

## Part K

### Natural Resources, Environment, and Agriculture

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#### Natural Resources

##### Chesapeake Bay Restoration

##### Chesapeake and Atlantic Coastal Bays Green Fund

While the Chesapeake Bay is America's largest and most productive estuary, its health has declined significantly over the past several decades due to nutrient and sediment pollution. In 1999, the U.S. Environmental Protection Agency (EPA) identified the bay as an impaired water body. In 2000, the Chesapeake Bay partners (the bay states, the District of Columbia, the Chesapeake Bay Commission, and EPA) negotiated the *Chesapeake 2000* Agreement (C2K), which specified restoration goals to improve the bay and remove it from the EPA's List of Impaired Waters. As part of C2K, specific pollution reduction goals have been allocated to the various bay states. Maryland's reduction goals are summarized in **Exhibit K-1**.

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#### Exhibit K-1 Maryland's Pollutant Reduction Goals

<u>Pollutant</u>	<u>1985 Loads</u>	<u>2004 Loads</u>	<u>2010 Goal</u>
Nitrogen (million lbs/yr)	82.4	56.9	37.3
Phosphorus (million lbs/yr)	6.8	3.8	2.9
Sediment (million tons/yr)	1.3	1.0	0.7

Source: U.S. Environmental Protection Agency's Chesapeake Bay Program

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While numerous efforts to restore the bay's water quality are underway, at this time Maryland is not well positioned to achieve its C2K commitments. According to a draft Chesapeake Bay Tributary Strategy Statewide Implementation Plan funding analysis, Maryland's existing funding sources will cover only 39 percent of the estimated \$10 billion needed to

implement the State's implementation plan through 2010. Another significant challenge in meeting and maintaining the nutrient and sediment reductions is the anticipated increase in Maryland's population.

In an effort to fund Chesapeake Bay restoration activities, *Senate Bill 901/House Bill 1220 (both failed)* would have established a dedicated fund, commonly referred to as the Green Fund, to provide funding to various State agencies and the Chesapeake Bay Trust for specified bay restoration and growth management activities. The fund would have been financed by an impervious surface fee assessed on "new impervious surface" development, including the construction of new buildings, dwelling units, roads, parking lots, driveways, and any other impervious surfaces created as a result of residential, commercial, industrial, or other development. Under *House Bill 1220* as passed by the House of Delegates, fees would not have been assessed on an addition or accessory structure to an existing single-family dwelling unit that did not exceed 20 percent of the impervious surface of the footprint of the dwelling unit or structure as it existed on or before July 1, 2007. Additionally, fees would not have been assessed on specified development associated with farms or a storage, production, or processing facility associated with forestry or bioenergy operations. Finally, the fee would not have applied to government sponsored projects, certain low-income or workforce housing, or economic development projects in distressed counties. In addition, the amount of the fee could have been reduced using offsets, and local governments would have been authorized to waive the fee for job creation projects under certain conditions.

Although a reliable estimate of fee collections under the bill as passed by the House could not be made, the fee would have generated a significant amount of funding. Under *House Bill 1220* local governments would have been able to retain 30 percent of the revenue collected, plus a small percentage to offset administrative costs. Except for the portion retained by local governments, under *House Bill 1220* the fund would have been distributed to the following entities for various prescribed purposes: (1) 45 percent to the Maryland Department of Agriculture (MDA); (2) 20 percent to the Maryland Department of the Environment; (3) 15 percent to the Department of Natural Resources (DNR); (4) 12 percent to the Maryland Department of Planning; and (5) 8 percent to the Chesapeake Bay Trust.

### **Chesapeake Bay and Atlantic Coastal Bays Critical Areas**

Chapter 794 of 1984 established the Chesapeake Bay Critical Area Protection Program in order to minimize damage to water quality and wildlife habitat by fostering more sensitive development activity along the shoreline areas of the Chesapeake Bay and its tributaries. The law identified the "critical area" as all land within 1,000 feet of the mean high water line of tidal waters or the landward edge of tidal wetlands and all waters of and lands under the Chesapeake Bay and its tributaries. Viewed as particularly sensitive were the "buffer areas" falling within 100 feet of the shoreline. In 2002, the critical area program was expanded to include the Atlantic Coastal Bays.

**Applications for Variances:** Each local jurisdiction is charged with the primary responsibility for development and implementation of its own local critical area program; that

local authority, however, is subject to review and approval by the Chesapeake and Atlantic Coastal Bays Critical Area Commission, the oversight commission created in 1984. According to the commission, the vast majority of applications for variances in the critical area are approved by local jurisdictions. State law was amended by Chapter 431/432 of 2002 and Chapter 526 of 2004 to clarify standards for variances from critical area programs in response to court decisions that had loosely interpreted the standards.

Recently, Anne Arundel County has argued in the Court of Special Appeals that a local zoning board is precluded from relying on the variance standards set forth in the changes made in 2002 and 2004 if the local ordinance has not been amended to incorporate those changes. *Senate Bill 1030 (passed)* clarifies that the standards set out in State law apply to, and must be applied by, local jurisdictions in the consideration, processing, and decision on an application for a variance. The bill takes effect June 1, 2007 but applies retroactively to any applications for variances under the Chesapeake Bay and Atlantic Coastal Bays Critical Area Program with the exception of property in the North Shore Community of Anne Arundel County for which a variance was applied for in 2003.

***Violation of Local Laws – Penalties:*** State law specifies that prosecution of a misdemeanor and prosecution or suit for a fine, penalty, or forfeiture must be instituted within one year of the offense being committed. In Anne Arundel County, the one year statute of limitations for environmental protection or conservation-related violations of local laws in the Chesapeake Bay Critical Area hindered the county’s ability to successfully prosecute violations where delayed discovery of violations could prevent a court action from being instituted within one year, such as in the case of Little Dobbins Island in Pasadena where land use violations occurred between 2000 and 2002 but were not discovered until 2004. *Senate Bill 408 (passed)* provides a statute of limitations of three years for the prosecution for an offense that occurs in the Chesapeake Bay Critical Area and is a violation of a certain local law in Anne Arundel County that relates to environmental protection or natural resource conservation. In addition, the bill requires that a contract for sale of the real property where the violation occurred disclose information about the violation.

***Advisory Committee:*** Under the Chesapeake Bay and Atlantic Coastal Bays Critical Area Law, local jurisdictions are required to establish three land use designations: Intensely Developed Areas (IDAs), Limited Development Areas (LDAs), and Resource Conservation Areas. In order to accommodate future population growth, the total IDA and LDA acreage may be increased by a “growth allocation.” This allowable development increase is calculated by a formula. *Senate Bill 215 (failed)* would have established an advisory committee to study and recommend potential legislative reforms of the growth allocation process in the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program. The legislation was referred to interim study by the Senate Education, Health, and Environmental Affairs Committee.

## Land Preservation

### Program Open Space

Program Open Space (POS) was established by the General Assembly in 1969 to expedite the acquisition of outdoor recreation and open space before property cost and development made it impossible and to accelerate the development of outdoor recreational facilities. POS provides for both State and local acquisition and development. POS is funded through special funds derived from the State's transfer tax, which imposes a 0.5 percent tax on all real property recorded in the State. *House Bill 1224 (passed)* expands the allowable uses of POS State acquisition funds. DNR may use such funds to eliminate hazards to health and safety (including the treatment and removal of hazardous materials) and to protect water quality by implementing environmental improvements (including shore erosion control measures and vegetated buffers). The cost to perform these activities may not exceed 10 percent of the purchase price of the land.

### Forest Conservation and Reforestation

**Net Tract Area:** The Forest Conservation Act requires that a forest conservation plan be approved for a site before an application for sediment and erosion control or a subdivision is approved. This plan provides for forest retention on the site consistent with the established land use or through payment made into a local fund for afforestation or reforestation. If afforestation or reforestation cannot be reasonably accomplished in the county or watershed in which the project is located, then it must be accomplished through purchase of credits in, establishment of, or maintenance of a forest mitigation bank. State law allows local ordinances to deduct from the total tract area those areas that are already covered by another local ordinance in order to determine the net tract area. Mitigation is determined based on the net tract area, so as to prevent a developer from having to comply with multiple ordinances on the same square foot of ground.

*Senate Bill 573/House Bill 588 (both passed)* alter the definition of "net tract area" to include the forested areas within a floodplain or wetland if a perpetual conservation easement is placed on the forested areas at the time the plat of the tract is recorded. The bills apply to a tract of land of at least 350 acres, where at least 15 percent is within the boundaries of a 100-year floodplain or wetland. The bills terminate on February 29, 2008.

**Reforestation:** The Reforestation Fund helps finance the planting of trees on State or other publicly owned land to compensate for trees cut and cleared in connection with a construction activity by a State or local government unit or any other person using State funding for the project. Money is contributed to the fund by constructing agencies that have cleared or cut trees.

The Secretary of Agriculture has the right of entry onto any public or private land or property, vehicle, vessel, or aircraft to inspect, destroy, treat, or experiment with dangerously injurious plant pests. The Secretary may also quarantine any area of the State known or reasonably believed to be infested or infected with dangerously injurious plant pests. MDA regulations classify plant pests and establish stop-sale, condemnation seizure, and treatment and

destruction procedures for infested or infected nursery stock. *House Bill 1429 (passed)*, an emergency bill, allows money from DNR’s Reforestation Fund to be used to replace trees, except nursery stock that has not been replanted, destroyed by the application of treatment to destroy plant pests under a quarantine imposed by the Secretary of Agriculture. The money may be used regardless of whether or not the quarantine order is in effect in the county or watershed in which the construction activity for which the money was collected was located.

## **Miscellaneous**

### **Open Air Burning**

A person may not start or allow open air burning in an area in which a burning ban, a complete ban on all open air burning, imposed by the Secretary of Natural Resources is in effect. Burning bans are imposed as a result of prolonged or unusual conditions conducive to the easy starting and spread of fire. “Open air burning” means a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney. *Senate Bill 237/House Bill 102 (both passed)* provide that the prohibition on open air burning does not apply to supervised burnings of buildings or solid, liquid, or gaseous fuels conducted under the direct control and supervision of qualified instructors at a training center operated by a fire department. The prohibition also does not apply to any other supervised burning conducted under the direct control and supervision of a qualified fire instructor or, in Wicomico, Worcester, and Somerset counties, specified personnel of a fire department that has jurisdiction over the area where the supervised burning occurs.

### **Abandoned Land**

A unit of State government may apply for a certificate of reservation for public use of vacant or abandoned land. “Abandoned land” means vacant land that has boundaries that are located within or contiguous to Green Ridge State Forest for which no property tax payment has been made within 20 years and which has not been actually possessed by a person for a continuous period of 20 years. *House Bill 1216 (Ch. 92)* modifies the definition of “abandoned land” to include land within or contiguous to land owned and managed by DNR for which no property tax payment has been made within 20 years and which has not been actually possessed by a person for a continuous period of 20 years. This definitional change allows DNR to apply for a certificate of reservation for public use of such land. The Act terminates September 30, 2012.

## **Hunting and Fishing**

### **Fishing**

#### **Oyster Restoration**

At its peak, the Chesapeake Bay’s oyster population acted as a natural filter, removing 133 million pounds of nitrogen annually. Largely due to two diseases, MSX and Dermo, the

oyster stock has been severely depleted. Today, the oyster population has dropped to less than 1 percent of its original population. The 2005 oyster harvest was nearly 44 percent below the 1995 harvest and 69 percent below the 2000 harvest.

A person who unlawfully takes oysters from an oyster sanctuary or oyster reserve that is designated and marked by buoys or other signage, and who knew or should have known that taking the oysters from the sanctuary or reserve was unlawful, is subject to a fine of up to \$3,000 and immediate suspension of the person's tidal fish license for a period of at least six months but not more than one year. Regulations also provide for penalties for the removal of oysters from sanctuaries, reserves, and polluted waters and for violations of the time restrictions for taking oysters.

*Senate Bill 148/House Bill 133 (both passed)* establish an Oyster Advisory Commission within DNR to review the science and management issues relevant to oysters in the Chesapeake Bay. DNR must publish maps and coordinates of areas closed to shellfish harvest and provide the publications to each tidal fish licensee who pays the oyster surcharge. Before a person may catch oysters, the person must certify to DNR that the publications were received. The bills authorize the lease of no more than 30 acres by a nonprofit corporation for oyster restoration in Anne Arundel County waters. Furthermore, one-tenth of the oyster seed or spat produced for restoration planting at the University of Maryland Center for Environmental Science Horn Point Laboratory must be made available for purchase to any leaseholder of land beneath the waters of the Chesapeake Bay. Finally, the bills modify existing penalties; repeal the license suspension authority imposed by courts, and substitute administrative license suspensions.

### **Fishery Management**

*Diamondback Terrapin:* The diamondback terrapin is the only species of turtle in North America that spends its life in brackish water, which is salty but less so than sea water. Diamondback terrapins produce about 40 eggs per year and do not reach maturity until at least eight years of age. Survival rates during the first year are estimated to be as low as 20 percent. The low reproductive potential of terrapins indicates that females must reproduce for many years for the population to grow or remain stable. The diamondback terrapin can live beyond 50 years. Chapter 477 of 2006 required DNR to adopt a fishery management plan for diamondback terrapin and to adopt regulations governing the catching of diamondback terrapin and terrapin resources that are consistent with the recommendations issued in 2001 by the Maryland Diamondback Terrapin Task Force. The regulations shortened the commercial season from nine months to three months, implemented a harvest permit system, and established a slot limit of four to seven inches for the harvest of terrapin. The slot limit was designed to protect and conserve reproducing female terrapins. Under the new regulations (effective August through October 2006), 14 permittees reported a terrapin harvest with a dockside value of approximately \$39,800.

*Senate Bill 532/House Bill 760 (both passed)* prohibit a person from taking or possessing diamondback terrapin for commercial purposes, but allow a person to possess up to three for noncommercial purposes. The bills do not prohibit (1) incidental catching of

diamondback terrapin if they are immediately returned to the water; (2) the collection or possession of diamondback terrapin that is in accordance with the terms of a scientific or educational certificate or permit; or (3) the possession and breeding of diamondback terrapin by a person who holds a valid permit for aquaculture activities or captive wildlife breeding. The bills require DNR to adopt regulations, in consultation with the Maryland Aquaculture Coordinating Council, for diamondback terrapin aquaculture and captive breeding before issuing any additional permits. The regulations must include verifiable safeguards to identify legally obtained diamondback terrapin, standards for husbandry, and standards for shipping diamondback terrapin.

***Snapping Turtles:*** DNR regulations restrict the methods of catching snapping turtles by prohibiting the use in State waters of a hook and line, trot line, bow and arrow, spear, gig or gig iron, or any other device capable of piercing any part of a turtle. ***House Bill 1223 (passed)*** expands DNR’s authority with respect to snapping turtles by authorizing the Secretary of Natural Resources to adopt rules and regulations to restrict, permit, or prohibit catching, possessing, purchasing, transporting, or exporting snapping turtles.

***Yellow Perch:*** The yellow perch population in Maryland declined during the late 1970s and early 1980s. Regulations were adopted in the late 1980s restricting the size of yellow perch that could be caught by the commercial and recreational fisheries. Commercial harvesting is generally conducted during the spawning period, using fyke nets to catch the yellow perch as they congregate and migrate during the spawning process. DNR is required to prepare a fishery management plan for yellow perch. ***Senate Bill 702 (passed)*** requires DNR to adopt regulations that provide a management strategy for yellow perch that enables yellow perch to migrate to historical spawning rivers and streams before spawning and that equitably allocate harvests of yellow perch between recreational and commercial harvesters. The management strategy must be based on objectives and management measures developed in consultation with stakeholders and DNR must incorporate the management strategy into the fishery management plan for yellow perch.

### **Fishing Licenses and Fees**

Subject to exceptions, a Chesapeake Bay sport fishing license must be obtained from DNR, or an authorized agent of DNR, to fish for finfish in the Chesapeake Bay. Revenue generated from the sale of Chesapeake Bay sport fishing licenses is deposited into the Fisheries Research and Development Fund to be used for the replenishment, protection, and conservation of fish stocks caught by recreational anglers; enhancement of recreational fishing opportunities; and research regarding tidal fishery resources. In general, any person at least 16 years old must secure an angler’s license to fish in the nontidal waters of the State. Revenue generated from the sale of angler’s licenses is deposited into the State Fisheries Management and Protection Fund and used only for the scientific investigation, protection, propagation, and management of nontidal finfish. In general, fees for recreational fishing licenses have not been substantively increased in Maryland in over a decade.

**Fishery Management Reform: Senate Bill 1012 (passed)** increases the license fees for resident and nonresident nontidal angler's licenses and sport fishing licenses as shown in **Exhibit K-2**.

The bill also authorizes the Governor to include in the budget bill each fiscal year, beginning with fiscal 2009, general fund appropriations for the State Fisheries Management and Protection Fund and the Fisheries Research and Development Fund. The bill urges DNR to consult with stakeholders through the Sports Fisheries Advisory Commission before spending the proceeds from fishing license fees. The bill also establishes a Task Force on Fishery Management to review fishery management practices in Maryland. The bill terminates on June 30, 2010.

**Prisoners of War and Disabled Veterans:** DNR may issue an annual complimentary nontidal angler's license to a Maryland resident who is a former prisoner of war or 100 percent service connected disabled American veteran. **House Bill 334 (Ch. 71)** authorizes DNR to issue a nontransferable, lifetime complimentary sport fishing license to these veterans. The Act also alters the existing, annual complimentary nontidal angler's license for these veterans to be a lifetime license.

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### Exhibit K-2

#### License Fees under Current Law and Senate Bill 1012 of 2007

<u>License</u>		<u>Fee (Current Law)</u>	<u>Fee (SB 1012)</u>
Nontidal Angler's License	Resident	\$10.50	\$20.50
	Nonresident	\$20.50	\$30.50
Sport Fishing License	Resident	\$9.00	\$15.00
	Nonresident	\$14.00	\$15.00
	Non-Charter Boat	\$40.00	\$50.00

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### Shellfish Harvesting and Crabbing

**Dredge Devices – Use of Devil Divers:** DNR regulates oyster harvesting in State waters. Any person who owns or is in charge of operating any dredge boat must have a license to catch oysters by dredge boat. A person may not catch oysters in the waters of the State or possess any scoop, dredge, handscrape, or similar instrument having a tooth bar more than 42 inches in length on rock bottoms or 44 inches in length on mud bottoms, or of a weight exceeding 200 pounds. Chapter 166 of 2004 temporarily repealed a provision prohibiting a captain of a dredge boat or any other person from possessing or using “devil catchers,” “devil divers,” or similar devices on a dredge boat. Chapter 166 also required DNR to report on the environmental impacts of the use of the devices by September 30, 2007. DNR is expected to finish the report

sometime in the fall of 2007. *House Bill 412 (passed)* extends, through September 30, 2009, the temporary authorization to possess or use these devices.

***Dredge Devices – Oystering and Clamming in Atlantic Coastal Bays:*** Maryland’s coastal bays, often called the back bays, are shallow water lagoons behind Ocean City and Assateague Island. According to the Maryland Coastal Bays Program, more than 300 species of migratory waterfowl, songbirds, and birds of prey seek the shallow bays for food and shelter. Additionally, the shallow bays provide habitat for rare species of plants and animals as well as blue crabs, flounder, and clams. *House Bill 964 (passed)* prohibits a person from catching or attempting to catch clams or oysters by power dredge, hydraulic clam dredge, or other mechanical means in the Atlantic coastal bays. The bill also prohibits DNR from opening areas closed to hydraulic soft-shell clam dredging in the Atlantic coastal bays. The bill takes effect October 1, 2008.

***Shellfish Dealers:*** Federally permitted harvesters of certain types of shellfish such as conch, whelk, and scallops from federal waters (3 to 200 miles offshore) are not required to report the catch or the landing of the shellfish in Maryland to DNR. This omission makes it difficult for DNR to monitor the population, develop harvest statistics and resource and economic forecasts, develop consistent regulations with neighboring states, or implement appropriate conservation measures. *House Bill 1158 (passed)* requires these harvesters to obtain a license to land (sell) shellfish in Maryland. In addition, the bill also applies licensure exemptions for finfish to shellfish.

***Soft Crabs Bycatch:*** The 2006 Bay-wide Blue Crab Winter Dredge Survey showed that the total abundance of blue crabs in the Chesapeake Bay declined in 2006, due in part to lower abundance of juvenile crabs. The lower abundance of juvenile crabs was still among the highest levels since 1997, and the overall blue crab abundance remains stable at low levels of abundance. A blue crab can shed its hard shell 18 to 23 times during its three-year life span and increases by one-third of its size during shedding. The crab’s soft shell only lasts for a few hours in the water before the crab must be removed to prevent the shell from hardening. The entire crab in the soft shell stage is edible. *House Bill 473 (passed)*, an emergency bill, allows a person to possess a bycatch of soft crabs measuring less than three and one-half inches if the bycatch is not greater than one undersized soft crab per dozen soft crabs possessed, until regulations establishing and governing a permissible bycatch for soft crabs are adopted. The regulations must be adopted by October 1, 2007, and may not be more restrictive than the statutory restrictions on the permissible bycatch for hard crabs and peeler crabs.

### **Seafood Industry**

According to the Maryland Department of Agriculture, 75 seafood processing plants in the State employ 1,471 people and over 6,600 watermen work the Chesapeake Bay. In 2004, 49.5 million pounds of seafood were landed at a dockside value of over \$49 million.

***Working Waterfront Commission:*** *Senate Bill 414 (Ch. 30)* establishes a Working Waterfront Commission to study and make recommendations regarding protecting and preserving Maryland’s commercial fishing industry’s access to public trust waters. Findings and

recommendations of the commission are due to the Governor and the General Assembly by December 15, 2007.

**Right to Harvest:** Chapter 134 of 2004 authorized the Dorchester County Council to adopt an ordinance, resolution, or regulation or take any other action that the council considers necessary to authorize a person to engage in specified activities related to the seafood industry and to harvest seafood. *House Bill 54 (passed)* gives the governing bodies of Queen Anne's and Somerset counties the same authority. Before taking such action, the governing body must hold a public hearing and obtain the written consent of the Secretary of Natural Resources.

## Hunting

### Licenses

A person generally may not hunt or attempt to hunt during open season any game birds or mammals in the State without a resident or nonresident hunter's license. Specified persons are not required to have a hunter's license, bow and arrow stamp, black powder stamp, or bonus antlered deer stamp to hunt on farmland. These exemptions include a resident owner or tenant of the farmland and the owner or tenant's spouse and child, and a nonresident owner and the owner's spouse and child, if (1) the farmland is located in Maryland and an adjacent state; (2) the owner's primary residence is on the parcel of farmland; and (3) the adjacent state extends similar privileges to a resident of Maryland. Chapter 271 of 2006 defined "child" to include a foster child, foster grandchild, grandchild, stepchild, and stepgrandchild. However, to qualify for the exemption, a child must be eligible to purchase a junior resident or junior nonresident hunting license. Junior resident and junior nonresident licenses are issued to persons younger than 16, with the written permission of a parent or guardian.

*Senate Bill 271 (passed)* allows a child of a resident owner, tenant, or specified nonresident owner of farmland, who is not eligible to purchase a junior resident or junior nonresident hunting license, to qualify for a license and stamp exemption when hunting on the farmland if the child either lives on the farmland, manages the farmland, or has worked on the farmland for 30 or more days during the prior 12-month period. Thus, certain adult children could qualify for the exemption. In addition, a child's spouse may qualify for the exemption.

### Sunday Deer Hunting

DNR establishes the open season to hunt forest and upland game birds and mammals by regulation each year. DNR may adopt regulations to enlarge, extend, restrict, or prohibit hunting wildlife. Except for specified persons and under specified conditions, hunting game birds or mammals on Sundays is prohibited. *House Bill 601 (passed)* authorizes Sunday deer hunting on private land in St. Mary's County, with a bow and arrow, during open season on the last three Sundays in October and the second Sunday in November. *Senate Bill 717 (passed)* authorizes Sunday deer hunting on private land in Somerset, Wicomico, and Worcester counties, with a bow and arrow, during open season on the same Sundays. The bill also authorizes deer hunting on private land in those counties on the first Sunday of the bow hunting season in November and the first Sunday of the deer firearms season.

## Environment

### Air Quality

#### Clean Cars

According to the Maryland Department of the Environment (MDE), Marylanders drive more than 135 million miles each day, contributing up to 40 percent of the pollutants responsible for the State's air pollution problems. On-road sources of pollution account for approximately 30 percent of volatile organic compound emissions and 44 percent of nitrogen oxide emissions. Maryland has operated a Vehicle Emissions Inspection Program (VEIP) in various parts of the State since 1984. New motor vehicles are exempt from inspection for two years.

MDE advises that Maryland programs combined with federal requirements have reduced mobile source emissions in Maryland by about 50 percent since 1990, even with a 40 percent increase in vehicle miles traveled. By 2030, mobile source emissions are projected to be 11 percent of what they were in 1990. Despite this progress, much of the State remains in nonattainment of federal air quality standards for ozone and particulate matter. Accordingly, mobile source pollution remains a concern.

New motor vehicles sold in the United States must be certified by the manufacturer under either Tier 2 (the federal program) or CALEV II (the current version of California's Low Emissions Vehicle (LEV) Program). To date, 10 states (Connecticut, Maine, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington) have adopted CALEV II standards.

Despite failed attempts during the 2003 through 2005 sessions, Maryland joins these states with the passage of *Senate Bill 103/House Bill 131 (both passed)* which require MDE, in consultation with the Motor Vehicle Administration (MVA), to establish by regulation a LEV Program applicable to vehicles of the 2011 model year and each model year thereafter. The program must be authorized by Section 177 of the federal Clean Air Act. MDE, as part of the program, must establish motor vehicle emissions standards and compliance requirements for each model year included in the program. MDE, in consultation with the MVA, must adopt regulations by December 31, 2007. MDE is authorized to adopt California's regulations, procedures, and certification data by reference and motor vehicle emissions inspection, recall, and warranty requirements. MDE, in consultation with the MVA, must also adopt regulations to exempt motor vehicles from the program under specified conditions. In addition, MDE may adopt regulations to prohibit the transfer of new motor vehicles or motor vehicle engines not in compliance with the bill.

The bills also exempt specified zero emission vehicles from VEIP testing, extend the existing exemption for certain qualified hybrid vehicles, and, beginning October 1, 2012, provide that a qualified hybrid vehicle is not required to submit to VEIP until three years after the date on which the vehicle was first registered. Finally, the bills establish a Maryland Clean Car and Energy Policy Task Force to:

- study the activities of neighboring states with respect to vehicle emissions standards;
- study regulatory actions by California and the U.S. Environmental Protection Agency (EPA) relating to vehicle emission standards;
- study emerging energy technologies;
- review State energy policies and consider proposals and strategies to develop alternative fuels and efficiency measures to improve the State's air quality; and
- make legislative recommendations.

The task force must prepare a report summarizing its findings and recommendations and report to the General Assembly and the Governor annually by December 31, until the task force terminates December 31, 2010.

### **Global Warming and Climate Change**

With the release of Al Gore's "An Inconvenient Truth" in August 2006, the consequences of global warming and climate change continue to gain national and international attention. According to the EPA, human activities have substantially added to the amount of greenhouse gases in the atmosphere. In response to concerns about the link between greenhouse gas emissions and global warming, in September 2006, the Governor of California signed landmark legislation to reduce greenhouse gas emissions in that state. The legislation requires the California Air Resources Board to develop regulations and market mechanisms that will reduce California's greenhouse gas emissions by 25 percent by 2020. While several states have greenhouse gas emissions targets, California's legislation represents the first enforceable statewide program in the United States to cap all greenhouse gas emissions from major industries.

*Senate Bill 409/House Bill 890 (both failed)* would have established an Office of Climate Change within MDE to implement activities relating to the establishment of a statewide greenhouse gas emissions limit. By 2020, the State would have had to reduce statewide greenhouse gas emissions to 1990 levels. In addition, the bills would have established other deadlines for the implementation and collection of a greenhouse gas emissions fee to be paid by sources of greenhouse gases in the State, and for the adoption of regulations to help achieve the statewide greenhouse gas emissions limit. These bills were modeled after the California legislation. *Senate Bill 333 (failed)* would have established a Commission on Maryland's Energy Future to make recommendations regarding the development of long-term energy efficiency and alternative energy strategies, increasing the State's energy self-sufficiency, and reducing emissions of greenhouse gases and other pollutants. *House Bill 703 (failed)* would have established a Maryland Commission on Climate Change and Clean Energy Alternatives to, among other things, develop a State strategy for addressing the issue and impacts of climate change.

## **Energy Efficiency and Alternative Energy Sources**

### **Energy Efficiency**

Although Maryland established itself as a leader among the states by enacting energy efficiency standards for a number of products in 2004 and 2005, energy efficiency technology continues to advance. *Senate Bill 674 (passed)*, the Maryland Energy Efficiency Standards Act of 2007, adds several new products to the Maryland Energy Efficiency Standards Act established in 2004. It requires the Maryland Energy Administration to set minimum efficiency standards for the new products by regulation by January 1, 2008. The new products include:

- bottle-type water dispensers;
- commercial hot food holding cabinets;
- metal halide lamp fixtures;
- residential furnaces (except natural gas or propane furnaces installed as a replacement of a previous furnace);
- single-voltage external AC to DC power supplies;
- State-regulated incandescent reflector lamps; and
- walk-in refrigerators and freezers.

After specified dates, the new products may not be sold or offered for sale in the State unless they meet or exceed the efficiency standards. Also, the Public Service Commission (PSC) must adopt regulations by July 1, 2008, governing the purchase of liquid-immersed distribution transformers by electric companies.

### **Green Buildings**

*Senate Bill 332/House Bill 942 (both passed)* codify the existing Maryland Green Building Council. The council must evaluate high performance building technologies, make recommendations on the most cost-effective green building technologies the State should consider using, and develop a list of building types for which green building technologies should not be applied.

### **Alternative Energy Sources**

Alternative energy sources can supply a significant proportion of the State's energy needs, creating many public benefits including environmental improvement, increased fuel diversity, and economic development. As a result, a number of bills were introduced this year to encourage the production and use of various alternative energy sources.

**Wind Energy:** *Senate Bill 566 (passed)* allows a wind powered energy generating facility to be built without requiring a certificate of public convenience and necessity (CPCN) as long as certain conditions are met, including an opportunity for public comment at hearings held by PSC within a county or municipality where the generating station is proposed to be located. The bill also establishes an annual reporting requirement for PSC relating to wind powered generating stations, through June 2010.

Allowing wind generation facilities to bypass the process of obtaining a CPCN will reduce the requirements of multiple State agencies and local governments. This abbreviated process reduces costs for applicants, and may encourage the development of electricity generating stations powered by wind for local governments to power public buildings, for businesses for on-site use, or for sale to the wholesale power market.

**Solar Energy:** *Senate Bill 595 (passed)* and *House Bill 1016 (passed)* both add a small but increasing solar component to the Renewable Portfolio Standard that was enacted in 2004. The bills also alter provisions on net energy metering to accommodate increased use of solar generation in the State.

**Biodiesel:** *Senate Bill 261 (passed)* establishes a Task Force on Renewable Alternative Fuels to study ways to integrate biodiesel and other renewable fuels into the current mix of motor fuels available to consumers, and to study the effects this integration could have on related Maryland industries. For a further discussion of *Senate Bill 261*, see the subpart “Agriculture” within Part K – Natural Resources, Environment, and Agriculture of this *90 Day Report*. *House Bill 745 (passed)* requires that, beginning in fiscal 2009, at least half of the State’s heavy equipment and heating equipment that uses diesel fuel must use, subject to availability, a blend of fuel that is at least 5 percent biodiesel. Any equipment whose manufacturer’s warranty would be voided if the use of biodiesel fuel caused mechanical failure is exempt from this requirement.

For additional discussion of legislation relating to alternative energy sources and other energy issues, see the subpart “Public Services Companies” under Part H – Business and Economic Issues of this *90 Day Report*.

## **Waste Management**

### **Electronics Recycling**

EPA estimates that more than 3.2 million tons of electronic wastes are disposed of in landfills each year. Electronic equipment contains metals (such as cadmium, lead, and mercury) and other materials that can become hazardous to human health and the environment if they are not properly managed. Electronics recycling, or “e-Cycling” has become an important element in many local recycling programs in the State in recent years. In an effort to move forward with e-Cycling in Maryland, Chapter 384 of 2005 established a pilot Statewide Computer Recycling Program administered by the Office of Recycling within MDE.

**House Bill 488 (passed)** expands the existing program to apply to “covered electronic devices,” which include specified computer or video display devices. The initial manufacturer registration fee increases from \$5,000 to \$10,000. The bill requires MDE to maintain a list of registered covered electronic device manufacturers and provide that list to the Comptroller. The bill also establishes new prohibitions for “manufacturers,” as redefined by the bill, by prohibiting a retailer from selling or offering for sale a new covered electronic device unless the manufacturer is in compliance with specified labeling and registration requirements of the program. The Comptroller is authorized to assess against any retailer that violates that prohibition a fine of up to \$500 per violation, up to \$5,000 total. Also, the bill modifies the revenue sources for the State Recycling Trust Fund to include all fines and penalties collected under *Title 9, Subtitle 17 – The Office of Recycling* and provides that the first \$2 million of any unspent or unencumbered funds would not be subject to reversion to the general fund. Finally, the bill repeals the termination date of the existing pilot program, thus creating a permanent Statewide Electronics Recycling Program.

### **Oil Pollution and Tank Management**

The Oil Control Program within the Waste Management Administration of MDE regulates the storage of petroleum products, conducts groundwater investigations, and oversees remediation activities involving petroleum releases. Due to the phase-out of the fuel additive methyl tertiary butyl ether or MTBE, Maryland has seen an increase in ethanol shipment, storage, and usage as a gasoline additive, and its use is projected to increase significantly in the next several years. There has also been an increase in biodiesel use throughout the State.

In response to the increase in the use of these fuels, **Senate Bill 975 (passed)** modifies the definition of “oil” to include ethanol intended to be used as a motor fuel or fuel source and biodiesel fuel, thereby making these products subject to regulation by MDE. The bill also requires underground oil storage facilities to be in substantial compliance with State law and regulations relating to oil storage before oil may be sold to or received by the facility.

### **Solid Waste Acceptance Facilities**

Each county must have a county plan or a plan with adjoining counties that is approved by MDE; covers at least the 10-year period following adoption by the county governing body; and deals with water supply systems, sewerage systems, solid waste disposal systems, solid waste acceptance facilities, and the systematic collection and disposal of solid waste. Siting and other land use or zoning criteria for proposed solid waste acceptance facilities are the responsibility of local jurisdictions. Solid waste acceptance facilities are permitted by MDE. Applicants obtain local approvals prior to applying to MDE for a permit.

In response to concerns regarding the location of some proposed facilities, Chapter 228 of 2006 provided that MDE may not issue any permit to construct or operate a rubble landfill within four miles of Unicorn Lake in Queen Anne’s County, within one mile of Piscataway Creek, a Piscataway Creek tributary, or Mattawoman Creek, or within one mile of any other tributary in Prince George’s County that flows directly or indirectly into the Potomac River. The provision

terminates June 1, 2009. *Senate Bill 553 (passed)* repeals the termination date of the prohibition and extends the prohibition to all landfills in those areas, not just rubble landfills. Additionally, the bill requires MDE to report to the General Assembly on appropriate methods to authorize a county to remove a proposed landfill from a county plan, including information on methods or practices utilized by the other states.

## **Water Management**

### **Chesapeake Bay Restoration**

Chesapeake Bay restoration continues to be a significant issue. While some important progress has been made, such as the establishment of the Bay Restoration Fund in 2004, a significant increase in resources, coupled with the implementation of more cost-effective, high-impact bay restoration strategies, will be needed in order for the State to meet its commitments under the Chesapeake 2000 Agreement.

*The Green Fund: Senate Bill 901/House Bill 1220 (both failed)* would have established a dedicated fund, commonly referred to as the Green Fund, to provide funding to various State agencies and the Chesapeake Bay Trust for various bay restoration and growth management activities. The fund would have been financed by an impervious surface fee assessed on “new impervious surface” development. For a more detailed discussion of the Green Fund legislation, see the subparts “Natural Resources” and “Agriculture” under this Part K of this *90 Day Report*.

*Stormwater Management:* The State began reducing the adverse effects of stormwater runoff in 1982 with the passage of the Stormwater Management Act. State regulations followed in 1983, which required local ordinances to be adopted and implemented by 1984. At this time, each local jurisdiction has a State approved and locally enforced stormwater management ordinance. However, the increasing amount of impervious surfaces within the Chesapeake Bay watershed is outpacing current stormwater controls.

*Senate Bill 784/House Bill 786 (both passed)* require MDE to establish regulatory requirements regarding the use of “environmental site design” in stormwater management practices. The bills also modify existing regulatory requirements of MDE with respect to stormwater management. Finally, the bills require MDE, by December 1, 2007, to evaluate options for a stormwater management fee system and an appropriate fee schedule necessary to improve enforcement of stormwater management laws and report its findings to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee.

*Bay Restoration Fund:* Chapter 428 of 2004 established the Bay Restoration Fund within MDE. The main goal of the fund is to provide grants to owners of wastewater treatment plants (WWTPs) to install enhanced nutrient removal (ENR) technology in order to reduce nutrient pollution to the Chesapeake Bay. As a revenue source for the fund, Chapter 428 established a bay restoration fee on users of WWTPs, septic systems, and sewage holding tanks. After a deduction by billing authorities for administrative costs, fee revenue from WWTP users

may be used for grants to WWTP owners for ENR upgrades, sewer infrastructure projects, and ENR operation and maintenance costs; the revenue may also be used for MDE's administrative expenses. ENR upgrades of the State's 66 major publicly owned WWTPs are currently underway.

In response to concern regarding the use of the fund and whether it encourages inappropriate growth, *House Bill 893 (passed)* requires MDE and the Maryland Department of Planning, beginning January 1, 2009, to submit a joint annual report on the impact on growth from a wastewater treatment facility that was upgraded to ENR during the calendar year before the previous calendar year with funds from the Bay Restoration Fund.

**Phosphorus:** In an effort to reduce phosphorus loading to the bay, *Senate Bill 766/House Bill 1131 (both passed)* prohibit, beginning January 1, 2010, a person from using, selling, manufacturing, or distributing for use or sale within the State any detergent for use in a household dishwashing machine that contains more than 0.5 percent phosphorus by weight. The bills require MDE to report to the Governor and the General Assembly, by December 1, 2008, on the prospective availability of low phosphorus commercial dishwashing detergents and a recommended date by which the use of such detergents may be reasonably required.

### **Groundwater Contamination**

MTBE is a gasoline additive that raises the oxygen content in gasoline, which helps engines burn cleaner, thus reducing tailpipe emissions. It was originally introduced in the late 1970s to replace lead. Although, this fuel additive is undergoing a phase-out, there is concern regarding MTBE vapors leading to groundwater contamination. In response to these concerns, Chapter 539 of 2005 required MDE, upon a finding that specified contaminants, such as MTBE, in a monitoring well located in a high-risk groundwater use area exceed specified levels, to notify the appropriate local health department. Chapter 539 required the local health department to then notify each owner of property located within one-half mile of the site from which the sample was taken. Chapter 539 also required the person responsible for the oil discharge to reimburse the local health department for the costs associated with providing the required notice.

In an effort to provide the most efficient and expeditious notification to citizens regarding groundwater contamination, *Senate Bill 254/House Bill 72 (both passed)* modify the notification provisions by providing that MDE is responsible for providing the required notice. If MDE and a local health department agree, the local health department would continue to provide the notice in accordance with the law. Under the bill, reimbursement of notification costs would be provided to either MDE or the local health department, as appropriate.

## Other Environmental Issues

### Mining

*Senate Bill 174 (Ch. 17)* expands the pool of financial institutions from which MDE may accept specified financial instruments for strip, deep, or surface mining operations. Current law requires operators of permitted strip, deep, and surface mining operations to file a bond for performance with MDE. Depending on the type of permit, instead of a corporate surety, several other specified financial instruments, such as a deposit of cash or negotiable bonds, a certificate of deposit, or an irrevocable letter of credit, are acceptable. This Act will allow institutions that are authorized to do business in the State, but are not located in the State, to issue certificates of deposits and irrevocable letters of credit to operators as a bond for performance.

### Penalties

*Senate Bill 970 (passed)* exempts *de minimus* groundwater users from the requirement to obtain a water appropriation and use permit. The bill enhances enforcement by establishing civil penalties, establishing new criminal penalties, and authorizing MDE to issue corrective action and other orders. It also expands the uses of the Maryland Clean Water Fund in a manner consistent with the proposed permit changes and provides that all penalties collected under the Water Appropriation and Use Subtitle be paid into that fund.

*House Bill 1291 (passed)* establishes criminal penalties for violating any provision of solid waste laws set forth in Title 9, Subtitle 2 of the Environment Article, or for failing to perform any duty imposed by a rule, regulation, order, or permit adopted or issued in accordance with these provisions of solid waste laws, with specified exceptions.

## Agriculture

### Agricultural Land Preservation

#### Maryland Agricultural Land Preservation Foundation

The Maryland Agricultural Land Preservation Foundation (MALPF) was created in 1977 to preserve productive agricultural land and woodland. Agricultural preservation districts are formed when qualifying landowners sign voluntary agreements to keep their land in agricultural use for a specified number of years (3 to 10 years, depending on the county where the land is located). Once land is placed within the agricultural preservation district, the owner is eligible to sell a development rights easement to MALPF. Subject to some limitations, once an easement has been sold, the property is protected from further development. As of June 30, 2006, MALPF had protected approximately 250,370 acres through the purchase of 1,816 easements.

**Removal of Agricultural Districts:** Requiring agricultural districts to be established prior to the transfer of an easement was originally intended to help anticipate needed funding levels and to provide a supplementary mechanism for farmland protection. According to MALPF, however, many potential program participants have not been willing to commit to the multiple year district agreement to restrict property to agricultural uses, particularly in recent years when there has been a high level of uncertainty about the funding levels of the program.

The district issue was studied by a committee comprised of MALPF board members, staff, and county program administrators in late 2005 and early 2006. The committee concluded that, on balance, the benefits of additional protection and self-identification of potential program participants are outweighed by the costs of the requirement acting as a disincentive to participation and the additional administrative burden. Any benefits derived from districts could be gained more efficiently and effectively through county programs.

Chapter 192 of 2006 repealed the five-year time period during which the landowner had to agree to keep their land in agricultural use and granted the counties discretion to establish a length of time between 3 and 10 years for each district agreement. Additionally, MALPF was required to submit a report to the General Assembly outlining the changes in procedures, statutes, and regulations that would be necessary to implement the elimination of agricultural districts from the program. *House Bill 1331 (passed)* includes the statutory changes necessary for phasing out the requirement for agricultural districts. As of July 1, 2007, districts may not be a requirement for the easement application process. MALPF regulations and procedures must allow a property owner to apply for the purchase of an easement on property without an established district through the same process applicable to a petition for the establishment of a district. The bill also terminates all districts as of June 30, 2012, with the exception of any district in which an easement has been transferred to MALPF and any district established by a county and a landowner for the purpose of providing a property tax credit to the landowner.

**Foundation Grants:** Pursuant to Chapter 155 of 2005, MALPF, along with the Maryland Department of Planning (MDP), is responsible for establishing a Critical Farms Program to provide interim or emergency financing for the acquisition of agricultural preservation easements on critical farms that would otherwise be sold for nonagricultural uses. *House Bill 1041 (passed)* provides MALPF with specific authority to provide grants to counties, with money other than that from the sale of tax-exempt general obligation bonds, to facilitate the Critical Farms Program and the payment of the principal and interest on bonds issued by a county for the sole purpose of purchasing agricultural land preservation easements. MALPF may also provide grants to counties to facilitate the purchase of easements under a county installment purchase agreement program approved by the foundation.

The bill alters the purpose for which grants provided by MALPF to the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) may be used, providing that MALPF may provide grants to MARBIDCO to facilitate an installment purchase agreement program or the funding of the Next Generation Farmland Acquisition Program. In addition, the bill prohibits MALPF grants from being used to fund county land preservation programs or pledged to secure county-issued bonds.

### **Priority Preservation Areas**

The Agricultural Stewardship Act of 2006 (Chapter 289) authorized counties to include a priority preservation area (PPA) element in their local comprehensive plans and integrated the certification of PPA elements into the existing county agricultural land preservation certification program administered by MDP and MALPF. The Act required that PPAs contain productive agricultural or forest soils or be capable of supporting profitable agricultural and forestry enterprises where productive soils are lacking; be governed by local policies that stabilize the agricultural and forest land base so that development does not convert or compromise agricultural or forest resources; and be large enough to support the kind of agricultural operations that the county seeks to preserve.

*House Bill 1354 (passed)* makes various changes to requirements relating to PPAs that the Maryland Department of Agriculture (MDA) advises are intended to clarify that (1) the State is not requiring counties to pick and choose what kinds of agricultural operations will be supported within each county's proposed or existing PPA, but rather that counties should maintain and support the ability of farms in a PPA to engage in normal agricultural and forestry activities; (2) as part of the certification and recertification process, each county is to make a judgment of whether MALPF's goals can be achieved within a proposed or existing PPA before development excessively compromises the existing farmland and woodland; and (3) the counties, as part of the certification and recertification process, are expected to make an explicit connection between the amount of development to be allowed in a proposed or existing PPA and the county's strategy to support normal agricultural and forestry activities.

The bill specifies that a PPA must be governed by local policies, ordinances, regulations, and procedures that support the ability of working farms in the PPA to engage in normal agricultural activities and be large enough to support normal agricultural and forestry activities in conjunction with the amount of development permitted by the county in the PPA. The bill also makes changes to prerequisites to certification of a PPA by MDP and MALPF, including that the county's comprehensive plan describe the county's strategy to support normal agricultural and forestry activities in conjunction with the amount of development permitted in PPA and maintain a rural environment capable of supporting normal agricultural and forestry activities. The plan must also include an evaluation of the ability of the county's zoning and other land use management practices to achieve MALPF's goals before development excessively compromises the agricultural and forest resource land.

### **Tax Relief**

The homestead property tax credit provided to homeowners was expanded to apply to agricultural limited liability companies and agricultural limited liability partnerships by Chapter 501 of 2004 and Chapter 345 of 2005, respectively. The tax credit allows for a credit against State, county, and municipal real property taxes resulting from an annual assessment increase that exceed a certain percentage or "cap" in any given year. The State requires the cap on assessment increases to be set at 10 percent for State property tax purposes; however, local governments have the authority to lower the rate.

*Senate Bill 962/House Bill 1386 (both passed)* further expand the tax credit to include agricultural ownership entities which are defined to include family corporations and general partnerships, in addition to limited liability companies or limited liability partnerships. A family corporation is a corporation that does not have any stockholders other than the homeowner and specified members of the homeowner’s family. The legislation is applicable to taxable years beginning after June 30, 2007.

### **Nutrient Management/Land Preservation Funding**

In 2004, Maryland contributed approximately 20 percent of the Chesapeake Bay’s total nitrogen, phosphorus, and sediment load. The largest source of Maryland’s nutrient and sediment pollution is runoff from agricultural lands, followed by urban runoff and point sources. *Senate Bill 901/House Bill 1220 (both failed)* would have established a dedicated fund, commonly referred to as the Green Fund, to provide funding to various State agencies and the Chesapeake Bay Trust for specified bay restoration and growth management activities. The fund would have been financed by an impervious surface fee assessed on “new impervious surface” development (new buildings, dwelling units, roads, parking lots, driveways, and any other impervious surfaces created as a result of residential, commercial, industrial, or other development, with specified exceptions).

Under *House Bill 1220* as passed by the House of Delegates, local governments would have been authorized to retain just over one-third of the fees collected. Of the remaining funding, 45 percent would have been distributed to MDA to be used, subject to specified limits, for (1) staff and operating costs of Soil Conservation Districts and provision of technical assistance related to the implementation of tributary strategies by the University of Maryland Cooperative Extension; (2) the Next Generation Farmland Acquisition Program within MARBIDCO and MALPF; and (3) the implementation of best management practices through the Maryland Agricultural Water Quality Cost Share Program, the Cover Crop Program, and any other cost-share programs for agricultural nutrient reduction.

For an additional discussion of *Senate Bill 901/House Bill 1220*, see the subpart “Natural Resources” within this part of this *90 Day Report*.

### **Biofuels**

The production of biofuels in the U.S. is growing significantly. According to the federal Energy Information Administration’s 2007 Annual Energy Outlook, about 3.9 billion gallons of ethanol and 91 million gallons of biodiesel were produced in the U.S. in 2005. The report projected that production capacity could rise to 7.5 billion gallons and 1.1 billion gallons for ethanol and biodiesel, respectively, by 2008. The Renewable Fuels Association also reports that just under 4.9 billion gallons of ethanol was produced in the U.S. in 2006 and that as of January 2007, there were 110 ethanol plants in 21 states with a total production capacity of just under 5.5 billion gallons per year.

The Renewable Fuels Promotion Act of 2005 (Chapter 332 of 2005) was established to provide incentives for the construction and operation of ethanol and biodiesel facilities in Maryland. The Act was passed under the recognition that the construction of ethanol and biodiesel facilities would provide expanded market opportunities for farmers growing the feedstock used in the facilities, promote economic development in rural areas, and serve to increase the number of acres of cover crops grown in the State, reducing nutrient runoff. *House Bill 1045 (failed)* would have increased the per gallon value of ethanol and biodiesel production credits established under the Act and would have allowed producers of ethanol produced from biomass (cellulose or woody material) to qualify for production credits. No ethanol or biodiesel facilities are currently certified to receive production credits, although MDA advises a number of potentially eligible facilities are in the planning stages or beginning stages of development.

*House Bill 416 (passed)* adds a member representing the biofuel industry to the Maryland Agricultural Commission, thus increasing the commission membership to 30 members representing various commodities and sectors of the agriculture industry.

*Senate Bill 261 (passed)* establishes a Task Force on Renewable Alternative Fuels which will be staffed by MDA. The task force is required to undertake various efforts including determining the economic and environmental impact on Maryland, including agriculture, regarding the use of biodiesel and other renewable fuels and how the use of biodiesel and other renewable fuels affects agricultural supplies and fuel supplies in Maryland. The task force must also study additional issues relating to biodiesel and other renewable fuels and examine Maryland energy policy in terms of specified factors generally relating to liquid fuels and renewable alternative fuels. The task force must report its findings and recommendations on or before December 31, 2007, to the Governor, the Senate Finance Committee, and the House Economic Matters Committee.

## **Crop Insurance**

The Federal Crop Insurance Program (FCIP) is a subsidized program that provides financial protection for farmers from crop losses caused by natural disasters such as droughts or floods. MDA has worked with the U.S. Department of Agriculture's Risk Management Agency and National Agricultural Statistics Service and the University of Maryland to promote the federal program, helping to increase participation among Maryland farmers by 14 percent from 2003 to 2005. In 2006, 736,322 crop acres in Maryland were insured under FCIP.

The Maryland Crop Insurance Premium Program allows the Secretary of Agriculture to pay a farmer eligible to participate in the program up to \$2 per acre for any federal crop insurance premium paid by the farmer, yet has not been funded in several years. Under *House Bill 1389 (passed)*, the program is reestablished as the Maryland Crop Insurance Cost Share Program. Under the revised program, the Secretary may provide a cost share payment not exceeding 8 percent of the net book premium paid by/on behalf of a farmer under FCIP. The net book premium is the total of the premium amount paid by the farmer and the federal subsidy provided under FCIP. The Secretary must adopt regulations, by January 1, 2008, that establish

qualifications for a farmer’s eligibility to receive a cost share payment. Additionally, the Secretary must submit a report each year to the Governor and the General Assembly that provides an estimate of the amount of funds needed to pay 8 percent of the net book premium for crop insurance expected to be purchased by farmers in the State in the following crop year.

## **Animal Health Enforcement and Pest Control**

### **Animal Health Enforcement**

MDA’s Animal Health Program works to safeguard the health of food-producing animals and horses in the State through inspection and testing, disease surveillance, emergency preparedness, and education/outreach. The program reports that it has encountered numerous cases of persons altering, misusing, or fraudulently completing documentation it relies on to fulfill its statutory responsibilities and prevent the spread of contagious and infectious diseases. Under *House Bill 1433 (passed)*, a person is prohibited from making a false statement to MDA regarding the identity, location, place of origin or destination, or health status of an animal; providing false information for specified animal health-related documentation or when applying for documentation or services provided by MDA; or generally altering or damaging, or knowingly or willfully possessing or using altered or damaged, specified documentation or identifying devices.

*House Bill 1433* also authorizes MDA to bring an action for an injunction, and under emergency circumstances, an action for an immediate injunction, against any person violating the prohibitions under the bill or any valid order or quarantine issued by the department. MDA advises that it currently is subject to the court’s discretion as to whether it will consider a request for an injunction and that access to a court may be essential in cases where there is an imminent risk of harm to domestic animals from infectious or contagious diseases. Under the bill, MDA has specific authority to bring an action for an injunction and an injunction must be granted upon a showing by MDA that a violation is occurring or about to occur.

### **Pest Control**

Any honey bee colony or used bee equipment shipped or transported into the State generally must be inspected in the state of origin prior to entering Maryland and certified to be disease free. *House Bill 1292 (Ch. 98)* eliminates a requirement that the inspection occur within two months of the colony or equipment entering the State and allows MDA, instead, to set the time period within which the inspection must occur. Maryland is part of a regional agreement with Delaware, Pennsylvania, Virginia, and West Virginia that is being revised and includes a proposed increase in the time requirement for inspections prior to movement of colonies between states from two months to one year. The bill allows Maryland to comply with the change to the agreement while also allowing MDA to set more restrictive time periods for colonies or equipment being transported from other parts of the country where there may be greater risk of pests or disease.

## Departmental Employment of Farmers and Farm Owners

Individuals who are employed by or have financial interests in farm operations are well-suited for many positions within MDA, especially those in the soil conservation districts and pesticide and nutrient management programs. Candidates with experience in farm operations require less training, and MDA has had more success in retaining employees who have outside employment and interests in the farming industry. However, State ethics law restrictions relating to conflicts of interest have hindered MDA's ability to employ these individuals.

Under *House Bill 558 (passed)*, MDA employees are exempted from specified State ethics law restrictions, allowing an individual who owns or operates a farm regulated by MDA to be employed within MDA, provided the individual does not exercise any regulatory or supervisory authority with respect to the farm activities of the individual's farm. The bill requires MDA, in consultation with the State Ethics Commission, to adopt regulations to govern conflicts of interest with respect to those employees who own or operate a farm subject to the regulatory authority of the department. MDA and the State Ethics Commission must also jointly prepare and submit a report to the General Assembly by December 31, 2010, that includes the number of employees hired after the effective date of the bill who own or operate a farm, the positions the employees were hired for, and information on how MDA addressed any conflicts of interest or potential conflicts of interest.

## Departmental Boards

The Young Farmers Advisory Board, established in 2004, is made permanent by *Senate Bill 64 (passed)*. The board was established to, among other things, communicate the importance of young and beginning farmers to agriculture in the State and identify and address issues relating to young and beginning farmers in the State and make recommendations to the Maryland Agricultural Commission. The board was scheduled to terminate in September 2007.

The Maryland Horse Industry Board's (MHIB) licensing and inspection authority is expanded under *House Bill 1352 (Ch. 100)* to include rescue stables in which five or more horses are sold or transferred each year. Rescue stables usually house horses that are either unwanted or have been abused and/or neglected. According to MHIB, because there have been complaints about conditions at some rescue stables in the past, several private-sector organizations determined that it would be in the best interest of the Maryland horse industry to include the stables under the licensing and regulatory authority of the board.