

MARYLAND DEPARTMENT OF THE ENVIRONMENT

**MARYLAND CLEAN AIR FUND
ANNUAL REPORT**

FISCAL YEAR 2010

October 1, 2010

**Prepared for the
Maryland General Assembly**

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
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TABLE OF CONTENTS

	<u>Page</u>
Requirement	1
Summary of Revenues and Expenditures	2
Maryland's Air Quality Operating Permit Program	4
Figure 1: Air and Radiation Management Administration Air Quality Expenditures, Fiscal Year 2010	5
Figure 2: Clean Air Fund Expenditures as a Subset of Total ARMA Air Quality Expenditures	6
Figure 3: Total Clean Air Fund Expenditures, Fiscal Year 2010	7
Table 1: Summary Statement of Revenues, Expenditures, and Changes in Fund Balance, Fiscal Year 2010	8
Table 2: Detail Statement of Revenues, Expenditures and Changes in Fund Balance, Fiscal Year 2010	9
Table 3: Summary of Revenue and Expenditure Trends	10

REQUIREMENT

This report fulfills the requirements of:

- Section 2-107(c)(3) of the Environment Article of the Maryland Code, which states:

At the end of the fiscal year, the Department shall prepare an annual report on the Maryland Clean Air Fund that includes an accounting of all financial receipts and expenditures to and from the Fund and shall:

- (i) Provide a copy of the report to the General Assembly, as provided under Section 2-1312 of the State Government Article; and
 - (ii) Upon request, make the report available to permit holders under this Title.
- Uncodified language in Section 3 of House Bill 1133 of the 1993 Session of the Maryland General Assembly, which requires an annual report on Clean Air Act program and fee implementation. This report is to:
 - (i) Detail the revenues raised by permit fees, and the expenditures of those funds, and
 - (ii) Provide information regarding the federal approval process, the effectiveness of the permitting program, and any other issue of importance to the operation of this permitting program.

SUMMARY OF REVENUES AND EXPENDITURES

The Maryland Clean Air Fund is a special revenue fund that was created by action of the 1988 General Assembly. The Fund began receiving receipts from fees and penalties on July 1, 1988. The Fund's revenues are to be used for activities under Title 2, Environment Article related to identifying, monitoring, and regulating air pollution in Maryland, including program development of these activities.

In 1993 the Maryland General Assembly adopted new fee requirements for emissions from certain, large air pollution sources in order to comply with the federal Clean Air Act. These new requirements included a revision to the permit fee schedule and a provision allowing for an automatic escalation in the emission fee schedule each year. The new requirements became effective on September 13, 1993. Emission-based fees constitute the largest source of revenues to the Clean Air Fund.

Since inception, the emission fee revenues increased for about a decade then started to decline slightly relative to normal levels through fiscal year 2008 due to emission decreases that occurred at sources as a result of the continuing addition of pollution control equipment or as a result of a full or partial shutdown in operations at large industries and other sources. The decline was projected to continue, as the passage of the Maryland Healthy Air Act was to bring about significant reductions in power plant emissions starting in 2009. The 2008 session addressed this matter by passing legislation that modified the emissions fee schedule and its structure. The first modification increased the emissions-based fee, which is the fee that provides the bulk of the revenue for the Fund. The legislation raised the per-ton fee beginning October 1, 2008 to \$50.00 per ton. The second modification raised a facility-wide fee cap to \$500,000 for 2008 and 2009 and eliminated the facility-wide cap altogether starting in 2010. The changes in the fee levels and structure increased the emission-based fee revenues by about one-half million dollars in fiscal year 2009 and nearly two million dollars in fiscal year 2010.

When the Maryland Healthy Air Act reaches full implementation in 2013, power plant emissions will drop from their current levels, which are significantly lower than historical emissions already, due to the 2009 controls that were installed. Also, emission controls slated for installation at other large (non-power plant) emissions sources across the state due to forthcoming state and federal regulations will bring about further emission reductions. Collectively, these emission reductions will cause a decline in revenues in 2013 and beyond. In order to maintain a revenue stream that can support program costs, a modification to the fee schedule may need to be made in 2013.

A third legislative modification to the Clean Air Fund in 2008 raised the amount of the Fund that can be carried over at the end of each fiscal year. The Fund cap was raised from \$750,000 to \$2,000,000. A final legislative change to the Fund provided that revenues generated from the sale of carbon dioxide allowances be deposited in a new Strategic Energy Investment Fund

managed by the Maryland Energy Administration and that a portion of those revenues be transferred to the Clean Air Fund to support climate change-related programs undertaken by the Department of the Environment.

In FY 2010, the Maryland Clean Air Fund provided 42% of the funding for the State's air pollution control program. Over the past several years, the Fund supports less of the overall operation.

Figure 1 shows that overall funding for the air program also came from the State general fund, grants from the U.S. Environmental Protection Agency and other sources, which included reimbursable funds from the Maryland Departments of Transportation and Natural Resources and special funds from the Oil Disaster Containment, Clean-Up and Contingency Fund along with departmental indirect funds.

Maryland Clean Air Fund direct expenditures in FY 2010 were approximately \$8.0 million (see Table 1). Most Clean Air Fund expenditures were in the Air and Radiation Management Administration (ARMA). A small portion of the Clean Air Fund expenditures was related to fund-related activities conducted by non-ARMA staff located within the Department's Coordinating Offices and the Attorney General's Office (see Figure 3).

Approximately 65% of Clean Air Fund direct expenditures in ARMA were for personnel costs. The remaining 35% of the Clean Air Fund direct expenditures in ARMA were for operating expenditures that included services, supplies, equipment, etc. (see Table 2).

Clean Air Fund revenues are derived primarily from fees for permits and licenses issued by ARMA and from penalties for violations of air quality and asbestos laws and regulations. Table 2 shows revenues for FY 2010 from these sources. Total Clean Air Fund revenues in FY 2010 was about \$9.3 million.

Table 3 summarizes trends in Clean Air Fund revenues and expenditures over the most recent five-year period.

MARYLAND'S AIR QUALITY OPERATING PERMIT PROGRAM

Maryland has had an air quality operating permit program since 1971. Significant sources of air pollution are required to obtain a state operating permit. Since November 1989, emission-based fees have been collected from sources with operating permits, and these fees have been deposited into the Maryland Clean Air Fund. During FY 2010, annual emission-based fees were collected for 484 air quality permits to operate. Effective January 1, 2000, four major power plants, previously excluded from being classified as Title V sources under the Clean Air Act, were considered to be Title V sources, and fee payments received from these sources after this date are, therefore, viewed as Title V revenues. Table 2 shows that operating permit fees generated 65% of Clean Air Fund receipts in FY 2010.

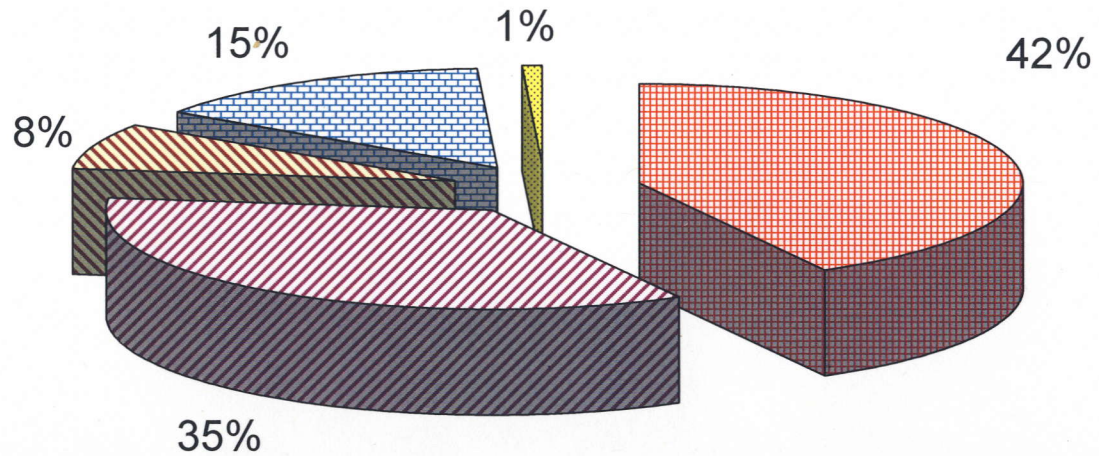
Title V of the Clean Air Act, as amended in 1990, required states to establish federally-enforceable operating permit programs approved by the U.S. Environmental Protection Agency (EPA). The Department developed such a program to conform to the federal requirement and received final approval from the federal Environmental Protection Agency in January 2003.

<u>REVENUES</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
Fees	4,578,919	4,665,910	4,850,299	5,176,721	6,804,486
Penalties	390,392	317,655	1,076,313	533,050	768,250
RGGI Allowance				1,000,000	2,192,245
Indirect Costs	(756,686)	(628,174)	(565,603)	(670,991)	(1,020,594)
Total Revenues	4,212,625	4,355,391	5,361,009	6,038,780	8,444,387

FIGURE 1

ARMA AIR QUALITY EXPENDITURES FISCAL YEAR 2010

Total Expenditures: \$18,887,039



MD Clean Air Fund	\$7,932,650 (42%)	Federal Funds	\$6,579,094 (35%)
General Funds	\$1,438,109 (8%)	Reimbursable Funds	\$2,771,717 (15%)
Other Special Funds	\$165,469 (1%)		

FIGURE 2

CLEAN AIR FUND EXPENDITURES AS A SUBSET OF TOTAL ARMA AIR QUALITY EXPENDITURES FISCAL YEAR 2010

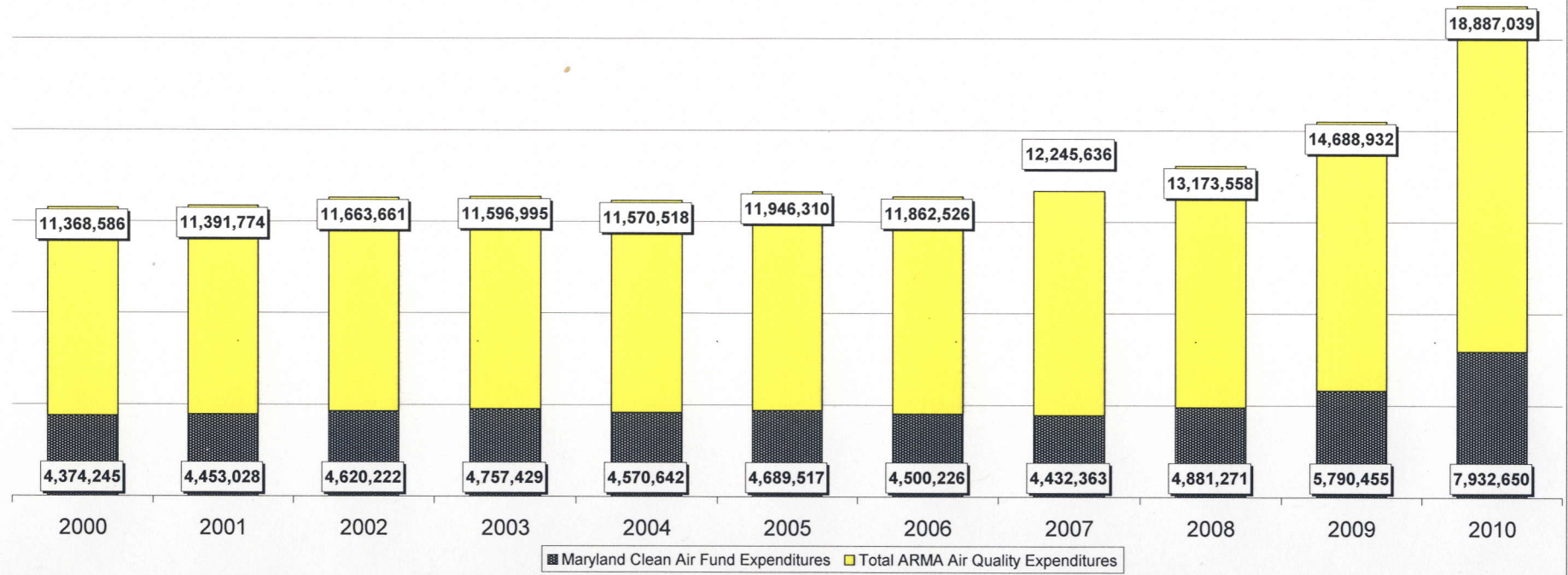
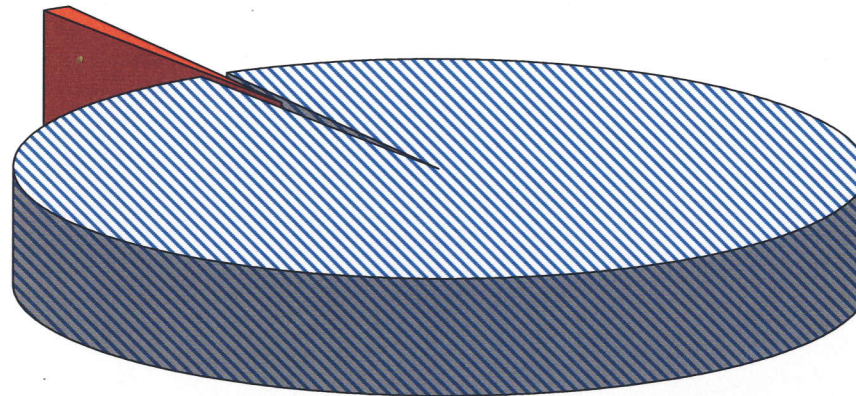


FIGURE 3

CLEAN AIR FUND EXPENDITURES FY 2010

Total Expenditures: \$8,019,770

1.086%



98.914%

ARMA \$7,932,650 Non-ARMA \$87,120

TABLE 1

MARYLAND DEPARTMENT OF THE ENVIRONMENT
 MARYLAND CLEAN AIR FUND
 STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE
 FOR THE FISCAL YEAR ENDED JUNE 30, 2010

REVENUES

Fund Balances June 30, 2009	\$	899,275	
			<u>\$ 899,275</u>
RGGI Allowance		2,192,245	
Fees		6,804,486	
Penalties		768,250	
			<u>\$ 9,764,981</u>
Total FY 2010 Revenues			\$ 10,664,256
GAD reversion of \$300,000		300,000	
Indirect costs		1,020,594	
Total Revenues (reduced by indirect costs)			<u><u>\$ 9,343,662</u></u>

EXPENDITURES

Direct Expenditures ARMA		7,932,650	
Direct Expenditures MDE Non-ARMA		87,120	
Total Expenditures 2010			<u><u>\$ 8,019,770</u></u>
Encumbrance Cancellations		32,894	
Fund Balance June 30, 2010 (excess of revenues over expenditures)	\$		1,356,786

TABLE 2

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
MARYLAND CLEAN AIR FUND REPORT
DETAIL STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE
FOR THE FISCAL YEAR ENDED JUNE 30, 2010**

		Percent of Revenues/Direct Expenditures
REVENUES		
Fund Balance as of June 30, 2009	\$ 899,275	
	<u>\$ 899,275</u>	
RGGI Allowance	2,192,245	22.45%
Construction Permits issued	356,700	3.65%
State Operating Permits - annual fees	745,804	7.64%
Title V Operating Permits - annual fees	5,568,157	57.02%
Asbestos Licenses issued	74,900	0.77%
Asbestos Training Applications reviewed	18,525	0.19%
Air Penalties	748,750	7.67%
Asbestos Penalties	19,500	0.20%
Certification of Public Convenience & Necessity	40,400	0.41%
Total FY 2010 Revenues	<u>\$ 9,764,981</u>	
		100%
GAD Reversion	(300,000)	
Revenues after Fund Balance Reduction	<u>\$ 9,464,981</u>	
Total Revenues	<u>\$ 10,364,256</u>	
Indirect costs	1,020,594	
Total Revenues (reduced by indirect costs)	<u><u>\$ 9,343,662</u></u>	
EXPENDITURES		
Direct Expenditures ARMA		
Salaries and Fringe	5133424	65%
Operating Costs	2799226	35%
Total Direct Expenditures ARMA	<u>\$ 7,932,650</u>	
Direct Expenditures MDE Non-ARMA	87,120	
Total Expenditures	<u><u>\$ 8,019,770</u></u>	
Prior Year Encumbrance Cancellations	32,894	
Fund Balance As Of 6/30/10	\$ 1,356,786	

TABLE 3

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
AIR AND RADIATION MANAGEMENT ADMINISTRATION
MARYLAND CLEAN AIR FUND
SUMMARY OF REVENUE AND EXPENDITURE TRENDS
MOST RECENT FIVE YEAR PERIOD**

<u>REVENUES</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
Fees	4,578,919	4,665,910	4,850,299	5,176,921	6,804,486
Penalties	390,392	317,655	1,076,313	533,050	768,250
RGGI Allowance				1,000,000	2,192,245
Indirect Costs	(756,686)	(628,174)	(565,603)	(670,991)	(1,020,594)
Total Revenues	4,212,625	4,355,391	5,361,009	6,038,980	8,744,387
 <u>EXPENDITURES</u>					
Direct ARMA	4,500,226	4,387,477	4,881,271	5,790,455	7,932,650
Direct MDE Non-ARMA	26,979	36,379	28,480	20,061	87,120
Total Expenditures	4,527,205	4,423,856	4,909,751	5,810,516	8,019,770