Part K
Natural Resources, Environment, and Agriculture

Natural Resources

Chesapeake Bay Restoration

Chesapeake and Atlantic Coastal Bays 2010 Trust Fund and Nonpoint Source 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**.

Exhibit K-1
Maryland's Pollutant Reduction Goals

Pollutant	1985 Loads	2005 Loads	2010 Goal
Nitrogen (million lbs/yr)	82.4	56.2	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

In April 2004, the Department of Natural Resources (DNR) released Maryland Tributary Strategy, which outlines basin-specific nutrient and sediment control action necessary to reduce pollution from every source with the aim of achieving the C2K goals.

While numerous efforts to restore the bay's water quality are underway, the State is expected to fall short of its C2K goals absent further action. EPA's Chesapeake Bay Program reports that progress has been made toward meeting the C2K nutrient and sediment reduction goals in the areas of agriculture, wastewater, and atmospheric deposition of nitrogen. However, urban/suburban stormwater is the one pollution sector where progress has been negative due to population growth and related development.

In its January 2007 report, the Maryland Transition Work Group on Environment and Natural Resources estimated the cost of implementing all the actions in the tributary strategies at $5.1 billion. In an effort to address the significant funding shortfall that exists with respect to the State's bay restoration activities, the creation of a fund to finance bay restoration efforts was proposed in both the 2007 regular and special sessions. The concept was originally proposed as a fund that would be financed by an "impervious surface fee" on new development in the State, intended to have a nexus with the urban/suburban runoff caused by impervious surfaces. The bill (House Bill 1220) passed in the House during the 2007 regular session but was not acted on by the Senate.

In the 2007 special session, a Chesapeake Bay 2010 Trust Fund was included in tax-related House and Senate bills (House Bill 5 and Senate Bill 2) seeking to address the State's structural deficit. The fund was subsequently established through the enactment of House Bill 5 (Chapter 6), financed with a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals. While the Governor's proposed fiscal 2009 budget included $50 million from these sources for the trust fund, budget reconciliation legislation reduced this amount; as enacted, the fiscal 2009 budget includes $25 million for the trust fund. The Act, while stating that the funding must be used for implementation of the State's tributary strategy, does not give more specific direction for how the funding must be spent.

***Senate Bill 213*/*House Bill 369* (both passed)** provide a framework for how the trust fund money must be spent by specifying that it be used for nonpoint source pollution control projects and by expanding it to apply to the Atlantic Coastal Bays. The fund is renamed as the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund. The bills generally codify the BayStat Program to measure and evaluate bay restoration efforts, expand its charge to include the Atlantic Coastal Bays, and expand its duties to include the administration of the trust fund. The BayStat Subcabinet, composed of the Secretary of Natural Resources; the Secretary of the Environment; the Secretary of Planning; the Secretary of Agriculture; the President of the University of Maryland Center for Environmental Science; the Dean of the College of Agriculture and Natural Resources at the University of Maryland, College Park; and the Chair of the Critical Area Commission, must oversee the administration of the program.

Under the legislation, money in the trust fund must be distributed by the subcabinet agencies (1) through competitive grants to counties, bicounty agencies, municipalities, forest conservation district boards, soil conservation districts, academic institutions, and nonprofit organizations having demonstrated ability to implement nonpoint source pollution control projects; (2) to the Maryland Agricultural Water Quality Cost Share Program within the

Maryland Department of Agriculture (MDA); (3) to the Woodland Incentive Fund within DNR; and (4) to the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund, a new special fund administered by the Water Quality Financing Administration (WDFA) within the Maryland Department of the Environment to provide financial assistance for urban and suburban stormwater management practices and stream/wetland restoration. WQFA is authorized to issue revenue bonds and deposit the net proceeds into the new fund. Finally, the bills establish financial accounting provisions related to WQFA. For further discussion of this legislation, see subparts "Environment" and "Agriculture" under this Part K of this *90 Day Report*.

Chesapeake Bay and Atlantic Coastal Bays Critical Areas

The Chesapeake Bay Critical Area Protection Program was established by Chapter 794 of 1984 in order to minimize damage to water quality and wildlife habitat by fostering more sensitive development activity along the shoreline of the Chesapeake Bay and its tributaries. In 2002, the program was expanded to include the Atlantic Coastal Bays. However, a report released in May 2006 by the Environmental Law Clinic at the University of Maryland School of Law highlighted a number of limitations of and weaknesses in the Critical Area law due to a lack of enforcement combined with other weaknesses in the statute. Another report released by the Chesapeake Bay Foundation in February 2008 recommended, among other things, that the Governor and the General Assembly reform the Critical Area law to ensure consistent application of the law; provide more robust and equitable enforcement; correct Critical Area boundaries to reflect current conditions; update variance and grandfathering procedures to minimize natural resource and water quality impacts; and ensure that development in the Critical Area is consistent with Maryland's Smart Growth policies.

House Bill 1253 ***(passed)*** attempts to address these concerns by providing greater authority to the Critical Area Commission, updating the basic components of the program, enhancing buffer and water quality protection, coordinating new development more closely with growth management policies and other environmental protection and planning processes, and strengthening enforcement and variance provisions. Specifically, the bill:

- provides explicit authority to the Critical Area Commission to adopt and amend regulations to administer and enforce the program;

- requires DNR to develop a new Critical Area boundary using a new Statewide Base Map;

- requires local programs to follow the State minimum requirements for all elements of their programs;

- establishes reporting and notice requirements for local jurisdictions, including a requirement that the Critical Area Commission receive written notice of local decisions regarding project approvals or denials;

- recasts current limits for "impervious surfaces" in terms of "lot coverage" to allow for technological improvements in paving materials, while generally maintaining the current ceilings on development;

- establishes new buffer provisions (including expanding the buffer from 100 feet to 200 feet) with respect to an application for subdivision or site plan approval within the Resource Conservation Area that does not involve the use of growth allocation, with specified exceptions;

- requires shore erosion control projects to be nonstructural, except in areas designated by MDE mapping as appropriate for structural shoreline stabilization measures, areas of excessive erosion, areas subject to heavy tides, and areas too narrow for effective use of nonstructural shoreline stabilization measures;

- specifies several new factors the Critical Area Commission must consider in reviewing map amendments or refinements involving the award of growth allocation;

- enhances enforcement and penalty provisions by requiring local programs to establish administrative enforcement procedures; authorizing the Chair of the Critical Area Commission to prosecute or sue; providing right-of-entry authority to local authorities to identify or verify suspected violations; and by requiring the commission to notify the Maryland Home Improvement Commission, the Home Builder Registration Unit in the Office of the Attorney General's Consumer Protection Division, or DNR of specified contractors under their respective jurisdictions who violate the Critical Area law; and

- alters variance procedures, especially relating to after-the-fact variances.

Chesapeake Bay Trust

The Chesapeake Bay Trust is a private, nonprofit organization established by the General Assembly in 1985 to promote public awareness and participation in the restoration and protection of the water quality and aquatic and land resources of the Chesapeake Bay and other aquatic and land resources of the State. ***Senate Bill 926*** **/*House Bill 1512*** ***(both passed)*** exempt from State procurement law all contracts and grants awarded by the State to the trust. For additional discussion of this legislation, see the subpart "Procurement" under Part C - State Government of this *90 Day Report*.

Nonnative Organisms

DNR reports that several nuisance organisms (including the northern snakehead, rusty crayfish, Chinese mitten crab, flathead catfish, and blue catfish) have been discovered in the State and some have become established to the point where eradication is no longer a possibility. The department indicates that it is limited in its authority to manage nuisance organisms, due in part to the fact that its current regulatory authority relates only to prohibiting the importation, possession, or introduction of a nonnative aquatic organism. In addition, existing laws relating

to size limits or allowable fishing gear applicable to certain types of fish can limit the department's ability to allow nuisance organisms to be fished and managed. ***House Bill 630 (passed)*** provides DNR with greater authority to manage nuisance species by authorizing the Secretary to manage the sale, transport, purchase, importation, possession, harvest, season, size limits, open area, catch devices, and introduction of nuisance organisms. The bill also amends the definition of "naturalized" and exempts a person that has a valid nursery inspection certificate or plant dealer license issued by MDA from specified authority of DNR relating to nuisance organisms.

Land Conservation

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 and to accelerate the development of outdoor recreational facilities. POS provides for both State and local acquisition and development. One-half of any local governing body's annual apportionment must be used for acquisition or development projects; up to 20 percent of these funds may be used for capital renewal. Local jurisdictions may use up to 75 percent of their funds for development provided that local acreage goals are met. Local recreation acreage goals are designed to encourage counties and municipalities to acquire sufficient land to meet the current and future active recreational and open space needs of their residents.

Senate Bill 259 (passed) increases the maximum percentage (from 75 percent to 100 percent) of POS funds that a local government may spend on development projects once it has attained its acreage acquisition goals. The bill is effective through May 31, 2010. Identical legislation was enacted in 2001 (Chapter 658) but terminated on September 30, 2006. DNR reports that, during that five-year period, 10 counties (Allegany, Carroll, Dorchester, Garrett, Kent, Queen Anne's, Somerset, Washington, Wicomico, and Worcester) requested and received permission to use 100 percent of their POS funding for recreation development projects. DNR notes that even counties that were given such permission still continue to acquire land when needed.

Forest Conservation

Forest Conservation Act: Enacted in 1991, the Forest Conservation Act provides a set of minimum standards that developers must follow when designing a new project that affects forest land. Local governments are responsible for making sure these standards are met but may choose to implement even more stringent criteria. If there is no local agency in place to review development plans, DNR does so. In general, the Act calls for a minimum amount of forest cover on development sites based upon the site's zoning. DNR is required to submit an annual report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee that provides information related to projects subject to the Forest Conservation Act, including the amount and location of areas cleared and the costs of implementing the program.

House Bill 972 ***(Ch. 104)*** requires a local authority engaging in enforcement activity in accordance with the Forest Conservation Act to give notice to DNR within 15 days after the start of the activity. In addition, the Act also expands the information DNR must include in its annual statewide forest conservation report to include the number, location, and type of violations and type of enforcement activity, and to the extent practicable, the size and location of all conserved and planted forest areas submitted in an electronic geographic information system or computer aided design format.

No Net Loss of Forests: In a January 2007 report, the Maryland Transition Work Group on Environment and Natural Resources recommended that the State adopt a no net loss of forests goal through legislative and executive actions. Maryland loses 8,600 acres of forested land each year. The work group noted that the maintenance of forests is as key to restoring the Chesapeake Bay as any investments in sewage treatment or air quality controls because trees absorb vast quantities of air pollutants, including greenhouse gases, and also filter nonpoint source pollution from farms and developed areas. ***Senate Bill 431*** ***(passed)*** requests that the Governor establish a Task Force to Study a No Net Loss of Forest Policy to be staffed by DNR. The task force must develop a specific plan, including programs and other necessary actions, to achieve and maintain a no net loss of forests, and draft legislation for the 2009 session to ensure that there is a process to achieve a no net loss of forest in the State beginning in 2010. The task force must submit the plan and the draft legislation to the Governor and the General Assembly by December 1, 2008.

Gypsy Moths: According to MDA, the most destructive forest pest in Maryland is the gypsy moth. Since 1980, the gypsy moth has defoliated more than one million acres in the State. ***Senate Bill 920*** ***(passed)*** establishes a Task Force to Study Statewide Gypsy Moth Infestation to be staffed by the departments of Agriculture, Natural Resources, and Budget and Management. The task force must study the statewide infestation of gypsy moths and make recommendations regarding the most effective practical, regulatory, and legislative means of combating the infestation. The task force must report its findings to the Governor and General Assembly by August 31, 2009.

Wildfires: In 2006, 753 wildfires burned 6,074 acres in the State. DNR's Forest Service maintains specialized heavy equipment (including wildfire engines, tractor plow units and transports, and tankers) to respond to fires and also relies on volunteer and paid fire departments throughout the State. ***Senate Bill 860***/***House Bill 1473*** ***(both passed)*** repeal a requirement that a forest or park warden take specified action upon learning of, as opposed to seeing, a forest fire. Instead, a forest or park warden must take action if requested by a fire company to assist with a fire plow or provide incident command expertise at the scene. According to DNR, this bill will allow the department greater flexibility in responding to wildfires since it has limited personnel available to respond to fires. Further, in the more urban/suburban parts of the State, volunteer and paid fire companies handle the majority of wildfires without DNR's assistance.

Delmarva Fox Squirrel: The Delmarva fox squirrel (*Sciurus niger cinereus*) is currently listed by the State and federal government as an endangered species. The State's Nongame and Endangered Species Conservation Act prohibits the "take" of endangered animals except under specified conditions. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap,

capture, or collect, or to attempt to engage in any such conduct. "Incidental taking" means the taking of listed species that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. State law does not allow for the incidental taking of endangered species, except for the Puritan tiger beetle.

***House Bill 223* (Ch. 55)** authorizes the Secretary of Natural Resources to issue a permit for the incidental taking of the endangered Delmarva fox squirrel if the applicant submits a conservation plan to DNR that specifies the likely impact of the taking, the steps the applicant will take to minimize or mitigate the impact, the funding available for mitigation, any alternative actions considered by the applicant, and any other measures that the Secretary requires. Further, the Secretary must find that the incidental taking will not appreciably reduce the likelihood of survival or recovery of the squirrel, that the applicant will mitigate, that there is adequate funding, and that the applicant has obtained the required federal authorization. The Act also authorizes the Secretary to adopt regulations to implement and enforce the Act.

According to DNR, the Delmarva fox squirrel's population and its habitat region have increased over the years. DNR advises that it is important to maintain forest habitat for the continued success of the species and that it has been working with Maryland's private forest landowners to develop a regional habitat conservation plan for the Delmarva fox squirrel on the Eastern Shore. DNR is currently pursuing an incidental take permit from the U.S. Fish and Wildlife Service as part of that effort. Once completed, private forest owners in Maryland will be able to conduct timber harvest operations in compliance with the federal Endangered Species Act. According to DNR, the State authority provided under this Act to incidentally take this endangered species will allow consistent management of the Delmarva fox squirrel throughout its region and is necessary in order to secure the federal permit.

Parks and Recreation

State Park Funding Enhancement

In recent years budget constraints have limited funding for Maryland's State parks. Chapter 2 of the 2007 special session allocated the greater of 20 percent or $21.0 million of the State transfer tax for the Maryland Park Service. As a result the Maryland Park Service's fiscal 2009 appropriation increases by $4.7 million, which allows for the funding of equipment, such as picnic tables, grills, fire rings and heavy machinery, and contractual repairs ($1.3 million); 58 positions, 39 of which are contractual conversions ($1.3 million); additional seasonal contractual full-time equivalent positions ($1.1 million); and the formation of a Civic Justice Corps program for 100 at-risk youth to perform environmental restoration work in the parks ($1.0 million).

Community Parks and Playgrounds Program

Although not established in statute, a Community Parks and Playgrounds Program has been administered by POS since fiscal 2002. The program provides funding for the restoration of existing parks and the creation of new parks and green spaces in priority funding areas. The program provides flexible grants to local governments to assist in (1) rehabilitating, expanding,

or improving existing parks; (2) creating new parks; or (3) purchasing and installing playground equipment. While land acquisition costs are considered, highest priority is given to capital costs associated with park and playground development and improvement.

The fiscal 2009 capital budget includes $5.0 million in general obligation (GO) bonds for the program to fund 44 projects in 20 jurisdictions. The program's fiscal 2009 authorization is level with the fiscal 2008 authorization, and the 2008 *Capital Improvement Program* indicates that $5.0 million will be provided annually for this program from fiscal 2010 through 2013.

***Senate Bill 1000*/*House Bill 1604* (both passed)** codify and amend the existing Community Parks and Playgrounds Program within DNR to provide flexible grants only to municipalities and Baltimore City to (1) rehabilitate, expand, improve, or maintain existing parks; (2) purchase land to create new parks; (3) develop new parks; (4) purchase and install playground equipment in urban neighborhoods and rural areas throughout the State; or (5) be used for environmentally oriented parks and recreation projects. POS is to administer the program, which may be funded with general funds and with the proceeds from the sale of State GO bonds. The bills' changes apply beginning in fiscal 2010.

Somers Cove Marina

Somers Cove Marina was established in 1958 and was deeded to DNR in 1980 by the City of Crisfield. DNR has made various improvements to the marina with money from the Waterway Improvement Fund, including expanding the number of boat slips to 485 and constructing various facilities at the marina. The marina was operated by the Maryland Park Service within DNR from 1996 to 2006; since last year, it has been managed by DNR's Boating Services Unit. There is a Somers Cove Marina Improvement Fund within DNR, to be used for the operation, maintenance, development, and improvement of the Somers Cove Marina facilities. Any money obtained by DNR from the marina is credited to the fund.

***Senate Bill 941*/*House Bill 1463* (both passed)** establish a Somers Cove Marina Commission as a body politic and corporate and an instrumentality of the State. The commission is established to, among other things, (1) maintain the existing Somers Cove Marina Improvement Fund in a bank account separate from State funds; (2) adopt operating and capital budgets and assess slip and other fees and charges at the marina to implement a specified master plan; and (3) set policy and provide general oversight of marina operations. On November 1, 2011, DNR and the commission must begin to evaluate the commission's ability to (1) operate, maintain, develop, and improve the marina in an effective manner; and (2) afford or assume the costs of operating, maintaining, developing, and improving the marina, including the salaries of the executive director and employees of the State who work at the marina. Findings and recommendations must be reported to the General Assembly on November 1, 2013.

Hunting and Fishing

Fishing

Fishery Management

Regulation of Bait: According to the Department of Natural Resources (DNR), the use and release of live bait has resulted in a significant number of nonnative introductions of invasive species throughout the United States and has the potential to introduce disease and parasites to aquatic wildlife. ***House Bill 226 (Ch. 56)*** requires DNR to adopt regulations defining which species may be harvested, imported, transported, sold, or used as bait in the State. The Act also repeals provisions requiring a live bait dealer's license to sell live bait in Montgomery, Frederick, or Washington counties, as well as provisions governing the types and amounts of live bait that the holder of a live bait dealer's license may possess.

Pot and Net Setting: ***House Bill 1436 (passed)*** alters the standards governing the setting of fish pots, fyke nets, and connected lines of nets in the Chesapeake Bay. The bill reduces the distance requirement between a fish pot, fyke net, or connected line of fyke nets and any other net from 1,650 feet to 500 feet unless other provisions of law specify otherwise. The bill also modifies existing provisions relating to the total length of nets and the distance nets may be set by specifying the types of nets to which those provisions apply.

Soft-shell Clam Harvesting: State law specifies certain areas in which a person may not catch or attempt to catch soft-shell clams with any gear except hand-held tools. ***House Bill 1498 (passed)*** increases the distance from 50 to 150 feet from the mean high watermark of any shoreline in Calvert County within which a person may not catch or attempt to catch soft-shell clams with gear other than hand-held tools.

Oyster Restoration

Buried Oyster Shell Dredging: DNR is required to take measures that, in its judgment, seem best calculated to increase the productivity or utility of any part of the natural oyster bars of the State. These measures include identifying and using effective methods of cleaning diseased oyster bars, providing clean shell for the bars, and using hatchery produced oysters to replant sites. DNR is authorized to take certain conservation measures, including planting oysters, shells, or other cultch, or taking any other restorative measures advisable for natural oyster bars. ***House Bill 1504 (passed)*** requires DNR to apply to the Maryland Department of the Environment and the United States Army Corps of Engineers for permits to dredge buried oyster shells by December 1, 2008, if the Oyster Advisory Committee recommends the application. Before making such a recommendation, the Oyster Advisory Committee must review the findings of the draft Environmental Impact Statement concerning evaluation of oyster restoration alternatives for the Chesapeake Bay.

Fishing Licenses

Reciprocal Angler's Licenses: A person possessing a valid Virginia or West Virginia fishing license may fish in nontidal waters of the Potomac River without obtaining a Maryland angler's license if Virginia or West Virginia enters into and maintains a reciprocal angler's license agreement with DNR. A similar reciprocal agreement exists for a person possessing a valid Pennsylvania fishing license (with respect to the Conowingo and Youghiogheny Reservoirs). ***House Bill 229 (Ch. 59)*** specifies that reciprocal fishing privileges only apply to licensed residents of Virginia, West Virginia, or Pennsylvania and that these fishing privileges only apply with respect to fishing on the Maryland shore of particular portions of the Potomac River opposite the resident's state.

Hunting

Sunday Deer Hunting

Each year DNR establishes by regulation the open season to hunt forest and upland game birds and mammals. 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. ***Senate Bill 878/House Bill 1482 (both passed)*** authorize Sunday deer hunting on private property in Harford County on the first Sunday of the bow hunting season in November and the first Sunday of the deer firearms season. ***House Bill 840 (Ch. 94)*** authorizes Sunday deer hunting on private property in Washington County with a bow and arrow during open season on the last three Sundays in October and the second Sunday in November.

Chapter 361 of 2006 authorized Sunday deer hunting on private property in Montgomery County on the first Sunday of the bow hunting season in November and the first Sunday of the deer firearms season. That Act was set to terminate on December 31, 2008. ***House Bill 938 (Ch. 99)*** repeals the termination date.

Environment

Energy Conservation, Energy Efficiency, and Global Warming

Background

In recent years, Maryland has taken numerous actions in an effort to reduce energy consumption, increase energy efficiency, and reduce greenhouse gas emissions. The State administers several programs that relate to energy efficiency and renewable energy, such as the Renewable Portfolio Standard (RPS), the energy efficiency standards for specified appliances, the Solar Energy Grant Program, and the Geothermal Heat Pump Grant Program. Although Maryland does not have a comprehensive greenhouse gas regulatory program, the Healthy Air Act of 2006 required the Governor to include the State in the Regional Greenhouse Gas Initiative

(RGGI), a coalition created to discuss the design of a regional cap-and-trade program to reduce emissions of greenhouse gases from power plants in the region. As a result, the State joined RGGI in April 2007, and the first regional auction is expected to be held in September 2008. When fully implemented, the Clean Cars Act of 2007 will address greenhouse gas emissions from motor vehicles. Finally, the EmPOWER Maryland initiative, announced by the Governor in July 2007, is designed to reduce per capita energy consumption by 15 percent in 2015.

Despite these actions, the recent increases in the cost of electricity, warnings of electricity shortages as early as 2011, and the growing concern about the potential impacts of climate change led the Maryland Energy Administration (MEA) to develop a plan to identify various strategies to address the State's energy future. MEA released this *Strategic Electricity Plan* in January 2008. Among other things, the plan recommended (1) the establishment of a Strategic Energy Investment Fund geared toward energy efficiency, renewable energy, and climate change reduction/mitigation; (2) various energy efficiency/conservation-related options to decrease demand; (3) options to increase electricity supply, both in general and from renewable sources; (4) enhanced State energy planning; and (5) stimulation of Maryland's clean energy (energy efficiency/conservation and renewable energy) industry.

The *Strategic Electricity Plan* is, in part, a response to Public Service Commission (PSC) reports that the State faces a critical shortage of electricity capacity that could force mandatory usage restrictions by 2011 or 2012. In an interim report to the General Assembly, PSC indicated the shortage will need to be addressed both by additions in capacity and transmission, and by a reduction in the amount of electricity used. The PSC interim report provides initial recommendations and plans for action to increase the available supply of electricity as well as require regulated utilities to implement aggressive and cost effective demand management and energy conservation programs.

In addition to the *Strategic Electricity Plan*, in April 2007, Governor O'Malley established the Maryland Commission on Climate Change by executive order. The commission is charged with developing a plan of action to address the causes of climate change, to prepare for its likely impacts in Maryland, and to establish goals and timetables for implementation. The plan is to be submitted to the Governor and the General Assembly by April 20, 2008. In January 2008, the commission presented an interim report that includes timetables and benchmarks for reducing Maryland's greenhouse gas emissions and preliminary recommendations for legislation and executive actions. Among other things, the commission recommended that the Governor and the General Assembly work in partnership to develop and adopt legislation during the 2008 session to (1) require the State to develop and implement programs to reduce greenhouse gas emissions by 25 percent by 2020 and by 90 percent by 2050 (from 2006 levels); (2) increase energy efficiency by, among other things, establishing a publicly administered energy investment fund to help the State meet the EmPOWER Maryland energy efficiency goals; and (3) amend Maryland's RPS law to encourage more investment into renewable energy sources. A number of these recommendations were developed in coordination with the *Strategic Electricity Plan*.

As a result of the recommendations in the *Strategic Electricity Plan* and the work of the commission, several bills were introduced during the 2008 session. Among these was a package

of bills proposed by the O'Malley Administration to create a Strategic Energy Investment Program, codify the EmPOWER Maryland Program, amend Maryland's RPS, enhance existing solar and geothermal incentive programs, and encourage the construction of high performance buildings. These bills and others relating to these issues are discussed below.

Energy Conservation and Energy Efficiency

One of the central components of the *Strategic Electricity Plan* is the establishment of a Strategic Energy Investment Fund geared toward energy efficiency, renewable energy, and climate change reduction/mitigation. ***Senate Bill 268/House Bill 368 (both passed)*** establish a Maryland Strategic Energy Investment Program and related special fund within MEA to be funded primarily with proceeds from the sale of allowances under RGGI. Under RGGI, the State is expected to bring in a significant amount of revenue from the auction and/or sale of allowances. While revenue estimates vary widely due to the uncertainties regarding the carbon trading market, recent estimates range from less than $9 million to over $260 million annually. The first RGGI auction is expected to be held in September 2008, although it will only cover a portion of the annual allowances and will thus generate only a portion of the estimated annual revenues.

The stated purpose of the Maryland Strategic Energy Investment Program is to decrease energy demand and increase energy supply to promote affordable, reliable, and clean energy to fuel Maryland's future prosperity. The bills repeal the Maryland Renewable Energy Fund and redirect revenues currently paid into that fund to the new fund. The bills specify allocations from the fund, establish a related advisory board, and establish planning and reporting requirements. The bills also establish criminal penalties for specified violations.

The bills establish specified duties for MEA with respect to managing, supervising, and administering the fund. Among other things, MEA must adopt regulations to implement the program and to ensure that fund resources are used only to carry out the purposes of the program. MEA is also directed to provide money to the Maryland Department of the Environment (MDE) to fund its climate change programs. In order to accommodate that provision, the bills modify the revenue sources to MDE's Maryland Clean Air Fund and increase the cap on that fund from $750,000 to $2 million.

MEA is directed to use the fund to:

- invest in the promotion, development, and implementation of cost effective energy efficiency and conservation programs, projects, or activities; renewable and clean energy resources; climate change programs; and demand response programs designed to promote changes in customer electric usage;

- provide targeted programs, projects, activities, and investments to reduce electricity consumption by low-income and moderate-income residential customers;

- provide supplemental funds for low-income electricity assistance through the Electric Universal Service Program (EUSP);

- provide residential customers with rate relief;

- provide financial assistance and investment as necessary and appropriate to implement the program's purposes;

- implement energy-related public education and outreach initiatives regarding reducing energy consumption and greenhouse gas emissions; and

- pay the expenses of the program.

The bills specify that compliance fees currently paid into the Maryland Renewable Energy Fund that are redirected to the new fund must be used in the same manner as provided by current law. Monies are otherwise allocated as provided in **Exhibit K-1**.

Exhibit K-1
Maryland Strategic Energy Investment Fund Allocations

The Department of Human Resources' EUSP	17.0%
Residential rate relief	23.0%
Energy efficiency, conservation, and demand response	at least 46.0%
Renewable and clean energy, energy-related public education and outreach, and climate change programs	up to 10.5%
Administrative costs	up 3.5%, but not more than $4.0 million
Total	**100.0%**

By December 15, 2008, MEA must develop a plan for expenditures from the fund for fiscal 2009 and 2010. By September 1, 2009, and every three years thereafter, MEA must develop a plan for expenditures covering the next three fiscal years. MEA must hold public meetings and must submit the plan to the advisory board for review.

Expenditures from the fund are made either by an appropriation in the annual State budget or by a budget amendment. An expenditure by budget amendment may be made only after MEA has submitted the proposed budget amendment and supporting documents to specified legislative committees for review and comment. MEA also must regularly disclose specified summary information on any contract that encumbers $100,000 or more from the fund.

The bills also establish specified requirements for MEA with respect to monitoring and analyzing program impacts and outcomes. Finally, by January 1 of each year, MEA must report to the Governor and the General Assembly on the uses and expenditures of the fund from the prior fiscal year.

Another part of the Administration's legislative package resulting from the *Strategic Electricity Plan* is ***House Bill 374*** ***(passed)***, which generally codifies the EmPOWER Maryland Program. Using 2007 as a base year, the bill establishes a per capita State goal of achieving a 15 percent reduction in electricity consumption and a 15 percent reduction in per capita peak demand by the end of 2015. Beginning with the 2008 calendar year and each year thereafter, PSC must calculate the per capita electricity consumption and peak demand for the year. By December 31, 2008, PSC, to the extent it determines that cost effective energy efficiency and conservation programs are available for each affected class, must require electric companies to procure and provide customers with a cost effective demand response program that is designed to achieve targeted electricity savings and demand reduction through 2015, as shown in **Exhibit K-2**.

Exhibit K-2
Annual Electric Reduction

	2011	**2013**	**2015**
Per Capita Consumption	5%	n/a	10%
Per Capita Peak Demand	5%	10%	15%

By July 1, 2008, and every three years thereafter, electric companies must consult with MEA regarding program design and adequacy. Electric companies must provide additional information to MEA upon request. Subsequently, by September 1, 2008, and every three years thereafter, electric companies must submit plans to PSC that provide proposed program details for achieving specified targets for each of the three subsequent calendar years. Plans must include a description of each program component, anticipated costs, and projected electricity savings. The plan must address all retail sectors, including low-income and low- to moderate-income communities. PSC must consider only written findings provided by MEA regarding the design and adequacy of the plans.

PSC must review plans with respect to adequacy and cost effectiveness and must consider impacts on jobs, the environment, electricity rates, and other requested information. Electric companies must provide PSC and MEA with annual updates. PSC must monitor and analyze program impacts for "best possible results." PSC, upon a finding that "best possible results" are not being obtained, can direct an electricity company to include specific measures in the electric company's annual update.

Each electric company and gas company must notify affected customers of the energy efficiency and conservation charges imposed and benefits conferred. Notice must be provided on the company's web site and included with billing information.

As directed by PSC, each municipal electric utility and each electric cooperative that serves a population of less than 250,000 in its service territory must include energy efficiency and conservation programs or services as part of their service to their customers.

MEA, in consultation with PSC, must review and report to specified legislative committees by December 31, 2012 on the effectiveness of the goals and determine if new electricity consumption and peak demand reduction targets should be set beyond 2015 and the feasibility of setting energy saving targets in 2015 and 2020 for natural gas companies. PSC must also evaluate the cost effectiveness of smart meters or smart grid technologies and implement within each electric company's service territory if cost effective.

The bill prohibits PSC from requiring or allowing an electric company to require an electric customer to authorize the company to control the amount of the electric customer's electricity usage. Finally, for fiscal 2009 only, the bill authorizes PSC to impose up to $300,000 as a special assessment for PSC and the Office of People's Counsel to implement the bill, subject to specified requirements.

***Senate Bill 208* (passed)**, another Administration bill, was introduced largely as a result of the recommendations made by the Maryland Green Building Council in its December 2007 report. The bill requires new or renovated State buildings and new school buildings to be constructed as high performance buildings under specified circumstances. For a more detailed discussion of this legislation, please see the subpart "Procurement" under Part C – State Government of this *90 Day Report*.

***Senate Bill 885*/*House Bill 1301* (both passed)** consolidate, with limited modifications, the existing Community Energy Loan Program and Energy Efficiency and Economic Development Loan Program into the Jane E. Lawton Loan Program and establish a related special fund to fund the program. The program is to be administered by MEA and has the stated purpose of providing financial assistance in the form of low-interest loans to nonprofit organizations, local jurisdictions, and eligible businesses for projects to (1) promote energy conservation; (2) reduce consumption of fossil fuels; (3) improve energy efficiency; and (4) enhance energy-related economic development and stability in business, commercial, and industrial sectors.

Chapter 6 of the 2007 special session exempts from the State sales and use tax the purchase of specified Energy Star products or solar hot water heaters made on the Saturday immediately preceding the third Monday in February through the third Monday in February. Chapter 6 applies to purchases of eligible Energy Star air conditioners, clothes washers or dryers, furnaces, heat pumps, standard size refrigerators, compact fluorescent light bulbs, dehumidifiers, programmable thermostats, and solar water heaters once a year beginning in February 2011.

Senate Bill 456/House Bill 985 ***(both passed)*** add boilers to the list of specified Energy Star products eligible for the sales and use tax exemption.

Under current law, PSC is required to evaluate the cost effectiveness of the investments by electric companies in energy conservation to reduce electricity demand and in renewable energy sources to help meet electricity demand. This includes the promotion and development of a building audit and weatherization program, the utilization of renewable energy sources, the promotion and utilization of electricity from cogeneration and wastes, and the widespread public promotion of energy conservation programs. Gas and electric utilities in Maryland are required to develop and implement energy efficiency and conservation programs, subject to review and approval by PSC. ***Senate Bill 417/House Bill 608*** ***(both passed)*** are emergency bills that require certain utilities to disclose the costs and benefits of its energy efficiency and conservation charges and benefits to affected customers each year, and reinstates a PSC report on those programs.

Promoting Renewable Energy

Renewable Portfolio Standard (RPS) is a policy that requires retail suppliers of electricity to meet a portion of their energy supply needs with eligible forms of renewable energy. Maryland's RPS was established in 2004 in order to recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources; establish a market for electricity from those resources in Maryland; and lower consumers' cost for electricity generated from renewable sources. An electricity supplier must meet RPS by accumulating "renewable energy credits" created from various renewable energy sources classified as Tier 1 and Tier 2 renewable sources. Examples of Tier 1 sources include solar, wind, and geothermal. Examples of Tier 2 sources include poultry litter incineration and waste-to-energy. A renewable energy credit is a tradable commodity representing the renewable energy generation attributes of one megawatt hour of electricity. According to the U.S. Department of Energy, 24 states and the District of Columbia have adopted some form of RPS as of September 2007.

Senate Bill 209/House Bill 375 ***(both passed)***, which amend Maryland's RPS, represent another piece of the Administration's legislative package resulting from the *Strategic Electricity Plan*. The bills increase the percentage requirements of the RPS from 9.5 to 20 percent in 2022 and beyond, as shown in **Exhibit K-3**. Effective January 1, 2011, Tier 1 compliance fees are increased from 2 to 4 cents per kilowatt hour. Beginning January 1, 2011, the bills also restrict acceptable renewable energy resources to those within the PJM region (*i.e.*, the wholesale, bulk power control area in which Maryland resides) or in a control area that is adjacent to the PJM region, if the electricity is delivered into the region. The bills provide a compliance fee mechanism that terminates on December 31, 2018. The mechanism allows PSC to delay electric suppliers' scheduled RPS requirements for Tier 1 (nonsolar) resources under specified conditions.

Exhibit K-3
Renewable Energy Portfolio Standards

Year	Tier 1 (Bills)	Tier 1 (Current)	Tier 1 Solar (Current)	Tier 2 (Current)
2006	-	1.000%	-	2.500%
2007	-	1.000%	-	2.500%
2008	-	2.005%	0.005%	2.500%
2009	-	2.010%	0.010%	2.500%
2010	-	3.025%	0.025%	2.500%
2011	5.00%	3.040%	0.040%	2.500%
2012	6.50%	4.060%	0.060%	2.500%
2013	8.20%	4.100%	0.100%	2.500%
2014	10.30%	5.150%	0.150%	2.500%
2015	10.50%	5.250%	0.250%	2.500%
2016	12.70%	6.350%	0.350%	2.500%
2017	13.10%	6.550%	0.550%	2.500%
2018	15.80%	7.900%	0.900%	2.500%
2019	17.40%	8.700%	1.200%	0%
2020	18.00%	9.000%	1.500%	0%
2021	18.70%	9.350%	1.850%	0%
2022	20.00%	9.500%	2.000%	0%

Senate Bill 348/House Bill 1166 ***(both passed)*** remove the incineration of poultry litter from the list of eligible Tier 2 renewable energy sources and establish poultry litter-to-energy as a qualifying Tier 1 renewable energy source under RPS. Under the bills, poultry litter-to-energy is an eligible resource only if the source is connected with the electric distribution grid serving Maryland.

Another piece of the Administration's legislative package resulting from the *Strategic Electricity Plan* seeks to enhance existing grant programs and tax incentives related to solar energy and geothermal equipment. ***House Bill 377*** ***(passed)*** increases grant limits under the Solar Energy and Geothermal Heat Pump grant programs, exempts the sale of specified solar energy and geothermal equipment from the State sales and use tax, and exempts specified solar energy property from State and local real property taxes. The property tax exemption is applicable to taxable years beginning after June 30, 2008. The bill also specifies that a geothermal heating and cooling system, either as a stand-alone system or as a combined geothermal and conventional system, is not to be assessed, for property tax purposes, at more

than the value of a conventional system. Finally, the definition of photovoltaic property is also modified to include only solar energy property with an installed electricity generation capacity of 20 kilowatts or less.

Solar energy and geothermal heat pump grant award limits are increased as shown in **Exhibit K-4**. However, the bill gives MEA discretion to adjust the grant amounts, within the prescribed limits, to reflect market conditions and prevailing prices.

Exhibit K-4
Solar/Geothermal Heat Pump Grant Award Limits

	Current Limits	Limits Under Bill
Photovoltaic property (residential)	$3,000 or 20% of the total installed cost*	$10,000 or $2,500 per kW of installed electricity generation capacity*
Photovoltaic property (nonresidential)	$5,000 or 20% of the total installed cost*	$10,000 or $2,500 per kW of installed electricity generation capacity*
Solar water heating property	$2,000 or 20% of the total installed cost*	$3,000 or 30% of the total installed cost*
Geothermal property (residential)	$1,000	$3,000 or $1,000 per ton*
Geothermal property (nonresidential)	$1,000	$10,000 or $1,000 per ton*

*The lesser of.

House Bill 1509 ***(failed)*** would have, among other things, authorized the Maryland Environmental Service to engage in additional types of energy projects and services, such as the construction of renewable power plants, the undertaking of energy conservation measures, and engaging in research and development studies.

Stimulating the Clean Energy Industry

In response to another recommendation in the *Strategic Electricity Plan*, ***House Bill 1337*** ***(passed)*** establishes a Maryland Clean Energy Center as a body politic and corporate and as an instrumentality of the State to (1) generally promote and assist the development of the clean energy industry in the State; (2) promote the deployment of clean energy technology in the State; and (3) collect, analyze, and disseminate industry data. The center must coordinate with MEA and must not duplicate MEA's programs or activities without its consent. The bill also

establishes a Maryland Clean Energy Technology Incubator Program to promote entrepreneurship and the creation of jobs in the clean energy technology-related industry. The bill provides for the composition, powers, responsibilities, and function of a board of directors charged with managing the center and exercising its corporate powers. The bill enumerates various powers of the center including the authority to:

- accept loans, grants, or assistance of any kind from the federal or State government, a local government, a college or university, or a private source;
- make grants to or provide equity investment financing for clean energy technology-based businesses;
- acquire, purchase, hold, lease as lessee or lessor, sell, transfer, license, assign, use, or dispose of various forms of property and property interests;
- fix and collect rates, rentals, fees, royalties, and charges for services and resources it provides or makes available;
- maintain offices at a place it designates in the State;
- create, own, control, or be a member of specified business entities;
- acquire, develop, improve, manage, market, license, sublicense, maintain, lease, or operate a project in the State to carry out its purposes;
- borrow money and issue bonds to finance any part of the cost of a project or for any other corporate purpose of the center;
- secure the payment of any portion of borrowing through property or revenues of the center;
- cooperate with and provide assistance to local governments, instrumentalities, and research entities in the State; and
- coordinate clean energy technology development, education, and deployment activities with federal or other public or private programs.

Reducing Greenhouse Gas Emissions

According to the U.S. Environmental Protection Agency (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. A handful of other states have followed California's lead by establishing mandatory emission reductions through legislation, and several states have established statewide targets for such reductions. Although several bills addressing global warming have been introduced in Congress, to date, no federal legislation has been enacted. However, on March 27, 2008, EPA announced that it will issue an Advance Notice of Proposed Rulemaking later this spring to discuss and solicit public input on the specific effects of climate change and the potential regulation of greenhouse gas emissions from stationary and mobile sources.

As introduced, ***Senate Bill 309/House Bill 712*** ***(both failed)*** would have established an Office of Climate Change within MDE. MDE would have been required to adopt regulations to reduce greenhouse gas emissions by a minimum of 25 percent by 2020 and 90 percent by 2050 (from 2006 levels). The bills contained several provisions regarding the adoption of regulations to achieve those reductions, including regulations to establish a cap-and-trade system; regulations relating to the reporting, verification, and monitoring of reductions; and possible regulations to establish offset allowances. RGGI auction proceeds would have been used to implement the bill. If such proceeds were inadequate, MDE would have been authorized to establish a greenhouse gas emissions fee. Finally, the bills as introduced would have repealed the cap on the Maryland Clean Air Fund and would have modified the revenue sources and uses of that fund.

As passed by the Senate, ***Senate Bill 309*** would have required MDE to develop plans, adopt regulations, and implement programs to reduce greenhouse gas emissions by 25 percent from 2006 levels by 2020, subject to specified conditions. However, the mandatory reduction of 90 percent by 2050 was modified by the Senate to become a target. Various reports would have been required, and legislation would have had to have been enacted to authorize the implementation of each of the three phases of the reduction measures. The bill still would have been implemented using auction proceeds from RGGI; however, as passed by the Senate, the bill would have been contingent upon adequate funding from that source.

For a discussion of other energy-related legislation, please see the subpart "Public Service Companies" under Part H – Business and Economic Issues of this *90 Day Report*.

Clean Air Permit Fees

According to MDE, revenues from emissions-based fees are critical to the funding of its air pollution control regulatory programs. Currently, three principal revenue sources support air pollution control activities in Maryland – federal funds, special funds from permit/emissions fees, and reimbursable funds from the Maryland Department of Transportation to undertake transportation-related air pollution reduction activities. Although program costs have been rising, MDE advises that federal funds have declined in recent years and that special funds from emission-based fees are projected to decrease in the future as new and existing pollution control programs are implemented.

In order to provide additional funding for MDE's air quality program, ***Senate Bill 442 (passed)*** increases the maximum air quality emissions-based permit fee (from $25 per ton, indexed to inflation, to $50 per ton, indexed to inflation). The bill also increases the maximum fee for a single source (from $200,000, indexed to inflation, to $500,000 indexed to inflation) for calendar 2008 and 2009 and repeals the facility cap beginning in 2010. The bill modifies the definition of "regulated emissions" to facilitate the repeal of the facility cap and clarifies that carbon dioxide emissions are excluded for the purpose of calculating fees. The bill also increases the current limit (from $750,000 to $2.0 million) on the amount of money that can be maintained in the Maryland Clean Air Fund. The bill's changes are anticipated to generate an additional $1.3 million in special funds for MDE in fiscal 2009 and an average of about $2.3 million annually from fiscal 2010 through 2013.

Water Resources

Water Quality/Restoration

A number of bills were introduced during the 2008 session that relate to the State's efforts to restore the Chesapeake Bay and its tributaries. This issue is also addressed under the subpart "Natural Resources" under this Part K of this *90 Day Report*.

BayStat: In an effort to provide additional funding for bay restoration, Chapter 6 of the 2007 special session established a Chesapeake Bay 2010 Trust Fund financed with a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals. The fiscal 2009 budget includes $25 million in special funds for the trust fund. The Act, while stating that the funding must be used for implementation of the State's tributary strategy, does not give more specific direction for how the funding must be spent. ***Senate Bill 213/House Bill 369 (both passed)*** provide a framework for how the trust fund money must be spent and expand it to apply to the Atlantic Coastal Bays. The bills codify the existing BayStat Program to administer the fund and establish a BayStat Subcabinet that includes the Secretary of Environment along with heads of other subcabinet agencies. The bills require funding to be distributed to the subcabinet agencies to administer in accordance with specified work and expenditure plans. Among other things, the bills require that some portion of the money in the trust fund be redirected to the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund, a new special fund administered by the Water Quality Financing Administration (WQFA) within MDE to provide financial assistance for urban and suburban stormwater management practices and stream/wetland restoration. WQFA is authorized to issue revenue bonds and deposit the net proceeds into the new fund. For a more detailed discussion of this legislation, see the subpart "Natural Resources" under this Part K of this *90 Day Report*.

Septics Account of the 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 wastewater treatment plant owners to reduce nutrient pollution to the Chesapeake Bay by upgrading the systems with enhanced nutrient removal (ENR) technology. As a revenue source for the fund, Chapter 428 established a bay restoration fee on users of wastewater facilities, septic systems, and sewage holding tanks. Of the revenue collected from users of septic systems and sewage

holding tanks, 60 percent must be deposited into a separate account (the Septics Account) within the fund to provide grants and loans to septic system owners to upgrade their septic systems and to implement an education and outreach program. The remaining 40 percent must be transferred to the Maryland Agricultural Water Quality Cost Share Program within the Maryland Department of Agriculture to provide financial assistance to farmers for planting cover crops. With respect to grants provided to septic system owners, statutory priority is first given to failing septic systems within the Critical Area, and second, to failing systems that MDE determines are a threat to public health or water quality. ***Senate Bill 831/House Bill 581 (both passed)*** expand the uses of the Septics Account to include providing grants or loans for up to 100 percent of the cost of replacing multiple septic systems located in the same community with a new community sewerage system that meets ENR standards. Funding may be provided if (1) the environmental impact of the septic system is documented by the local government and confirmed by MDE; (2) it can be demonstrated that the replacement of the septic system with a new community sewerage system is more cost effective for nitrogen removal than upgrading each individual septic system or the individual replacement of the septic system is not feasible; and (3) the new community sewerage system will only serve lots that have received a certificate of occupancy by October 1, 2008.

Living Shorelines: In its January 2008 interim report, the Maryland Commission on Climate Change recommended that the State begin to actively address the impacts on the natural environment of shore erosion induced by sea level rise. Current shore protection practices range from "hard" techniques, such as bulkheads, retaining walls, and riprap, to more soft alternatives such as "living shorelines" that combine marsh plantings with sills, groin fields, or breakwaters. Where site conditions are appropriate, living shorelines are the preferred method of shore protection because in addition to protecting the shoreline, they also trap sediment, filter pollution, and provide important habitats for both aquatic and terrestrial wildlife. ***House Bill 973 (passed)*** requires the use of nonstructural shoreline stabilization methods in tidal wetlands except in areas designated by MDE mapping as appropriate for structural shoreline stabilization measures and in areas where a property owner can demonstrate to MDE that such measures are not feasible, including areas of excessive erosion, areas subject to heavy tides, and areas too narrow for effective use of nonstructural shoreline stabilization measures. MDE must adopt regulations in consultation with the Department of Natural Resources. The regulations must include a waiver process that exempts a person from the bill's requirements on a demonstration to MDE's satisfaction that nonstructural measures are not feasible for the person's property.

This "living shorelines" issue was also addressed in ***House Bill 1253 (passed)***, the Chesapeake and Atlantic Coastal Bays Critical Area Protection Program – Administrative and Enforcement Provisions, which is discussed under the subpart "Natural Resources" under this Part K of this *90 Day Report*.

Phosphorus in Detergents: One of the primary pollutants in the Chesapeake Bay is phosphorus. In order to reduce the amount of phosphorus ultimately reaching the bay, Chapters 187 and 188 of 2007 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. In

response to concerns about the ability of some manufacturers to meet that deadline, ***Senate Bill 710 (passed)*** delays the effective date of the prohibition by six months – from January 1, 2010, to July 1, 2010.

Wetlands and Waterways

The Wetlands and Waterways Program within MDE administers a statewide program for the management, conservation, and protection of Maryland's tidal wetlands and nontidal wetlands and waterways, including the 100-year floodplain. Permits granted for work in privately owned wetlands are issued by MDE; licenses granted for work in State-owned wetlands are issued by the Board of Public Works (BPW). Due to a continuing reduction of personnel combined with increasing demands on the program, MDE's ability to process and evaluate permit applications in a thorough and timely manner has declined. In response to unsuccessful departmental legislation introduced during the 2004 session (House Bill 495), MDE convened a stakeholder workgroup during the 2004 interim to evaluate and make recommendations regarding the establishment of fees within the Wetlands and Waterways Program. As a result of the workgroup's recommendations, legislation was introduced as House Bill 154 of 2005 but was not enacted. ***House Bill 1056 (passed)*** establishes a Wetlands and Waterways Program Fund within MDE. As the primary revenue source, the bill establishes application fees for various wetlands and waterways permits and licenses. The bill establishes the required uses of the fund and reporting requirements for MDE. MDE advises that the revenue generated by the application fees (an estimated $2.6 million in fiscal 2009) together with a continuing general fund appropriation, will dramatically improve its ability to manage, conserve, and protect the State's vital wetland and water resources, while providing a more efficient and effective application process. MDE advises that any additional revenues generated by the bill will largely be used to restaff the program to historical levels.

In general, BPW and MDE may not issue a tidal wetlands license or a wetlands permit for any project involving the construction of a dwelling unit or other nonwater dependent structure on a pier located on State or private wetlands, except under specified conditions. ***Senate Bill 757/House Bill 1266 (both passed)*** modify that provision to allow BPW and MDE to issue licenses and permits for projects that meet additional requirements. This change will likely allow at least one proposed project (a replica lighthouse) in the City of Cambridge to move forward.

Water Supply

In order to conserve, protect, and use water resources of the State in accordance with the best interests of the people of Maryland, it is the policy of the State to control, so far as is feasible, appropriation or use of surface waters and groundwaters of the State. A permit must be obtained from MDE to appropriate or use or begin to construct any plant, building, or structure that may appropriate or use any waters of the State. Current regulations establish criteria MDE must follow in approving water appropriation or use permits.

The natural limitation on the amount of groundwater that can be withdrawn without adversely impacting the State's natural resources has in some cases limited the amount of development that can be supported in municipalities that rely solely on groundwater from water table aquifers for water supply (primarily those located in the central "Piedmont" portion of Maryland). Each household on average uses approximately 250 gallons of water a day. In areas where the amount of groundwater recharge per acre is not sufficient, higher density developments must incorporate sufficient open space areas or otherwise restrict water use-associated land located outside of the developed areas but still within the aquifer recharge area to ensure that the groundwater recharge is not exceeded by the water withdrawal. Concern has been raised that the State's groundwater recharge policy encourages sprawl by limiting the amount of water available to municipalities for growth within town limits. ***Senate Bill 674/House Bill 1423 (both passed)*** address that concern by authorizing MDE, in accordance with existing State policy and provided that it will not jeopardize the State's natural resources, to give priority for groundwater appropriations and use in Carroll, Frederick, or Washington counties to a public water system that provides water to specified municipal corporations or to specified priority funding areas.

Waste Management/Hazardous Substances

Recycling, Disposal, and Cleanup

Coal Combustion Byproducts (CCBs): Fly ash is a byproduct from the burning of coal in power plants that is captured by air pollution control equipment. According to MDE, approximately 2 million tons of coal ash (fly ash and bottom ash, which is heavier than fly ash and is captured at the bottom of the combustion device) is currently generated each year in Maryland, but this amount is anticipated to increase as a result of new environmental controls being installed at power plants. CCBs are currently either disposed of or beneficially used. According to MDE, beneficial uses of coal ash include mine reclamation, structural fill applications, or as a substitute for cement in the production of concrete.

If CCBs are not managed properly, constituents of the material can be released into the environment. MDE advises that under certain geologic conditions, certain types of coal ash can produce high concentrations of the constituents (such as selenium, sulfate, arsenic, iron, or manganese) in soil that may leach into surface or groundwater. In addition, without proper controls, MDE reports that coal ash released into the air in large quantities can create a public nuisance and/or cause respiratory problems.

In response to the recent discovery of contaminated groundwater near a fly ash disposal site (sand and gravel mine) in Gambrills (Anne Arundel County), MDE proposed regulations in December 2007 to provide a regulatory framework for the disposal of CCBs and the use of CCBs for mine reclamation. MDE also expects to propose regulations in 2008 relating to the beneficial use of CCBs. However, MDE does not have sufficient funding to implement a comprehensive regulatory program addressing CCBs, which is estimated to cost approximately $750,000 in fiscal 2009, increasing over time. In order to provide a funding source for this activity, ***House Bill 1466 (failed)*** would have established a State Coal Combustion By-Products Management

Fund within MDE. As passed by the House, the bill would have authorized MDE, by regulation, to establish a fee to be paid by a generator of CCBs based on a per ton rate of CCBs generated each year. Fees were to be based on MDE's costs to operate its regulatory program. However, MDE would not have been authorized to impose a fee on CCBs that are beneficially used or disposed of outside the State. The bill would have established the allowable uses of the fund, which generally relate to administering and implementing the regulatory program. MDE would have been required to adopt regulations and to submit an annual report on the status of the fund.

Release of Hazardous Substances: Current law relating to the release of hazardous substances into the environment authorizes MDE to enter any site or facility to address a release and to issue orders to or seek injunctive relief against responsible parties. Current law does not explicitly require the reporting of releases to MDE, however. MDE has learned, sometimes several years later, of instances in which a person has discovered contaminated environmental media but did not immediately report the discovery. In some cases, the contamination represented a potential risk to human health and the environment. In order to improve MDE's ability to address potential or actual contamination as soon as possible, ***House Bill 977 (Ch. 106)*** requires, beginning October 1, 2009, a responsible person that possesses specified evidence of a release of a hazardous substance, at or above a threshold established by MDE, to immediately report the finding to MDE. The Act establishes specific items MDE must consider in determining a reportable threshold, and requires MDE to adopt regulations by June 30, 2009.

Lead Poisoning

Lead poisoning impacts the cognitive and physical development of young children. Exposure to lead can cause long-term neurological damage that may be associated with learning and behavioral problems and with decreased intelligence. Children are exposed to lead through breathing lead paint dust, eating lead paint chips, or absorbing lead while in-utero. Most exposures can be eliminated by removing lead paint from the homes of children and pregnant women. Although there has been a steady decline in childhood lead exposure over the past decade, lead poisoning remains a significant health issue. In addition, the discovery of lead in children's toys, which has led to numerous product recalls, has been the focus of much media attention in recent months.

MDE's Lead Poisoning Prevention Program serves as the coordinating agency of statewide efforts to eliminate childhood lead poisoning. Under the 1994 "Reduction of Lead Risk in Housing Law," MDE assures compliance with mandatory requirements for lead risk reduction in rental units built before 1950; maintains a statewide listing of registered and inspected units; and provides blood lead surveillance through a registry of test results of all children tested in Maryland. The program also oversees case management follow-up by local health departments for children with elevated blood lead levels; certifies and enforces performance standards for inspectors and contractors working in lead hazard reduction; and performs environmental investigations for lead poisoned children. In addition, the program provides oversight for community education to parents, tenants, rental property owners, homeowners, and health care providers to enhance their role in lead poisoning prevention.

Senate Bill 557/House Bill 589 ***(both passed)*** require an application form for a license issued by the Maryland Home Improvement Commission (MHIC) to require the MDE lead paint abatement accreditation number and expiration date if the applicant provides lead paint abatement services. This information must also be submitted to MHIC by a licensee before the license may be renewed. A licensee who violates the lead paint abatement accreditation requirement or any associated regulations is subject to an existing penalty of up to $5,000 per violation. The bills also modify the definition of "lead-safe housing" under the Reduction of Lead Risk in Housing Law to include dwelling units in which lead contaminated dust levels are determined to be within certain abatement clearance levels within a timeframe established by MDE by regulation. Finally, the bills establish requirements for owners who do not comply with the risk reduction standards.

Senate Bill 718 ***(passed)*** establishes new provisions under the Reduction of Lead Risk in Housing subtitle that authorize a person who intends to acquire an occupied affected property that is in violation of the risk reduction requirements under current law to submit a compliance plan to MDE. An application fee of $200 for each occupied affected property and each occupied unit in a multifamily affected property, up to $10,000, must be paid. If approved, the person is considered to be in compliance. The bill also establishes provisions regarding when a person who has acquired or will acquire affected property must give tenants the notice and information required under current law.

House Bill 62 ***(passed)*** prohibits a person from manufacturing, selling, offering for sale, importing, or distributing a lead-containing children's product, as defined in the bill. The bill does not affect the authority of a local agency to enforce a local law governing the amount of lead contained in a product if the local law is at least as restrictive as the bill. Manufacturers of children's products must test those products, issue a related certificate, and submit the certificate to MDE and any distributors or retailers. The bill also establishes enforcement provisions.

Other Environmental Issues

Enforcement

In general, the statute of limitations relating to environmental violations is one year, although certain violations carry a statute of limitations of two or three years. The Office of the Attorney General reports that in the past year there have been at least a dozen criminal cases which have been time-barred. In order to enhance the enforcement of environmental laws, ***Senate Bill 590/House Bill 1193*** ***(both passed)*** establish a three-year statute of limitations for a criminal prosecution or suit for a civil penalty with respect to a violation of any provision of the Environment Article or any rule, regulation, order, or permit adopted or issued under that article. The bills state that the intent of the General Assembly is to provide consistency and certainty among the regulated community regarding the statute of limitations for such actions.

On October 1, 2007, MDE filed a consent order in Anne Arundel County Circuit Court to settle the ongoing environmental enforcement action taken against BBSS, Inc. and Constellation Power Source Generation, Inc. for contamination of public drinking water wells in the vicinity of

BBSS' Gambrills sand and gravel mine. Among other things, the consent order requires the facility owners and operators to pay a civil penalty of $1 million. ***Senate Bill 398/House Bill 501 (both passed)*** require MDE to reimburse Anne Arundel County for specified costs incurred by the county in conducting environmental health monitoring or testing related to a violation of the Environment Article on a licensed or permitted property. Reimbursement is required only if a fine is collected and may not exceed the amount of the fine. The bills apply retroactively only to specified costs incurred by the county between October 2006 and April 2007 for the testing and monitoring of well water in the vicinity of the Gambrills fly ash disposal site. Anne Arundel County advises that it spent approximately $104,000 in response to groundwater contamination resulting from that site.

Grants and Loans – Small, Minority, and Women's Business Enterprises

House Bill 628 (passed) requires recipients of grants and loans greater than $500,000 from the Bay Restoration Fund, the Water Pollution Control Fund, and the Water Supply Facilities Financial Assistance Program administered by MDE to take steps to include small, minority-owned, and women-owned businesses in the projects funded by those monies. It also makes technical changes to the statutory authorization of the Bay Restoration Fund.

Agriculture

Chesapeake and Atlantic Coastal Bays 2010 Trust Fund

A number of bills were introduced during the 2008 session that relate to the State's efforts to restore the Chesapeake Bay and its tributaries. This issue is also addressed under the subpart "Natural Resources" under this Part K of this *90 Day Report*.

While urban runoff and point sources also contribute to nutrient and sediment pollution in the Chesapeake Bay, the largest source of Maryland's nutrient and sediment pollution to the bay is runoff from agricultural lands.

In an effort to provide additional funding for bay restoration, Chapter 6 of the 2007 special session established a Chesapeake Bay 2010 Trust Fund financed with a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals. The fiscal 2009 budget includes $25 million in special funds for the trust fund. The Act, while stating that the funding must be used for implementation of the State's tributary strategy, does not give more specific direction for how the funding must be spent. ***Senate Bill 213/House Bill 369 (both passed)*** provide a framework for how the trust fund money must be spent and expand it to apply to the Atlantic Coastal Bays. The bills codify the existing BayStat Program to administer the fund and establish a BayStat Subcabinet that includes the Secretary of Agriculture along with heads of other subcabinet agencies. The bills require funding to be distributed to the subcabinet agencies to administer in accordance with specified work and expenditure plans. Among other things, the bills require that some portion of the money in the trust fund be directed to the Maryland Agricultural Water Quality Cost-Share

Program within the Maryland Department of Agriculture (MDA) for nonpoint source pollution control projects. In addition, the Subcabinet agencies must distribute the trust fund money through grants to specified government and other entities, including soil conservation districts. For a more detailed discussion of this legislation, see the subpart "Natural Resources" under this Part K of this *90 Day Report*.

New Programs

Farm-to-School

Farm-to-school programs have been in operation in the United States for approximately 10 years, according to a 2006 report of the National Farm to School Program. The programs are designed to connect schools with local farms, improving student nutrition through the serving of healthy meals and educational opportunities, and supporting local small farmers. By the program's estimate, as of 2006 there were over 950 farm-to-school programs in more than 35 states.

***Senate Bill 158*/*House Bill 696* (both passed)** establish the Jane Lawton Farm-to-School Program in the MDA for various purposes generally aimed at promoting and facilitating the sale of farm products grown in the State to Maryland schools, including the establishment of a Maryland Homegrown School Lunch Week that will promote State agriculture and farm products to children through school meal and classroom programs and arrange for interaction between students and farmers.

Wild Pollinators

Pollinator species such as bees, birds, and insects are essential to produce much of our food supply and pollinate 75 percent of all crops grown in the United States, according to the U.S. Department of Agriculture (USDA). USDA also indicates that pollination plays a vital role in the health of the nation's forests and grasslands. The importance of pollinator species has received media attention recently due to the disappearance of honey bee colonies that, according to the North American Pollinator Protection Campaign, appears to be occurring across the United States. The disappearance of the honeybees is referred to as Colony Collapse Disorder, yet the cause of the problem is not fully understood.

***Senate Bill 419*/*House Bill 208* (both passed)** establish, subject to funding in the State budget, a Maryland Wild Pollinators Program within MDA for a period of two years to increase awareness of wild pollinators and the availability of noninvasive plants that are pollinator friendly. In addition to awareness efforts, MDA must provide grants to increase the availability of seed and nursery stock for noninvasive, pollinator friendly plants.

Initiatives to Assist Maryland's Dairy Industry

The Maryland Dairy Industry Oversight and Advisory Council was created by executive order in July 2006 and charged with improving and sustaining the economic viability of Maryland's dairy industry. The council submitted its final report October 1, 2007, making two recommendations: (1) the establishment of an emergency fund to provide dairy farmers with financial assistance during periods of economic hardship due to depressed milk prices; and (2) the creation of a law prohibiting the sale of fluid milk products in Maryland at below cost, to support the continued viability of Maryland's fluid milk processors.

The council's report indicated that despite increases in the price of milk, there was evidence of Maryland dairy farms and their future viability being at a critical juncture, with prices expected to decline in the future. The number of farms licensed to produce milk has been declining in Maryland (from 1,009 in 1995 to just over 570 today) – a trend that is expected to continue. The dairy farmer representatives on the council attributed the decline in dairy farms largely to insufficient financial returns resulting from price volatility and extended periods of depressed milk prices.

***House Bill 543* (passed)** establishes a Maryland Dairy Farmer Emergency Trust Fund, administered by the Secretary of Agriculture, to provide financial assistance to dairy farmers during periods of economic hardship due to depressed milk prices. The bill does not specify a specific funding source for the fund nor a specific funding level, though any unspent or unencumbered balance in the fund over $15 million at the end of a fiscal year reverts to the general fund. The amount of funding necessary to provide meaningful assistance to farmers cannot be reliably estimated and would depend in large part on future milk prices, dairy farmers' returns from those prices, and the manner in which funding would be administered by MDA (*i.e.*, what conditions would trigger the assistance payments). However, it is expected that a significant amount of funding will be needed to fulfill the purposes of the fund.

The council's report noted that fluid milk processors in Maryland are also faced with economic challenges. The processors have aggressive competition from Pennsylvania processors that have benefited from a competitive advantage due to a guaranteed minimum wholesale price established by the Pennsylvania Milk Marketing Board for milk produced, processed, and sold in Pennsylvania. According to the council's report, Maryland processors indicated that some Pennsylvania processors use the advantage to offer unrealistically low milk prices in Maryland to capture market share. ***Senate Bill 684*/*House Bill 1367* (both failed)** and ***Senate Bill 497* (failed)** would have prohibited a dealer from selling or offering to sell specified fluid milk products at less than the dealer's costs.

Animal Health Enforcement

Under Chapter 353 of 2005, the Secretary of Agriculture was given the authority to impose administrative penalties of up to $10,000 in lieu of or in addition to penalties under State laws regulating infectious and contagious livestock and poultry diseases. ***House Bill 227***

(Ch. 57) expands that authority to apply to violations of State laws generally regulating livestock and poultry.

Veterinary Hospital Inspections and Administration of Scheduled Drugs to Animals

Veterinary Hospital Inspections

The State Board of Veterinary Medical Examiners (SBVME) within MDA, which is responsible for licensing and inspecting veterinary hospitals, licensing and registering veterinarians, and registering veterinary technicians, among other things, is required to inspect every veterinary hospital facility in the State at least once a year. Inspecting each veterinary hospital annually, however, has become increasingly more difficult as the number of veterinary hospitals has increased. In addition, according to SBVME, only about 2 percent of veterinary hospitals fail inspections each year.

SBVME believes that because the vast majority of hospitals meet sanitation requirements, more emphasis should be placed on bringing those hospitals that have failed inspection into compliance. ***House Bill 228*** ***(Ch. 58)*** changes the veterinary hospital inspection requirements, specifying that SBVME must inspect each facility in the State at least once every two years rather than at least once a year.

Administration of Scheduled Drugs to Animals

SBVME is authorized to issue a special permit to a humane society or county or municipal designated animal shelter that authorizes the purchase, possession, and use of sodium pentobarbital to euthanize injured, sick, homeless, and unwanted domestic animals. However, according to the Department of Health and Mental Hygiene, in 2006, the federal Drug Enforcement Agency (DEA) conducted a review of Maryland law regarding animal control facilities and determined that facilities in the State that do not employ a full-time veterinarian do not have the authority to prescribe sedatives commonly used in the practice of euthanasia that are considered CDSs ("controlled dangerous substances").

While authorized providers such as veterinarians may obtain a DEA registration to administer CDSs, animal control facilities are not currently considered authorized providers, and therefore are not eligible for CDS registration. Accordingly, while animal control facilities still have the authority to use sodium pentobarbital to euthanize animals, other CDSs commonly used to sedate animals before administering sodium pentobarbital cannot be administered by such facilities.

House Bill 1481 ***(passed)***, an emergency bill, authorizes SBVME to license an animal control facility (defined as a humane society or a county or municipal designated animal shelter) to administer drugs needed to sedate, euthanize, or sedate and euthanize animals and includes an

animal control facility under the definition of "authorized provider" under the Criminal Law Article of the Annotated Code.

Agricultural Land Preservation

The Maryland Agricultural Land Preservation Foundation (MALPF) within the MDA preserves productive agricultural land and woodland by purchasing easements that forever restrict development on the land. According to MDA, MALPF has helped protect more than 250,000 acres of land on almost 2,000 farms and manages a public investment of over $333 million in permanently preserved land. Funding for the purchase of easements comes from property transfer tax and agricultural land transfer tax revenues, county matching funds, and federal grant funding.

Lot Exclusions/Releases

In order to address inconsistencies between MALPF requirements regarding lot size restrictions for lots released from the program and the Maryland Department of the Environment's (MDE) septic regulations, ***House Bill 976 (Ch. 105)*** authorizes MALPF to release a lot larger than two acres under specified conditions when the septic requirements of MDE require more than two acres. The act also requires that a release or preliminary release of easement restrictions include a statement by the landowner or child of the landowner relating to the right to farm the adjacent MALPF-preserved properties. This change seeks to bolster the legal position of owners of preserved farms in any litigation that challenges their right to farm on MALPF-preserved properties.

Agricultural Land Transfer Tax

The agricultural land transfer tax is collected by each county. In general, of the total collections, each county (except Montgomery) retains one-third of the funds and transfers the balance to the Comptroller. The Comptroller transfers up to $200,000 of these funds to the Woodland Incentive Fund within the Department of Natural Resources and the remainder to the Maryland Agricultural Land Preservation Fund (MALPF's special fund). Montgomery County retains two-thirds of its funds and transfers the balance to the Comptroller. The monies retained by each county are generally used as local matching funds under the State agricultural land preservation easement program and for other approved county agricultural preservation programs. The counties must spend or encumber all agricultural transfer tax revenues within three years from the date of receipt or remit the unspent or unencumbered portion to the Comptroller for deposit into the Maryland Agricultural Land Preservation Fund.

In addition, under a program created by the General Assembly in 1990, a qualifying county may receive 75 percent of the agricultural land transfer tax revenues collected by that county (rather than 33 percent) and a portion of any surplus funds held by MALPF at the end of the fiscal year. In order to become certified to receive the additional funds, counties must develop effective farmland preservation programs that are approved by MALPF and the

Maryland Department of Planning. Certification lasts for two years, and for a county to be recertified, the success of its program must be demonstrated.

Net revenues generated from the agricultural land transfer tax in fiscal 2006 and 2007 were $20.2 million and $13.8 million, respectively, accounting for both the State and county share of the revenues. State revenues were $8.7 million and $5.5 million in fiscal 2006 and 2007, respectively.

Senate Bill 662 ***(passed)*** establishes a surcharge, equal to 25 percent of the agricultural land transfer tax, imposed on an instrument of writing that transfers title to agricultural land. The surcharge, however, does not apply to transfers of two acres or less to a child or grandchild of the owner. The 25 percent surcharge could generate an additional $3.1 million annually in revenue, based on the fiscal 2009 agricultural land transfer tax revenues assumed in the fiscal 2009 budget.

Senate Bill 662 also alters the distribution of agricultural land transfer tax revenues by providing that after distributions to the counties and the Woodland Incentive Fund:

- $2.5 million must be distributed to MALPF beginning in fiscal 2009; this amount increases by 5 percent annually beginning in fiscal 2010;

- after the above distribution, 37.5 percent of the agricultural land transfer tax remitted to the Comptroller, up to a maximum of $4.0 million annually, must be distributed to a special fund for use by the Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) for the Next Generation Farmland Acquisition Program;

- after the above distributions, $4.0 million must be distributed into a special fund for use by MARBIDCO for a program facilitating preservation easement acquisition through the use of installment purchase agreements for easement purchases that have been approved by MALPF; and

- any remaining funds must be distributed to MALPF.

The bill provides that if revenues are insufficient to distribute $4.0 million to the special fund for MARBIDCO for an installment purchase agreement program for preservation easement acquisition, a deficiency must be made up from State transfer tax revenues that would otherwise be distributed to MALPF. If used within a period of two years beginning on or after July 1, 2008, funds dedicated to the program may be used for lump-sum easement purchase payments approved by MALPF.

The bill also expresses the intent of the General Assembly that counties be encouraged to establish Priority Preservation Areas for agricultural land preservation and that new funds provided to MALPF for preservation easement acquisition only be used in Priority Preservation Areas on or after July 1, 2010.

Board of Trustees

MALPF is governed by a board of trustees made up of several *ex-officio* members and eight at-large members appointed by the Governor. At least five of the at-large members must be farmer representatives from different areas of the State that are actively engaged in or retired from active farming. Three of the five farmer representatives are appointed from lists submitted by the Maryland Agricultural Commission, the Maryland Farm Bureau, and the Maryland State Grange. ***Senate Bill 909*** ***(passed)*** expands the membership of the board of trustees to include a farmer representative appointed from a list of nominees submitted by the Young Farmers Advisory Board, which is a 12-member board within MDA, established in 2004 to, among other things, identify and address issues relating to young and beginning farmers in the State.

Agricultural Land Preservation in Prince George's and St. Mary's Counties

In 2006, a program was created by ordinance in Prince George's County that purchases development rights from agricultural landowners that meet specified criteria. As of July 1, 2007, 34 applications covering approximately 3,000 acres had been submitted and three parcels, covering approximately 600 acres, had been approved for funding. The county council budgeted $5 million for the program in fiscal 2007 and $8 million in fiscal 2008; however, none of the budgeted money has been spent because the county does not have explicit authority to spend Maryland-National Capital Park and Planning Commission (M-NCPPC) funding on agricultural preservation easements or to spend money outside the metropolitan district.

Senate Bill 95 ***(passed)*** authorizes the county council for Prince George's County to create a program for the purchase of development rights and establishes a Prince George's County Agricultural Preservation Easement Program. The bill also creates a Prince George's County Agricultural Preservation Easement Fund financed through specified tax revenues authorized in accordance with M-NCPPC's budgetary procedures, to be used to purchase perpetual agricultural preservation easements. M-NCPPC has included $7.5 million for this program in its proposed fiscal 2009 budget, which must still be approved by the county council.

In addition, ***Senate Bill 94***/***House Bill 1018*** ***(both passed)*** authorize Prince George's County to grant a specified property tax credit for agricultural land, including any farm improvement used in connection with an approved agricultural activity, that is subject to a State or county agricultural land preservation program. Twelve counties and Baltimore City currently have either mandatory or optional property tax credits for specified agricultural land.

House Bill 445 ***(Ch. 75)*** extends eligibility for an optional St. Mary's County property tax credit to real property, including improvements, subject to a State or county land preservation program. Under current law, the property has to be subject to the Maryland Agricultural Land Preservation District Program or the St. Mary's County Agricultural Land Preservation District Five-year Program.

Retention of Agricultural Districts

Prior to July 1, 2007, an agricultural land owner was only eligible to sell a development rights easement to MALPF once the land had been placed within an agricultural preservation district. Chapter 650 of 2007 repealed that requirement, specifying that effective July 1, 2007, districts may not be a requirement for the easement application process to MALPF and that as of June 30, 2012, all districts in MALPF will be terminated, 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. MALPF may not accept a district petition after June 30, 2008.

A report submitted to the General Assembly by MALPF in January 2007 regarding the elimination of districts from the Maryland Agricultural Land Preservation Program indicated that fiscal 2008 would be a transition period to provide time for MALPF and the counties to adjust to the removal of the requirement for districts. The report indicated that MALPF would continue to process districts for a period of one year to allow counties that intended to create district programs in their jurisdiction adequate time to make the adjustment.

Senate Bill 260*/*House Bill 314* *(both passed) allow agricultural preservation districts to continue to be established in Garrett County (which allows for a property tax credit for land located in an agricultural preservation district) after MALPF has stopped accepting district petitions. The bills also specify that MALPF may not purchase an easement on land located in the county but outside of an agricultural district established under the bills.

Forest Pest Management

According to MDA, the most destructive forest pest in Maryland is the gypsy moth. Since 1980, the gypsy moth has defoliated more than one million acres in the State. MDA's Forest Pest Management Section currently conducts an integrated pest management program for the gypsy moth through monitoring, assessment, information and education, and pest control actions. The Maryland Cooperative Gypsy Moth Suppression Program is a voluntary program involving the U.S. Department of Agriculture's Forest Service, MDA, local governments, and landowners.

Senate Bill 920* *(passed) establishes a Task Force to Study Statewide Gypsy Moth Infestation staffed by the departments of Agriculture, Natural Resources, and Budget and Management. The task force must study the statewide infestation of gypsy moths and make recommendations regarding the most effective practical, regulatory, and legislative means of combating the infestation.