

**MARYLAND CLEAN AIR FUND
ANNUAL REPORT**

**FISCAL YEARS
2015 – 2019**

PREPARED FOR THE MARYLAND GENERAL ASSEMBLY

**MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 WASHINGTON BLVD
BALTIMORE, MD 21201**

FISCAL YEAR 2015-2019 CLEAN AIR FUND REPORT

REQUIREMENT

This report fulfills the requirements of:

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

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 2-1246 of the State Government Article; and
 - (ii) Upon request, make the report available to permit holders under this Title.
- Uncodified language in Section 3, ch. 358, Acts 1993, requires an annual report on the Clean Air Act program and fee implementation. This report is to detail the revenues raised by permit fees, the expenditures of those funds, and any relevant 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.

MARYLAND'S AIR QUALITY OPERATING PERMIT PROGRAM

Maryland has had an air quality operating permit program since 1971. Operating permits establish monitoring, recordkeeping, and reporting requirements unique to a given facility to ensure that it operates in a compliant manner. Significant sources of air pollution or those that have the potential to cause harm based on the nature of their emissions, such as cement, power and asphalt plants, and paper mills, are required to obtain an 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.

Title V of the federal 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 Maryland Department of the Environment (MDE) developed such a program to conform to the federal requirement and received final approval from the EPA in January 2003. The number of sources in Maryland that are subject to the Title V program has varied since program inception, but have averaged around 120 the past several years. These sources are required to hold a Title V operating permit, and are a subset of the 469 sources in Maryland that hold either a federal Title V federal operating permit or a non-Title V Maryland operating permit.

During FY19, annual emission-based fees were collected from 469 air quality operating permit sources. Operating permit fees generated 34% of Clean Air Fund receipts in FY19.

REVENUE AND EXPENDITURE TRENDS

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

In 1993, the General Assembly adopted fee requirements for emissions from specific, large air pollution sources to comply with the federal Clean Air Act. These new requirements included a revision to the then-existing permit fee schedule and a provision allowing for an automatic adjustment in the emission fee schedule each year. The new requirements became effective on Sept. 13, 1993. Except for FY18, emission-based fees constituted the largest source of revenues to the Clean Air Fund.

Table 1 through Table 5 show that operating permit fees (Title V and non-Title V) generated \$2,924,192 of Clean Air Fund receipts in FY19, which is nearly \$845,000 less than in FY17, and over \$3 million less from as recent as FY15. This significant decline over recent years is the direct result of the reduction in fee revenues associated with lower emissions from Maryland's coal-fired power plants and shutdowns of several large emission sources, especially the Luke Paper Mill. This paper mill was the highest emitter in the state and provided revenues in the neighborhood of \$1.6 million for several years. Still, this amount was reduced to approximately \$700,000 in the past few years due to the plant partially switching from coal to natural gas and then was reduced to half of that in FY19, as the plant shut down operations in May of 2019. FY20 and beyond will see no emission-based fee revenues from the Luke Paper Mill plant unless a new owner or further uses for the facility are found.

Emissions from coal-fired and oil-fired power plants have decreased in recent years due to several factors, such as tighter pollution control requirements, including more stringent NO_x emission limits, imposed on plants and plants not being called into service as often by the operators of the PJM electric grid. Coal-fired plants are no longer the standard-bearer for providing electricity. In today's energy market, newly built peak demand plants fired with natural gas that can be brought online quickly and affordably are being called into service more often and ahead of coal-fired plants. Since these new gas-powered plants have significantly lower emissions than a coal-fired plant of comparable size, it is expected that these lower emissions will continue well into the future. The use of these lower-emitting plants and the expected shutdowns of some less profitable and less efficient coal-fired power units in Maryland will continue to fuel the trend of reduced emissions from the power plant sector and the number of facilities that pay emission-based fees.

Regarding legislative changes governing the Clean Air Fund, the state now allows revenues from the sale of carbon dioxide allowances under the Regional Greenhouse Gas Initiative to be deposited in a new Strategic Energy Investment Fund (SEIF) managed by the Maryland Energy Administration. A portion of those revenues is transferred to the Clean Air Fund to support climate change-related programs undertaken by MDE. SEIF revenues provided to MDE for FY15 through FY19 are found in **Table 1 through Table 5**.

A new state law became effective on Oct. 1, 2013 prohibiting asbestos training providers from administering asbestos accreditation tests to asbestos remediation workers, requiring instead that a third party or the Department conduct the tests. The Department has been delivering the tests to date, with cash receipts collected deposited into the Clean Air Fund. There are efforts underway to contract out the testing. Phase one of this effort was completed in December 2019, with the second phase to follow shortly. The final phase, involving the largest number of test-takers, is expected to take place in mid to late FY21. At that point, approximately \$180,000 in annual revenues received from this effort will be lost moving forward.

FY18 and FY19 were atypical years for the Maryland Clean Air Fund, as MDE received an infusion of significant penalty dollars secured through lawsuits against major car manufacturers. Twenty nine million dollars was secured in FY18, of which \$7 million was retained by MDE, through a settlement with Volkswagen over the use of emission control defeat devices. Two million and six hundred thousand dollars was secured in FY19 through settlements with Fiat/Chrysler for similar violations and with Bosch for actions related to the programming of software that led to increased vehicle emissions. These penalty dollars helped offset the significant reduction in fee payments described earlier. For FY20 and beyond, there are no similar enforcement actions contemplated against other car manufacturers.

MDE's overall clean air programs are funded through a mixture of funding sources: the Clean Air Fund, federal grants, reimbursable funds from the Department of Transportation and the Department of Natural Resources, and a small amount of special funds and general funds. Through FY19, there has not been a significant reduction in revenue to MDE from the non-Clean Air Fund sources.

The substantial majority of Clean Air Fund's direct expenditures support personnel costs. The balance of the Clean Air Fund's direct expenses supports operating expenditures that include services, supplies, and equipment.

TABLE 1

CLEAN AIR FUND REVENUES / EXPENDITURES FISCAL YEAR 2015		
	FY 15	% of CAF Revenue
Clean Air Fund Balance as of July 1	\$2,290,815	
Title V Operating Permits	5,141,722	
Non-Title V Revenue		
Asbestos Training Fees	205,220	
Construction Permits	376,950	
State Operating Permits	816,616	
Asbestos Licenses	80,435	
Total Fees	\$6,620,943	
Penalties	\$258,834	
<u>TOTAL FEES AND PENALTIES</u>	\$6,879,777	67%
<u>STRATEGIC ENERGY INVESTMENT FUND</u>	\$3,361,438	33%
Total Revenue (incl. carryover)	\$12,532,030	
Less: Expenditures	\$9,221,770	
CLEAN AIR FUND BALANCE AS OF JUNE 30*	<u>\$3,310,260</u>	

* June 30 Balance is a cash balance and does not include encumbrances

TABLE 2

CLEAN AIR FUND REVENUES / EXPENDITURES FISCAL YEAR 2016		
	FY 16	% of CAF Revenue
Clean Air Fund Balance as of July 1	\$3,310,260	
Title V Operating Permits	3,519,810	
Non-Title V Revenue		
Asbestos Training Fees	208,730	
Construction Permits	388,950	
State Operating Permits	671,170	
Asbestos Licenses	70,950	
Total Fees	\$4,859,610	
Penalties	\$114,035	
TOTAL FEES AND PENALTIES	\$4,973,645	61%
STRATEGIC ENERGY INVESTMENT FUND	\$3,242,477	39%
Total Revenue (incl. carryover)	\$11,526,382	
Less: Expenditures	\$9,305,936	
CLEAN AIR FUND BALANCE AS OF JUNE 30*	\$2,220,446	
* June 30 Balance is a cash balance and does not include encumbrances		

TABLE 3

CLEAN AIR FUND REVENUES / EXPENDITURES FISCAL YEAR 2017		
	FY 17	% of CAF Revenue
Clean Air Fund Balance as of July 1	\$2,220,446	
Title V Operating Permits	3,409,738	
Non-Title V Revenue		
Asbestos Training Fees	194,525	
Construction Permits	382,350	
State Operating Permits	358,406	
Asbestos Licenses	65,125	
Total Fees	\$4,410,144	
Penalties	\$136,800	
TOTAL FEES AND PENALTIES	\$4,546,944	64%
STRATEGIC ENERGY INVESTMENT FUND	\$2,564,269	36%
Total Revenue (incl. carryover)	\$9,331,659	
Less: Expenditures	\$9,177,417	
CLEAN AIR FUND BALANCE AS OF JUNE 30*	\$154,242	

* June 30 Balance is a cash balance and does not include encumbrances

TABLE 4

CLEAN AIR FUND REVENUES / EXPENDITURES FISCAL YEAR 2018		
	FY 18	% of CAF Revenue
Clean Air Fund Balance as of July 1	\$154,242	
Title V Operating Permits	2,335,401	
Non-Title V Revenue		
Asbestos Training Fees	200,710	
Construction Permits	395,800	
State Operating Permits	376,165	
Asbestos Licenses	59,500	
Total Fees	\$3,367,576	
Penalties	\$7,220,042	
<u>TOTAL FEES AND PENALTIES</u>	\$10,587,618	74%
<u>STRATEGIC ENERGY INVESTMENT FUND</u>	\$3,751,128	26%
Total Revenue (incl. carryover)	\$14,492,988	
Less: Expenditures	\$10,421,057	
CLEAN AIR FUND BALANCE AS OF JUNE 30*	\$4,071,931	

* June 30 Balance is a cash balance and does not include encumbrances

TABLE 5

CLEAN AIR FUND REVENUES / EXPENDITURES FISCAL YEAR 2019		
	FY 19	% of CAF Revenue
Clean Air Fund Balance as of July 1	\$4,071,931	
Title V Operating Permits	2,551,584	
Non-Title V Revenue		
Asbestos Training Fees	224,225	
Construction Permits	306,550	
State Operating Permits	372,608	
Asbestos Licenses	65,775	
Total Fees	\$3,520,742	
Penalties	\$2,659,645	
<u>TOTAL FEES AND PENALTIES</u>	\$6,180,387	71%
<u>STRATEGIC ENERGY INVESTMENT FUND</u>	\$2,501,717	29%
Total Revenue (incl. carryover)	\$12,754,035	
Less: Expenditures	\$10,333,325	
CLEAN AIR FUND BALANCE AS OF JUNE 30*	<u>\$2,420,710</u>	

* June 30 Balance is a cash balance and does not include encumbrances