MARYLAND CLEAN AIR FUND
ANNUAL REPORT
FY22

Prepared for:

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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 (CAA) 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

In 1971, Maryland established an air quality operating permit program that developed requirements for monitoring, recordkeeping, and reporting unique to a given facility to ensure that it operates in a compliant manner. Facilities with significant sources of air pollution or those that have the potential to cause harm, based on the nature of their emissions, are required to obtain an operating permit. Since November 1989, the Maryland Department of the Environment (MDE or Department) has collected emissions-based fees from sources with operating permits, and these fees have been deposited into the Maryland Clean Air Fund (CAF or Fund) since that time.

Title V of the federal CAA, as amended in 1990, required states to establish federally-enforceable operating permit programs approved by the U.S. Environmental Protection Agency (EPA). 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 inception, but have averaged around 120 over the past several years. These sources are required to hold a Title V operating permit and are a subset of the 491 sources in Maryland that hold either a federal Title V federal operating permit or a non-Title V Maryland operating permit.

During FY22, annual emissions-based fees were collected from 491 air quality operating permit sources, generating 35.4% of CAF receipts for FY22.

REVENUE AND EXPENDITURE TRENDS

The 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, Maryland adopted fee requirements for emissions from specific, large air pollution sources to comply with the federal CAA. 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 September 13, 1993. In 2019, the Maryland General Assembly-allowed revenues from the sale of carbon dioxide allowances under the Regional Greenhouse Gas Initiative to be deposited into a Strategic Energy Investment Fund (SEIF). A portion of those revenues is transferred to the Fund to support climate change-related programs undertaken by MDE. SEIF revenues provided to MDE for FY22 are in **Table 1**.

Up until FY18, emissions-based fees constituted the largest source of revenues to the Fund. FY18 CAF revenues were dominated by $7 million in penalty revenues from a civil case against Volkswagen and FY19 was dominated by $2.6 million in penalties from a civil case against Fiat/Chrysler. Since FY20, the largest revenue stream has been from the SEIF, which is managed by the Maryland Energy Administration.

Table 1 shows that operating permit fees (Title V and State Operating Permits) generated $2,309,096 of CAF receipts in FY22, a difference of nearly $350,00 more when compared to FY21, but remains approximately $6 million less from as recent as FY15. This significant decline is the direct result of the reduction associated with lower emissions from Maryland's coal-fired power plants. The shutdown of the Luke paper mill, the largest fee-paying facility, was also a significant contributing factor. The slight increase in emissions-based fees in FY22 is due to an ~3% increase to the inflation adjustment factor and billing difficulties.

Emissions from coal-fired and oil-fired power plants have decreased in recent years due to several factors, such as market conditions and forces, stronger pollution control requirements, including more stringent nitrogen oxides emission limits imposed on plants, and plants not being called into service as often by the operators of the electric grid. Coal-fired plants are no longer the Maryland standard-bearer for providing electricity. In today’s energy market, recently built peak demand plants fueled by cleaner natural gas, which can be brought online quickly and affordably, are being called into service more often and ahead of coal-fired plants. Since these gas-powered plants have significantly lower emissions than a coal-fired plant of comparable size, it is expected that these lower overall emissions will continue to decrease well into the future. The increased use of these lower-emitting plants due to market forces has resulted in several coal-fired power plant units shuttering operations. The Wagner Unit #2 shut down in June 2020, followed by all three coal units at Dickerson a month later and all coal-fired units at Chalk Point in June 2021, further affecting Title V revenues. A shutdown of the Morgantown coal-fired power plant took place in June 2022.

A state law became effective on October 1, 2013, prohibiting asbestos training providers from administering asbestos accreditation tests to asbestos remediation workers, requiring instead that a third party or MDE conduct the tests. MDE administered those tests for several years to ~3,000 asbestos workers following the enactment of the law and charged a fee for each test administered. Overall, fee revenues from this exercise generated a high of $196,000 (in FY19). Testing has recently been fully transferred to Anne Arundel County Community College (AACC), as MDE does not have the capacity to continue testing, especially during the COVID-19 pandemic (AACC offers virtual testing). Testing revenues started to drop in FY20 to $142,000 due to the transition and further dropped to $52,035 in FY22. Testing revenues will eventually drop to zero after FY23.

MDE's overall clean air programs are funded through a mixture of funding sources: the CAF, federal grants, reimbursable funds from the Maryland Department of Transportation and the Maryland Department of Natural Resources, and a small amount of special funds and general funds. Through FY22, there has not been a significant reduction in revenue to MDE from the non-CA sources.

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

TABLE 1

CLEAN AIR FUND REVENUES / EXPENDITURES FY22

	FY22
Clean Air Fund Balance as of July 1	**$83,080**
Asbestos Testing Fees	52,035
Title V Operating Permits	1,920,309
Construction Permits	323,600
State Operating Permits	388,787
Asbestos Licenses	70,575
Total Fees	$2,755,306
Penalties	$768,668
TOTAL FEES AND PENALTIES	**$3,523,974**
Title V	1,920,309
Non – Title V	1,603,655
STRATEGIC ENERGY INVESTMENT FUND	**$2,915,032**
TOTAL CLEAN AIR FUND (incl. carryover)	$6,522,086
(minus) INDIRECT COSTS	$554,118

(minus) DIRECT EXPENDITURES	$5,959,145
BALANCE AS OF JUNE 30, 2022	**$8,823**

Direct Expenditures	
Salaries and Fringe	$4,767,316
Operating Costs	$1,191,829
Total Direct Expenditures ARA	$5,959,145
Total Indirect Costs	$554,118
Total Expenditures	$6,513,263