Fee, Fine, and Penalty Structures Report:*** The fiscal 2024 Budget Bill restricted \$100,000 in general funds in MDE’s Coordinating Offices pending the submission of a report on revised fee, fine, and penalty structures for the Maryland Clean Water Fund, the Lead Poisoning Prevention Fund, and the Maryland Clean Air Fund – which support the Water and Science Administration, the Land and Materials Administration, and the Air and Radiation Administration, respectively – with the goal of ensuring that the special funds can adequately support the administrations and thereby reduce the need for general fund support. Further discussion of this data can be found in Issue 5 of this analysis.
- ***Text Alert System for Environmental Accidents:*** The budget committees requested that MDE and MDEM conduct a study to determine the feasibility and cost of implementing a text alert system for environmental accidents along the lines of the current weather and AMBER alert systems. The study was required to include information about the relevancy of the national Emergency Alert System to the proposed text alert system and an evaluation of the type of environmental events or accidents that would be most beneficial to include in such a system. Further discussion of this data can be found in Update 4 of this analysis.
- ***Posting of Federal Funding Online and a Report:*** The budget committees requested that MDE post information monthly on its website about federal IJA and IRA discretionary grant funding by piece of federal legislation, federal assistance listing number, MDE program, MDE project, and both State and federal fiscal year as follows: (1) applied for but not awarded; (2) applied for and federal review is pending; (3) awarded but not yet budgeted; (4) budgeted but not yet completed; and (5) completed. In addition, the committees requested that MDE summarize the information from these monthly posts in a report to be submitted by December 31, 2023. Further discussion of this requested data can be found in Issue 8 of this analysis.
- ***Posting of Permit Violation Supporting Documents on the Open MDE Website:*** The budget committees requested that MDE begin posting permit violation supporting documents – enforcement documents, settlement agreements, and consent decrees – on the Open MDE website and submit a letter confirming that change has been implemented by December 1, 2023. Further discussion of this requested data can be found in Issue 8 of this analysis.
- ***Enforcement and Inspection Position Strength Assessment and Vacant Position Filling:*** Budget bill language in the fiscal 2024 operating budget restricted funding pending the submission of quarterly reports from MDE and MDA on compliance and enforcement inspections and positions. The first report was submitted and then an evaluation determined that the remaining three quarterly reports should be submitted by April 1, 2024. Further discussion of this data can be found in Issue 4 of this analysis.

**Appendix 2**  
**MDE Portal Project**  
**Major Information Technology Development Project**  
**Maryland Department of the Environment**

<b>New/Ongoing:</b> New								
<b>Start Date:</b> July 1, 2024					<b>Est. Completion Date:</b> January 30, 2027			
<b>Implementation Strategy:</b> Agile								
<b>(\$ in Millions)</b>	<b>Prior Year</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>Remainder</b>	<b>Total</b>
<b>GF</b>	\$0.000	\$0.000	\$1.050	\$4.165	\$0.183	\$0.000	\$0.000	\$5.398
<b>Total</b>	<b>\$0.000</b>	<b>\$0.000</b>	<b>\$1.050</b>	<b>\$4.165</b>	<b>\$0.183</b>	<b>\$0.000</b>	<b>\$0.000</b>	<b>\$5.398</b>

- Project Summary:** This project develops an online permit application tool to support the permitting process across MDE’s programs using the OneStop platform, which will be integrated with the existing Environmental Tracking System and Lead Rental Certification and Accreditation architecture. During phase 1, the vendor will create one informational page (6 to 10 hours of labor per page) for each of MDE’s approximately 200 permits and applications. In phase 2, the vendor will create fillable forms for each of MDE’s 200 permits and applications (2 to 6 weeks per permit/application). Some of the forms may require compliance with the EPA’s Cross-Media Electronic Reporting Rule, which sets performance-based, technology-neutral standards for systems.
- Need:** MDE’s current process is paper-based and requires staff input. An online system will expedite the permitting process and allow applicants to track the real time progress status of applications. MDE also lists Chapter 243 of 2022 (State Government – Information Technology and Cybersecurity-Related Infrastructure (Modernize Maryland Act)) as one of the mandates for the project because the project will modernize MDE’s applications and IT systems thus ensuring potential cyber security vulnerabilities are addressed and remediated.
- Concerns:** Funding is listed as a high risk. Coordination between MDE and the vendor is listed as a medium risk. The integration with the existing Environmental Tracking System and Lead Rental Certification and Accreditation architecture is listed as a low risk, but this risk could be greater given the difficulties in making new technologies work with old technologies.

**Appendix 3**  
**MDE Wells and Septic Portal Project**  
**Major Information Technology Development Project**  
**Maryland Department of the Environment**

<b>New/Ongoing:</b> New								
<b>Start Date:</b> July 1, 2024					<b>Est. Completion Date:</b> September 30, 2027			
<b>Implementation Strategy:</b> Agile								
<b>(\$ in Millions)</b>	<b>Prior Year</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>Remainder</b>	<b>Total</b>
<b>GF</b>	\$0.000	\$0.000	\$0.904	\$1.704	\$0.693	\$0.133	\$0.000	\$3.435
<b>Total</b>	<b>\$0.000</b>	<b>\$0.000</b>	<b>\$0.904</b>	<b>\$1.704</b>	<b>\$0.693</b>	<b>\$0.133</b>	<b>\$0.000</b>	<b>\$3.435</b>

- **Project Summary:** This project develops an online portal/database for Maryland On-Site Sewage Disposal Systems and Well Installation Permits. The project will allow well and septic contactors to submit and pay for well and septic applications/permits and to track their applications in real time. The project also will allow MDE to query the database for permit application informational reports.
- **Need:** The current permitting process is paper based with no centralized oversight and lacks transparency. This project will improve public health and streamline permitting for counties and local health departments thus improving service for businesses and citizens seeking well and septic permit approvals.
- **Concerns:** Funding and dependencies on local health departments for collaboration on system requirements are listed as high risks.
- **Other Comments:** Chapters 586 and 587 of 2023 (Private Well Safety Act), subject to the availability of funding, and in consultation with DoIT, required MDE to use an online portal to receive water quality testing results, upload certificates of potability and other water quality testing results, and provide public access to that information.

**Appendix 4  
Object/Fund Difference Report  
Department of the Environment**

<u>Object/Fund</u>	<u>FY 23 Actual</u>	<u>FY 24 Working Appropriation</u>	<u>FY 25 Allowance</u>	<u>FY 24 - FY 25 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	890.00	959.00	970.00	11.00	1.1%
02 Contractual	63.60	87.50	80.50	-7.00	-8.0%
<b>Total Positions</b>	<b>953.60</b>	<b>1,046.50</b>	<b>1,050.50</b>	<b>4.00</b>	<b>0.4%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 99,930,183	\$ 110,802,948	\$ 115,137,108	\$ 4,334,160	3.9%
02 Technical and Special Fees	3,444,351	4,918,012	4,265,919	-652,093	-13.3%
03 Communication	769,574	490,666	487,750	-2,916	-0.6%
04 Travel	290,849	58,559	105,250	46,691	79.7%
06 Fuel and Utilities	353,273	344,660	373,066	28,406	8.2%
07 Motor Vehicles	1,289,059	1,387,911	885,984	-501,927	-36.2%
08 Contractual Services	16,194,831	24,678,335	27,891,449	3,213,114	13.0%
09 Supplies and Materials	892,869	890,985	1,168,746	277,761	31.2%
10 Equipment – Replacement	755,716	483,877	493,678	9,801	2.0%
11 Equipment – Additional	102,810	170,822	170,822	0	0%
12 Grants, Subsidies, and Contributions	57,412,799	39,098,240	39,927,118	828,878	2.1%
13 Fixed Charges	6,364,011	6,587,410	6,782,519	195,109	3.0%
14 Land and Structures	31,824,408	28,000,000	28,000,000	0	0%
<b>Total Objects</b>	<b>\$ 219,624,733</b>	<b>\$ 217,912,425</b>	<b>\$ 225,689,409</b>	<b>\$ 7,776,984</b>	<b>3.6%</b>
<b>Funds</b>					
01 General Fund	\$ 61,061,882	\$ 53,260,408	\$ 53,633,554	\$ 373,146	0.7%
03 Special Fund	122,817,933	117,929,088	124,790,009	6,860,921	5.8%
05 Federal Fund	31,063,987	42,542,646	42,918,698	376,052	0.9%
09 Reimbursable Fund	4,680,931	4,180,283	4,347,148	166,865	4.0%
<b>Total Funds</b>	<b>\$ 219,624,733</b>	<b>\$ 217,912,425</b>	<b>\$ 225,689,409</b>	<b>\$ 7,776,984</b>	<b>3.6%</b>

Note: The fiscal 2024 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2025 allowance does not include contingent reductions or cost-of-living adjustments.



**Appendix 5  
Fiscal Summary  
Department of the Environment**

<u>Program/Unit</u>	<u>FY 23 Actual</u>	<u>FY 24 Wrk Approp</u>	<u>FY 25 Allowance</u>	<u>Change</u>	<u>FY 24 - FY 25 % Change</u>
01 Office of the Secretary	\$ 2,905,598	\$ 3,086,046	\$ 2,736,796	-\$ 349,250	-11.3%
02 Operational Services Administration	10,982,264	11,605,420	11,842,360	236,940	2.0%
04 Water and Science Administration	49,250,831	54,098,534	57,491,225	3,392,691	6.3%
06 Land and Materials Administration	40,688,151	43,806,921	45,484,836	1,677,915	3.8%
07 Air and Radiation Administration	21,864,458	25,152,935	26,175,740	1,022,805	4.1%
10 Coordinating Offices	93,933,431	80,162,569	81,958,452	1,795,883	2.2%
<b>Total Expenditures</b>	<b>\$ 219,624,733</b>	<b>\$ 217,912,425</b>	<b>\$ 225,689,409</b>	<b>\$ 7,776,984</b>	<b>3.6%</b>
General Fund	\$ 61,061,882	\$ 53,260,408	\$ 53,633,554	\$ 373,146	0.7%
Special Fund	122,817,933	117,929,088	124,790,009	6,860,921	5.8%
Federal Fund	31,063,987	42,542,646	42,918,698	376,052	0.9%
<b>Total Appropriations</b>	<b>\$ 214,943,802</b>	<b>\$ 213,732,142</b>	<b>\$ 221,342,261</b>	<b>\$ 7,610,119</b>	<b>3.6%</b>
Reimbursable Fund	\$ 4,680,931	\$ 4,180,283	\$ 4,347,148	\$ 166,865	4.0%
<b>Total Funds</b>	<b>\$ 219,624,733</b>	<b>\$ 217,912,425</b>	<b>\$ 225,689,409</b>	<b>\$ 7,776,984</b>	<b>3.6%</b>

Note: The fiscal 2024 appropriation does not include deficiencies, targeted reversions, or across-the-board reductions. The fiscal 2025 allowance does not include contingent reductions or cost-of-living adjustments.