Article - Natural Resources

§1–101.

(a) There is a Department of Natural Resources, established as a principal department of the State government. The head of the Department is the Secretary of Natural Resources, who shall be appointed by the Governor with the advice and consent of the Senate. The Secretary shall be an individual with administrative ability, whose reputation and experience demonstrate his interest in the field of natural resources.

(b) It is the intention of the General Assembly, in providing for a Department of Natural Resources, to establish a State department which, in addition to its other functions, shall:

(1) Review and evaluate all natural resources policies, plans, programs, and practices of State, county, regional, and federal agencies and institutions;

(2) Coordinate natural resources activities within the State;

(3) Be a center for collecting and organizing information on natural resources for the guidance of the Governor and the General Assembly; and

(4) Otherwise unify, coordinate, and promulgate policies, plans, programs, and practices which insure the preservation, development, wise use, and enjoyment of all the natural resources for greatest benefits to the State and its citizens.

(c) The Secretary serves at the pleasure of the Governor. He is directly responsible to the Governor and shall counsel and advise him on all matters assigned to the Department. The Secretary is responsible for carrying out the Governor's policies in the areas of natural resources research and development, management, and administration. The Secretary shall receive the salary and have the assistants, employees, and professional consultants provided in the State budget.

(d) (1) (i) The Secretary is responsible for the operation of the Secretary's office and shall establish guidelines and procedures to promote its orderly and efficient administration.

(ii) The Secretary may establish areas of responsibility within the Secretary's office and may reorganize or abolish them as necessary to fulfill the duties assigned to the Secretary.

(iii) The Secretary may appoint such staff assistants as are necessary to administer these areas of responsibility.

(2) The Secretary shall appoint, with the approval of the Governor, a deputy secretary who shall have the duties provided by law or delegated by the Secretary. The deputy secretary is in the executive service of the State Personnel Management System, serves at the pleasure of the Secretary, and shall receive the

compensation provided in the State budget. All assistant secretaries, staff assistants, and professional consultants are in the executive service, management service, or are special appointments in the State Personnel Management System and are appointed by and serve at the Secretary's pleasure. Wherever it is provided by law that the Secretary makes an appointment to a particular office within the Department with the approval of the Governor, the Secretary may not remove the appointee without first obtaining the Governor's approval.

(3) Except as otherwise provided by law, the Secretary shall appoint and remove all other personnel in accordance with the provisions of the State Personnel and Pensions Article. The Secretary may delegate his authority to appoint or remove personnel of any unit to the administrator of the unit.

(e) The Attorney General is the legal adviser to the Department. The Attorney General shall assign the number of assistant Attorneys General authorized by law to be assigned to the units of the Department. One of the assistant Attorneys General shall be designated by the Attorney General as counsel to the Department of Natural Resources. The counsel to the Department shall have no other duty than to render, subject to the discretion and control of the Attorney General, the legal aid, advice, and counsel required by the Secretary and the other officials of the Department and, also subject to the discretion and control of the Attorney General, to supervise the other assistant Attorneys General assigned to the Department. After the Attorney General has designated an assistant Attorney General to serve as counsel to the Department of Natural Resources, the Attorney General may not reassign the counsel without consultation with the Secretary. This subsection does not apply to any unit of government within the Department of Natural Resources if the unit is authorized by law to employ its own legal adviser or counsel.

§1–102.

(a) The Department shall include all units, programs, boards, commissions, and advisory boards and commissions referenced in this article.

(b) The following units are also included in this Department:

(1) The Maryland Membership Unit of the Interstate Commission of the Potomac River Basin;

(2) The Maryland Membership Unit of the Susquehanna River Basin Commission;

(3) The Maryland Membership Unit of the Atlantic States Marine Fisheries Commission;

(4) The Maryland Membership Unit of the Potomac River Fisheries Commission;

(5) The Maryland Membership Unit of the Interstate Oil and Gas Compact

Commission; and

(6) The Maryland Membership Unit of the Interstate Mining Commission.

(c) (1) Unless otherwise provided by this article, each advisory commission created by law consists of five members appointed by the Governor, with the advice of the Secretary, to serve at the pleasure of the Governor.

(2) (i) The Wildlife Advisory Commission is composed of nine members appointed by the Governor.

(ii) 1. The Governor shall solicit nominations for vacancies on the Wildlife Advisory Commission from individuals or organizations that promote the future of hunting and individuals or organizations that promote the preservation of wildlife in the State, with geographical distribution being a prime consideration for filling vacancies.

2. There shall be representation from the farming community.

(iii) The term of a member is 4 years.

(iv) A member may not serve more than 2 terms on the Commission.

(v) The terms of members are staggered so that:

1. 3 shall end in 1987;

2. 3 shall end in 1988; and

3. 3 shall end in 1989.

(vi) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(vii) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(3) A member shall be knowledgeable in the area of interest of the advisory commission on which he serves.

(4) Each advisory commission shall advise the Secretary or the administration of the appropriate Department unit, pursuant to rules and regulations the Secretary adopts.

(5) The members of each advisory commission annually shall elect a chairman of the commission and may adopt procedures to conduct its meetings.

(6) An advisory commission member receives the compensation provided in the Department budget. Every member shall be reimbursed for necessary travel

expenses incurred in performing any official duty, pursuant to rules and regulations the Secretary adopts.

(d) In addition to any advisory body established by law, the Secretary, with the Governor's approval, may create administratively any advisory unit of a size and tenure the Secretary deems appropriate.

(e) If any provision of this article as it affects the Maryland membership unit of any interstate agency is inconsistent with any interstate compact to which Maryland is a party, the provision of this article does not apply to that unit to the extent of the inconsistency.

§1–103.

(a) The Secretary is responsible for the coordination and direction of comprehensive planning in the area of natural resources. In addition, he shall be apprised in full of plans, proposals, projects, and programs of the units within the Department, and may approve, disapprove, or modify any plan, proposal, project, or program, if that action approving, disapproving, or modifying plans, proposals, projects, or programs is not inconsistent with law.

(b) (1) The Secretary is responsible for the budget of his office and for the budgets of the units within the Department.

(2) (i) Unless otherwise authorized by statute, the Secretary may use money in a fund or account created under this article for administrative expenses directly relating to the purposes of the Fund or account up to an amount calculated under a generally accepted methodology for determining indirect costs.

(ii) The Secretary shall submit any changes to the methodology used under subparagraph (i) of this paragraph for review and comment to the House Appropriations Committee and the Senate Budget and Taxation Committee within 45 days before implementing the methodology.

(c) The Secretary may apply for, accept, and administer for the State any federal funds or appropriations of money for any purpose which may be hereinafter made out of the federal treasury by any act of the Congress.

§1–104.

(a) The Secretary is responsible for the development of coordinated policies for the preservation, conservation, enhancement, wise use, and perpetuation of the natural resources of the State. He is responsible for the efficient coordination of all the natural resources activities of the State including the settlement of conflicts that may arise among units within the Department of Natural Resources. In the discharge of his responsibility the Secretary shall:

(1) Provide a forum of communication among natural resources units and

a source of information for the Governor and General Assembly as to the preservation, conservation, development, and use of all the State's natural resources;

(2) Study and evaluate any plan, program, or activity or any combination of plans, programs, or activities within one or more of the units of the Department, and recommend any legislative, budgetary, or administrative changes to provide more effective administration, clarify responsibilities, terminate obsolete programs, establish desirable programs, or alter or amend programs to meet changed or changing conditions;

(3) Review federal statutes, policies, programs, and activities which affect or may affect natural resources in the State and recommend to federal, State, and local agencies and institutions procedures for the coordination of these programs;

(4) Study the natural resources activities of the subdivisions of the State and recommend procedures for coordination of the natural resources activities of the State and its subdivisions;

(5) Maintain a catalog classified by use, of public land acquired or used in the preservation, conservation, development, management, or enjoyment of the natural resources; review and approve all plans and proposals of the units of the Department for the acquisition of additional land for such purposes, taking into account public land owned and managed for identical or similar purposes by federal agencies and by counties, municipalities, and other political subdivisions of the State;

(6) Establish and maintain, for the use of the Department, a natural resources library, cataloged according to a recognized library system and containing legal, scientific, and administrative reports, books, documents, photographs, records, and other information on the natural resources and natural resources administration; and

(7) Provide technical assistance to other State units, counties, municipalities, corporations, organizations, groups, and individuals in planning, organizing, and conducting leisure activities and recreation programs.

(b) The Secretary shall represent the Department at hearings or meetings of the Congress of the United States and the General Assembly of Maryland, State and interstate conferences, and at local meetings or hearings pertaining to any matter of concern to the Department.

(c) The Secretary may transfer, assign or reassign any function or activity of any unit within the Department, together with the staff, funds and equipment associated with that function or activity, either to the office of the Secretary or to any other unit within the Secretary's jurisdiction, in order to increase efficiency and economy in administering natural resources in the State. Whenever the Secretary believes any transfer of function or activity renders misleading or inadequate the name of any unit within the Department as enumerated in § 1-102 of this subtitle, he,

with the Governor's approval, may assign a new name or names to the affected unit. If this is done, the Secretary shall cause to be submitted to the next ensuing session of the General Assembly a legislative proposal for appropriate amendment of § 1-102 of this subtitle.

(d) The Secretary shall publish books, pamphlets, maps, and other materials on the subject of natural resources and encourage and assist the Department's units in the preparation of these materials for publication. He shall maintain a supply of the publications and other materials for sale at cost to schools, libraries, and the general public, and establish policies for the Department on the gratuitous distribution of publications issued by the Department and its member units.

(e) The Secretary shall publish for fiscal year 1994 and each alternate fiscal year thereafter a printed report which shall include, but not be limited to, the following:

(1) A review of studies, deliberations, conclusions, and recommendations of the Department;

(2) The annual reports submitted by the separate units within the Department which shall be edited by the Secretary's staff; and

(3) A review of other natural resources activities of interest or concern to the State and its citizens.

(f) Every unit in the Department shall report to the Secretary as provided in the rules and regulations promulgated by the Secretary.

(g) The Secretary is responsible for promulgating rules and regulations for the Department. He shall review and have the power to approve, disapprove, issue, or revise the rules and regulations of every unit of the Department.

(h) (1) The authority, powers, duties, and functions granted to the Secretary or the Department shall be exercised and performed by the Secretary or by any unit or official within the Department designated by the Secretary.

(2) (i) The Secretary may delegate to a person the authority to issue licenses pertaining to fishing or hunting.

(ii) The Secretary may not delegate the authority to issue a fishing or hunting license to a clerk of a circuit court.

(i) The office of Secretary of Natural Resources shall have a seal for purposes of authentication of copies of records or papers in his office.

(j) The Secretary may exercise or perform any power, duty, responsibility, or function which any of the following units, or their successors, may exercise or perform: the Maryland Geological Survey, the Wildlife Administration, the Natural Resources Police Force, the Forest and Park Service, the Water Resource Administration, the

Energy Administration, and the Tidewater Administration.

(k) At least 45 days before the Department seeks approval by the Board of Public Works of the purchase of any interest in land for which the State contribution to the purchase exceeds $2,000,000, the Secretary shall provide the Senate Budget and Taxation Committee and the House Appropriations Committee with:

(1) A description of the proposed purchase;

(2) A description of the interest the Department will hold in the property; and

(3) A listing of the proposed sources of money to be used for the purchase.

(l) For fiscal year 2007, the Governor shall include in the annual budget bill submitted to the General Assembly an appropriation in an amount equal to at least $88,000 for the Department to maintain a natural resources library as required under subsection (a)(6) of this section.

§1–105.

The Secretary may create or dissolve an advisory board for the Department of Natural Resources. The advisory board shall be of the size as determined by the Secretary, and the members shall be representative of the different professional areas or fields of endeavor with which the Department is concerned.

§1–106.

(a) In this article the following words have the meanings indicated.

(b) "Informational meeting" means a meeting, open to the public, at which the applicant or the Department of Natural Resources presents information concerning a permit or certificate application. An informational meeting is not a contested case hearing nor an agency hearing under § 10-202(d) of the State Government Article.

(c) "Public hearing" means a meeting, open to the public, at which the Department of Natural Resources receives oral and written comments concerning a decision to issue or deny a permit or certificate. A public hearing is not a contested case hearing nor an agency hearing under § 10-202(d) of the State Government Article.

§1–107.

(a) This section applies to Natural Resources police officers and employees commissioned as law enforcement officers of the State Forest and Park Service.

(b) (1) Notwithstanding any other provision of law, the Secretary may appoint without examination:

(i) A law enforcement officer who holds a commissioned rank to the rank of Major; and

(ii) A law enforcement officer who holds a commissioned rank of not less than Captain to the rank of Lieutenant Colonel.

(2) A law enforcement officer appointed in accordance with this subsection continues to serve at the pleasure of the Secretary.

(3) Notwithstanding any other provision of law, on termination of an appointment under this subsection, the Secretary may:

(i) Return the law enforcement officer to a vacant law enforcement officer position; or

(ii) Promote the law enforcement officer to a higher rank to which the law enforcement officer became eligible for promotion during the appointment.

(c) In cases of inconsistency between this section and the provisions of the State Personnel and Pensions Article, the provisions of this section shall control as to all matters relating to the appointment of a law enforcement officer of the Department to the rank of Major or Lieutenant Colonel.

§1–108.

In any report issued under this title, the Department may:

(1) Include recommendations for statutory and budgetary proposals to:

(i) Promote public awareness of the benefits of conserving fisheries and wildlife in the State; and

(ii) Reduce the incidence of violations of State conservation laws; and

(2) Submit the report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly.

§1–109.

(a) (1) The Department shall negotiate the acquisition of real property for open space, recreation, conservation, and other purposes under this article.

(2) The Department shall make each acquisition under this subsection in the name of the State to the use of the Department.

(b) Except for real property that is acquired by gift, before any real property is acquired from a private owner, the Department shall obtain two independent appraisals of the property.

(c) (1) A contract for the acquisition of land under this section shall be approved and executed by the Board of Public Works.

(2) At least 40 days before the Board of Public Works may act on a land acquisition under this section, the Department shall give written notice of a potential acquisition of land:

(i) To the governing body of the county in which the land is located; and

(ii) If the land is located within a municipal corporation, to the governing body of the municipal corporation.

(3) Within 30 days after receiving notice under this subsection, the governing body may submit written comments to the Department.

(d) The Board of Public Works shall supervise the expenditure of any money that the General Assembly appropriates for the acquisition of land under this section.

(e) (1) Subject to paragraph (2) of this subsection, the Department may dispose of land owned and managed by the Department as consideration for the acquisition of land not owned by the Department.

(2) In implementing this subsection, the Department shall comply with the procedures established under Title 5, Subtitle 3 and Title 10, Subtitle 3 of the State Finance and Procurement Article.

(f) The Board of Public Works may exempt projects under this section from the provisions of this section.

(g) (1) The Department shall adopt regulations to implement this section.

(2) The regulations adopted under paragraph (1) of this subsection shall include a system for appraisal review developed by the Department in consultation with the Department of General Services.

§1–201.

The General Assembly finds that:

(1) The consumptive nature of an expanding population poses a clear and present threat to the long–term viability of the fisheries and wildlife of the State;

(2) An increased understanding by citizens of the intrinsic value of the fisheries and wildlife of the State will help to ensure the perpetuation of these coveted natural resources for the benefit of future generations;

(3) The responsibility for protecting the natural resources of the State is

vested in the Natural Resources Police Force within the Department;

(4) Budgetary reductions attributable to a lingering economic recession have reduced the number of conservation law enforcement personnel to the measurable detriment of the natural resources of the State;

(5) Entrusting the enforcement of State conservation laws to the Natural Resources Police Force, coupled with increasing the homeland security responsibilities of the Natural Resources Police Force, requires an investment that is commensurate with the level of protection the public considers appropriate;

(6) A diminishing enforcement presence on land and on the waterways correlates to an increasing number of violations of State conservation laws and an erosion of the protections afforded to citizens by the public trust doctrine, which sets forth the responsibility of the government to administer, protect, manage, and conserve fish and wildlife; and

(7) The prevalence of violations of State conservation laws presents a significant problem that warrants an enhanced investment in conservation law enforcement by:

(i) Increasing the presence of Natural Resources Police Force personnel on land and on the waterways through the use of present and future revenue sources; and

(ii) Ensuring that the Natural Resources Police Force is properly equipped with the equipment, vehicles, and boats necessary to comply with its statutory mandate.

§1–201.1.

(a) There is a Natural Resources Police Force in the Department that serves as a public safety agency with statewide authority to enforce conservation, boating, and criminal laws.

(b) The responsibilities of the Natural Resources Police Force include:

(1) Providing maritime and rural search and rescue services;

(2) Providing public education in hunting, boating, and water safety;

(3) Providing primary law enforcement services for State parks, State forests, wildlife management areas, and public lands owned and managed by the Department; and

(4) Serving as the lead agency for maritime homeland security on State waterways.

§1–202.

The Secretary is responsible for the enforcement of all natural resource laws of the State, including any rules and regulations adopted pursuant to this article.

§1–203.

(a) The Secretary shall, within the limits of any appropriation made for this purpose, appoint Natural Resources police officers as the Secretary deems necessary for the efficient administration of the Natural Resources Police Force. All appointments shall be made from a list of eligible persons prepared in accordance with the provisions of the State Personnel and Pensions Article.

(b) The Secretary shall issue to each person appointed as a Natural Resources police officer a commission and badge stating "Natural Resources Police Officer".

(c) Except when on detective duty, every Natural Resources police officer shall wear in plain view a "Natural Resources Police Officer" badge when acting in his official capacity.

(d) The badge is property of the State, and upon the termination of a commission of any Natural Resources police officer, it shall be returned with the commission to the Secretary.

(e) All Natural Resources police officers, including persons appointed for training prior to regular assignment as a Natural Resources police officer, shall remain in a probationary status for a period of 2 years from the date of initial appointment to the Natural Resources Police Force. The Secretary may discharge an employee in probationary status for any cause which is deemed sufficient in the sole discretion of the Secretary.

(f) Subject to § 1–107 of this title, in cases of inconsistency between this subtitle and the provisions of the State Personnel and Pensions Article, the provisions of this subtitle shall control as to all matters relating to the Natural Resources Police Force.

§1–204.

(a) In addition to any other powers conferred by this title, the Secretary and every Natural Resources police officer shall have all the powers conferred upon police officers of the State. These powers may be exercised anywhere within the State. The Natural Resources Police Force specifically is charged with enforcing the natural resource and conservation laws of the State.

(b) Every Natural Resources police officer appointed under § 1–203 of this subtitle shall perform duties the Secretary designates.

(c) Any law enforcement employee of the Department of Natural Resources who works overtime for any reason, whether or not the employee receives monetary payment

for that overtime work, shall be considered to be employed by this State during those hours for purposes of all other employee entitlements.

§1–205.

(a) If a Natural Resources police officer apprehends a person for violating any law punishable as a misdemeanor, the officer may prepare a written or electronic citation containing:

(1) A notice to appear in court;

(2) The name and address of the person charged;

(3) Relevant license numbers, if any;

(4) The offense charged;

(5) The time and place the person shall appear in court;

(6) An acknowledgment of receipt of the citation by the person charged made in a manner determined by the Department; and

(7) Other pertinent information required by the Secretary.

(b) (1) The person charged may promise to appear in court by acknowledging receipt of the citation prepared by the officer in a manner determined by the Department.

(2) If the person charged acknowledges receipt of the citation, the officer is not required to take the person into physical custody for the violation unless:

(i) The person charged does not furnish satisfactory evidence of identity; or

(ii) The officer has reasonable grounds to believe the person charged will not appear.

(c) A person may not fail to comply with a notice to appear in a citation issued under this section unless:

(1) Sufficient collateral for the offense is posted;

(2) The fine is paid in advance of trial; or

(3) The person is represented by counsel in court.

(d) (1) If a person fails to comply with the notice to appear in a citation issued under this section, the court may:

(i) Except as provided in paragraph (4) of this subsection, issue a warrant for the person's arrest; or

(ii) After 5 days, notify the court's clerk of the person's noncompliance.

(2) On receipt of notice of noncompliance from the court, the clerk shall notify the person by mail at the address indicated on the citation that a warrant for the person's arrest may be issued by the court unless, by the end of the 15th day after the date on which the notice is mailed, the person:

(i) Pays the fine on the original charge as provided for in the original citations and a fine of $100 for failing to appear; or

(ii) Posts bond or a penalty deposit and requests a new trial date.

(3) If a person fails to pay the fines or post the bond or penalty deposit under paragraph (2) of this subsection, the court may issue a warrant.

(4) When the original offense is not punishable by incarceration, a warrant may not be issued for the person under this subsection until 20 days after the original trial date.

§1–206.

A person may not willfully fail or refuse to comply with any lawful or reasonable order or direction of any Natural Resources police officer or any law enforcement officer in connection with the enforcement of any provisions of law required to be enforced by the Secretary or the Department.

§1–207.

A person may not falsely represent himself as being a Natural Resources police officer, with fraudulent design upon person or property, or to have, use, wear, or display, without authority of the Secretary, any uniform, shield, button, ornament, or shoulder patch of the Department, or to have any simulation or imitations of these articles for the purpose of deception.

§1–208.

(a) Every sheriff and law enforcement officer has the powers of a Natural Resources police officer.

(b) Whenever the Secretary or any Natural Resources police officer requires the advice and assistance of the State's Attorneys, sheriffs of the several counties of the State or Baltimore City, or any law enforcement officer, these officers shall render the required assistance as in other State cases.

(c) The provisions of this section do not apply to the Sheriff of Baltimore County.

§1–209.

(a) Any person who violates any provision of this subtitle is guilty of a misdemeanor. Upon conviction, the person is subject to a fine not exceeding $500, or imprisonment not exceeding three months, or both, with costs imposed in the discretion of the court.

(b) Any violation of any rule or regulation, or restriction promulgated pursuant to the provision of this subtitle, is a misdemeanor and is punishable as provided in subsection (a) of this section.

§1–210.

(a) (1) When, in the opinion of the legally constituted authorities of Maryland, there has occurred on the waters of Maryland a violation of this article, or when, in the opinion of the legally constituted authorities of Virginia, there has occurred on the waters of Virginia a violation of the laws of Virginia enforceable under § 28.2-900, Code of Virginia, the legally constituted authorities of the state in which the offense was committed may pursue the offender up to and across the Maryland-Virginia Boundary into the state in which the offender flees.

(2) If a capture is made in continuous pursuit under the authority of paragraph (1) of this subsection, the offender, vessel, and property shall be dealt with as authorized by the laws of the state in which the offense was committed.

(b) This section shall be in effect for so long as the Commonwealth of Virginia has in force similar legislation authorizing legally constituted authorities of Maryland to pursue and make arrests in Virginia for violations of the Laws of Maryland.

§1–2A–01.

(a) Unless otherwise provided by law, the Department shall maintain custody of any abandoned, lost, or seized personal property that comes into the custody of the Department until the Department determines that the custody by the Department is not necessary to any investigation or prosecution.

(b) Unless otherwise provided by law, after a determination described under subsection (a) of this section, the Department shall return abandoned, lost, or seized personal property to the person who:

(1) Establishes the person's right to possession of the abandoned, lost, or seized personal property; and

(2) Gives a proper receipt for the abandoned, lost, or seized personal property.

(c) (1) Unless otherwise provided by law, if abandoned, lost, or seized personal property is in the custody of the Department for 6 months or custody by the Department is not necessary to any investigation or prosecution, the Department shall give notice by certified mail to the last known address of the person entitled to possession, if known.

(2) Unless otherwise provided by law, if the person entitled to possession of the abandoned, lost, or seized personal property fails to respond to the notice described under this subsection within 30 days from the date the notice is mailed, the Department may dispose of the property in the best interest of the State.

§1–301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Environmental effects report" means a report on each proposed State action significantly affecting the environment, natural as well as socioeconomic and historic.

(c) "Historic resources" means those resources included in the Maryland inventory of historic sites.

(d) "Proposed State action" means requests for legislative appropriations or other legislative actions that will alter the quality of the air, land, or water resources. It does not include a request for an appropriation or other action with respect to the rehabilitation or maintenance of existing secondary roads.

(e) "State agencies" includes the executive and administrative departments, offices, boards, commissions, and other units of the State government and any such bodies created by the State.

§1–302.

(a) The General Assembly of Maryland finds and declares the facts and policies set forth in this section.

(b) The protection, preservation, and enhancement of the State's diverse environment is necessary for the maintenance of the public health and welfare and the continued viability of the economy of the State and is a matter of the highest public priority.

(c) All State agencies must conduct their affairs with an awareness that they are stewards of the air, land, water, living and historic resources, and that they have an obligation to protect the environment for the use and enjoyment of this and all future generations.

(d) Each person has a fundamental and inalienable right to a healthful environment, and each person has a responsibility to contribute to the protection, preservation, and enhancement of the environment.

(e) It is the continuing policy of the State to cooperate with the federal government, other state governments, the District of Columbia, the political subdivisions of the State, and other concerned public and private organizations and individuals, in a manner calculated to protect, preserve, and enhance the environment.

(f) The determination of an optimum balance between economic development and environmental quality requires the most thoughtful consideration of ecological, economic, developmental, recreational, historic, architectural, aesthetic, and other values.

(g) Beneficial environmental effects of proposed actions can be identified and measures devised to obtain these benefits if environmental evaluations are made a part of the decision-making process of the State.

(h) Adverse environmental effects of proposed actions can be anticipated, minimized, and often eliminated if environmental evaluations are made a part of the decision-making processes of the State.

(i) Environmental effects reports can facilitate the fullest practicable provision of timely public information, understanding, and participation in the decision-making processes of the State.

(j) The General Assembly has an obligation to the people of Maryland to review and evaluate proposed appropriations and other proposed legislation and the conduct of the State agencies in carrying out the policy set forth in this subtitle.

(k) The policies, rules, regulations, and public laws of the State shall be interpreted and administered in accordance with the policies set forth in this subtitle.

§1–303.

All State agencies, except where existing law expressly prohibits, shall identify, develop, and adopt methods and procedures that will assure that:

(1) Environmental amenities and values are given appropriate consideration in planning and decision-making along with economic and technical considerations;

(2) Studies are undertaken to develop and describe appropriate alternatives to present policies, programs, and procedures that involve significant adverse environmental effects or unresolved conflicts concerning uses of available resources; and

(3) Planning and decision-making involving environmental effects are undertaken with the fullest practicable provision of timely public information and understanding and in coordination with public and private organizations and individuals with jurisdiction by law, special expertise, or recognized interest.

§1–304.

(a) As of July 1, 1974, all State agencies shall prepare, in conjunction with each proposed State action significantly affecting the quality of the environment, an environmental effects report including, but not limited to, a discussion of:

(1) The effects of the proposed action on the environment, including adverse and beneficial environmental effects that are reasonably likely if the proposal is implemented or if it is not implemented;

(2) Measures that might be taken to minimize potential adverse environmental effects and maximize potential beneficial environmental effects, including monitoring, maintenance, replacement, operation, and other follow-up activities; and

(3) Reasonable alternatives to the proposed action that might have less adverse environmental effects or greater beneficial environmental effects, including, the alternative of no action.

(b) The Secretary of Natural Resources prior to December 31, 1973, shall issue guidelines to assist State agencies in the preparation of environmental effects reports in accordance with this subtitle and pursuant to the public notice provisions of § 10-112 of the State Government Article, including, but not limited to, provision for:

(1) Comment upon the proposed State action by public and private organizations and individuals with jurisdiction by law, special expertise, or recognized interest prior to the request for legislation;

(2) The possibility of the preparation of single program environmental effects reports if a series of actions taken individually are of minimal significance but if the cumulative effect of the actions on the environment is significant or if a series of actions are related either geographically or as logical parts in a chain of contemplated actions;

(3) The possibility of the preparation of modified environmental effects reports on remaining decisions significantly affecting the quality of the environment that are parts of actions begun before but not completed by July 1, 1974; and

(4) The issuance of guidelines, in accordance with this subtitle and pursuant to the guidelines issued by the Secretary of Natural Resources, for the preparation of environmental effects reports by each State agency that takes actions that significantly affect the quality of the environment.

§1–305.

This subtitle may be cited as the "Maryland Environmental Policy Act".

§1–401.

Before a license or permit may be issued under this article to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the issuing authority:

(1) A certificate of compliance with the Maryland Workers' Compensation Act; or

(2) The number of a workers' compensation insurance policy or binder.

§1–402.

(a) A license or permit is considered renewed for purposes of this section if the license or permit is issued by a unit of State government to a person for the period immediately following a period for which the person previously possessed the same or a substantially similar license.

(b) Before any license or permit may be renewed under this article, the issuing authority shall verify through the office of the Comptroller that the applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor, Licensing, and Regulation or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection.

§1–403.

(a) Notwithstanding any other provision of this article, the Department may develop and implement an electronic system for the sale and issuance of licenses, permits, and registrations and the recording and releasing of security interests.

(b) The electronic system may include provisions for:

(1) Recording titling and registration data;

(2) Recording and releasing liens without the issuance of a security interest filing; and

(3) Recording information relating to an application for a license, permit, or registration.

(c) The Department shall develop the electronic system consistent with the statewide information technology master plan developed under Title 3A, Subtitle 3 of the State Finance and Procurement Article.

(d) The Department may adopt regulations to:

(1) Implement the electronic system authorized under this section; and

(2) Determine the appropriate fee levels that may be charged by a vendor and by the Department for the electronic transmission service.

§1–404.

(a) (1) In this section the following words have the meanings indicated.

(2) "Administrator" means the final authority in the decision making process for accepting land into a land conservation program in the Department of Natural Resources.

(3) "Conservation easement" means an easement held or co-held by the Department of Natural Resources or the Maryland Environmental Trust.

(4) "Land conservation program" includes the Maryland Environmental Trust, Program Open Space, and the Rural Legacy Program.

(5) "Project" means an acquisition or development project under Program Open Space, in accordance with Title 5, Subtitle 9 of this article.

(6) "Protected land" means land that is protected by a land conservation program.

(7) "Rural Legacy Area" has the meaning stated in § 5-9A-02 of this article.

(b) This section applies to applications affecting land that is protected by a program within the Department of Natural Resources, including land that is:

(1) Subject to a conservation easement within a designated Rural Legacy Area;

(2) Subject to a conservation easement held by the Maryland Environmental Trust; or

(3) Subject to a conservation easement funded under Program Open Space.

(c) If the administrator of a land conservation program has not approved the use for the land for which an application is made, a county or municipal corporation may deny an application for:

(1) A subdivision plat or plan;

(2) A residential building permit; or

(3) Any other nonagricultural use or activity, including an access road.

(d) This section may not be construed to limit the authority of a county to grant or deny an application for a land use permit.

§1–501.

(a) In this subtitle the following words have the meanings indicated.

(b) "Person" means any resident of the State of Maryland, any corporation incorporated under the laws of the State of Maryland, or any partnership, organization, association, or legal entity doing business in the State.

(c) "Political subdivision" means a county, the City of Baltimore, a multicounty agency, municipal corporation, single purpose district, and soil conservation or sanitary district.

§1–502.

The General Assembly finds and declares that the natural resources and the scenic beauty of the State of Maryland are in danger of irreparable harm occasioned by the use and exploitation of the physical environment. It further finds that improper use and exploitation constitute an invasion of the right of every resident of Maryland to an environment free from pollution to the extent possible. It further finds that the courts of the State of Maryland are an appropriate forum for seeking the protection of the environment and that an unreasonably strict procedural definition of "standing to sue" in environmental matters is not in the public interest.

§1–503.

(a) The following persons have standing to bring and maintain an action provided for in this section in the courts of equity of this State:

(1) The State of Maryland, or any agency or officer of the State, acting through the Attorney General;

(2) Any political subdivision of the State of Maryland, or any agency or officer of it acting on its behalf; and

(3) Any other person, regardless of whether he possesses a special interest different from that possessed generally by the residents of Maryland, or whether substantial personal or property damage to him is threatened. However, an individual citizen either shall reside in the county or Baltimore City where the action is brought, or shall demonstrate that the alleged condition, activity, or failure complained of affects the environment where he resides.

(b) Any person given standing by subsection (a) of this section may bring and maintain an action for mandamus or equitable relief, including declaratory relief against any officer or agency of the State or political subdivision for failure on the part of the officer or agency of the State or political subdivision to perform

a nondiscretionary ministerial duty imposed upon them under an environmental statute, ordinance, rule, regulation, or order, or for their failure to enforce an applicable environmental quality standard for the protection of the air, water, or other natural resources of the State, as expressed in a statute, ordinance, rule, regulation, or order of the State, or any political subdivision upon the request of the defendant, the court in its discretion may join as a party defendant any person against whom the plaintiff is requesting that governmental action be taken following notice to that person and if the court determines that the joinder would serve the interests of justice.

§1–504.

(a) This subtitle may not be construed to create or authorize any new substantive cause of action or theory of recovery not now recognized by the courts of this State, nor may it be construed as abrogating any cause of action or theory of recovery now recognized by the courts of this State but is for the sole purpose of providing standing to sue to the persons set forth in § 1-503 of this subtitle, subject to the provisions and limitations set forth in this subtitle.

(b) Except as provided in § 1-503(b) of this subtitle, nothing in this subtitle constitutes a waiver by the State or any agency of the defense of sovereign immunity, and this defense is expressly reserved.

(c) This subtitle does not authorize an action for monetary damages. The remedies available to any plaintiff who acquires standing to sue solely by virtue of this subtitle are limited to mandamus or equitable relief, including declaratory relief as to whether a permit or order has been unlawfully issued or is being violated, and a judgment or decree for monetary damages may not be awarded. However, a judgment for monetary damages may be awarded in any action where a judgment is appropriate to a plaintiff who has standing to sue other than by virtue of this subtitle.

(d) This subtitle does not abrogate the existing requirement and principles of exhaustion of administrative remedies, and this subtitle does not broaden, except as specifically set forth, the rights of intervention of persons in administrative hearings and in appeals from the hearings.

(e) This subtitle is not to be construed in any way to alter the present provisions of law relating to standing in any matter affecting local zoning.

(f) (1) Except as provided in this subtitle, relief may not be granted in any action filed under this subtitle with respect to any defendant who shows that the condition, activity, or failure complained of is under and in compliance with:

(i) A lawful, current permit or order of an agency of the State or a political subdivision authorized to issue the permit or order;

(ii) An order or other adjudication of a court of competent jurisdiction in a proceeding in which all of the material issues involved in the action were raised and determined, whether or not the parties to the prior litigation were identical to the

parties in the pending action; or

(iii) A lawful current permit or order of an agency of the United States government authorized to issue the permit or order.

(2) If the court finds, upon clear and convincing evidence at any stage of the proceeding, that the condition, activity, or failure complained of exists and either presents an imminent danger to the health, welfare, or safety of the people of the State, or results in or is likely to result in irreversible or irreparable damage to the air, water, or other natural resources of the State, the court may remand the matter to the agency with instructions to consider and make factual determinations with respect to the material issues, as determined by the court, within a time considered reasonable by the court. A finding may not be made until the defendant has been provided an opportunity by the court to present evidence rebutting the plaintiff's evidence.

§1–505.

(a) An action pursuant to this subtitle shall be brought in the circuit court where the alleged condition, activity, or failure complained of is occurring, has occurred, or is likely to occur.

(b) If the plaintiff is a person other than the State, an action does not lie under this subtitle unless the plaintiff, at least 30 days prior to the commencement of the action, has delivered a sufficient written notice of the alleged condition, activity, or failure to the agency of the State or its political subdivision responsible for initiating or instituting some official action as a result of the alleged condition, activity, or failure. A copy of the notice shall be simultaneously delivered to the Attorney General.

(c) In addition to the copies which are to be served upon any person named as a defendant, a copy of the summons and bill of complaint and of any supporting papers and exhibits attached to it, including in all cases a certificate from the plaintiff under subsection (b) of this section of the date of the mailings, a copy of the mailed written notice and the signed certified mail receipts returned by the addressees, must be served upon the Attorney General, for purposes of notice and also to give him an opportunity to intervene. It is discretionary with the Attorney General and with each interested State agency or official represented by him whether to appear in the action but, upon application, at any time during the pendency of the action the Attorney General shall be permitted to intervene.

§1–506.

(a) Except as provided in subsection (e) of this section, the court may grant a stay of the proceedings brought pursuant to this subtitle upon motion of defendant made upon notice to all parties and to the Attorney General whether or not a party whenever there is pending any of the following at the time of commencement of an action brought pursuant to this subtitle:

(1) Any administrative enforcement hearing initiated by an agency of the

State or a political subdivision, either prior to or after receipt of the statutory notice required by § 1-505(b) and (c) of this subtitle, with jurisdiction by law over the condition or activity complained of, if the proceeding is being diligently prosecuted in the opinion of the court;

(2) Judicial review of any administrative action taken with respect to the condition or activity complained of;

(3) An action in court brought by the Attorney General on behalf of a State agency represented by him or by a political subdivision of the State with respect to the condition or activity complained of; or

(4) An appeal from a judgment rendered with respect to an action brought under item (3) of this subsection.

(b) Except as provided in subsection (e) of this section, the court also may grant the stay provided for in subsection (a) of this section upon motion made by the Attorney General on behalf of the people of the State or by a State agency or official represented by him, whether or not he is a named party defendant.

(c) A stay shall be granted for a time the court considers reasonable for completion of the administrative or judicial proceeding, the pendency of which is the basis for the motion for the stay, but in no event may a stay be granted for longer than 90 days without a showing of sufficient cause by the defendant or the Attorney General.

(d) The court, upon motion demonstrating sufficient cause, may grant extensions of the stay for additional periods not to exceed 90 days each.

(e) A stay pursuant to this section may not be granted if the court finds that the condition or activity complained of either presents an imminent danger to the health, welfare, or safety of the people of the State or results in, or is likely to result in, irreversible or irreparable damage to the air, water, or other natural resources of the State except pursuant to § 1-504(f)(2) of this subtitle.

§1–507.

(a) An action brought pursuant to this subtitle may not be compromised, discontinued, or dismissed by consent, by default, or for neglect to prosecute, except with the approval of the court. The approval may not be granted when the court determines that a monetary settlement, in excess of court costs and attorneys fees, has been offered by a defendant to a plaintiff, who has standing to sue only by virtue of this subtitle, as consideration for the settlement. If the court upon application of a defendant determines that an action in which a plaintiff has acquired standing solely by virtue of this subtitle was brought in bad faith or solely for purposes of harassment or delay, it may, after further hearing on this specific question, award to the defendant against the plaintiff a judgment for all or part of the court costs, including attorneys fees, as the defendant may establish were incurred by him in defending the action

together with any damages sustained by the defendant as a result of the action having been brought, including witness fees.

(b) The Maryland Rules apply to all actions brought under this subtitle except where the provisions of this subtitle specifically describe other procedures.

§1–508.

It is the purpose of this subtitle to provide certain remedies to abate the pollution, destruction, or substantial or unreasonable impairment of the air, water, or other natural resources of the State and therefore nothing contained in it abridges or alters rights of action or remedies which exist. A provision in this subtitle, or any act done by virtue of this subtitle, may not be construed as estopping or limiting the State or any person in the exercise of his rights to suppress nuisances or to abate any pollution.

§1–601.

It is the policy of the State to foster water safety for recreational uses of the Potomac River, including swimming, bathing, wading, diving, tubing, rafting, and other uses involving contact with the water. There is a particular need to restrict the recreational use of certain waters known to be hazardous to personal safety some or all of the time, specifically, that section of the Potomac River beginning at the District of Columbia and Maryland boundary line which crosses the Potomac River approximately one-half mile north of Chain Bridge and continuing upstream to a line across the Potomac River at Edwards Ferry Road.

§1–602.

The Secretary is responsible for administering a program of water safety for recreational uses of the hazardous section of the Potomac River as described in this subtitle.

§1–603.

The Department may adopt regulations necessary to implement this subtitle.

§1–604.

Any person who violates any regulation adopted pursuant to the provisions of this subtitle is guilty of a misdemeanor. Upon conviction, the person is subject to a fine not exceeding $500, or imprisonment not exceeding 2 months, or both.

§1–605.

Nothing in this subtitle is intended to affect or limit the powers and duties of the Secretary of the Environment under § 9-252 of the Environment Article.

§1–701.

(a) In this subtitle the following words have the meanings indicated.

(b) "Conserve", "endangered species", "nongame species", "species", and "threatened species" have the meanings stated in § 10-2A-01 of this article.

(c) "Fund" means the State Chesapeake Bay and Endangered Species Fund established under § 1-702 of this subtitle.

(d) "Income tax checkoff system" means the checkoff system established under § 2-110 of the Tax - General Article.

§1–702.

(a) In this section, "Fund" means the State Chesapeake Bay and Endangered Species Fund.

(b) There is a State Chesapeake Bay and Endangered Species Fund.

(c) (1) The net proceeds from contributions under the income tax checkoff system and any other donations to the Fund shall be credited to the Fund.

(2) The Secretary shall administer the Fund.

(3) The Fund shall be used only as provided in §§ 1-703 through 1-705 of this subtitle.

(4) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(5) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(6) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(7) Expenditures from the Fund may be made only in accordance with the State budget.

(d) The Fund shall be maintained for the purposes stated in this subtitle and unspent portions of the Fund shall remain in the Fund and may not revert to the General Fund of the State.

(e) Moneys expended from the Fund for the Chesapeake Bay Trust and Endangered Species Conservation programs are supplemental and are not intended to take the place of funding that would otherwise be appropriated to the Department of Natural Resources for the Trust or for those programs.

§1–703.

(a) (1) The Secretary may distribute not more than 5% of the net proceeds of the Fund to a promotional account to be used to promote further donations to the Fund.

(2) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1–103(b)(2) of this title.

(b) After making the distributions allowed under subsection (a) of this section, the Secretary shall distribute the remainder of the net proceeds of the Fund as follows:

(1) 50% to the Chesapeake Bay Trust established under § 8–1902 of this article, to be used by the Trust only as provided in § 1–704 of this subtitle; and

(2) 50% to an endangered species account, to be used only to conserve nongame, threatened and endangered species as provided in § 1–705 of this subtitle.

§1–704.

The Chesapeake Bay Trust shall use the funds it receives under § 1-703 of this subtitle only to provide grants to nonprofit organizations, community associations, civic groups, schools, or public agencies for citizen involvement projects that will enhance or promote:

(1) Public education of the State's citizens concerning the Chesapeake Bay;

(2) The preservation or enhancement of water quality and fishery or wildlife habitat;

(3) The restoration of aquatic or land resources;

(4) Reforestation projects;

(5) The publication or production of educational materials on the Chesapeake Bay; or

(6) Training in environmental studies or environmental enhancement.

§1–705.

(a) The Secretary shall use the funds credited to the endangered species account under § 1-703 of this subtitle only to promote the conservation, propagation, and habitat protection of nongame, threatened or endangered species, including:

(1) The acquisition, through absolute purchase or the purchase of easements, of habitats necessary to conserve, protect, or propagate nongame, threatened or endangered species;

(2) The monitoring, surveying, and protection of nest sites of bald eagles, Delmarva fox squirrels, peregrine falcons, and piping plovers;

(3) The promotion of voluntary protection of habitat for threatened and endangered species by monitoring information and management assistance to private landowners;

(4) The initiation of surveys and recovery programs, including habitat restoration or protection, for other threatened or endangered species;

(5) The protection of threatened or endangered species in natural heritage areas identified under the Natural Heritage Program;

(6) The surveying of nongame birds, mammals, reptiles, and amphibians not currently receiving review, particularly those species whose population status is questionable, such as the bog turtle;

(7) The development and implementation of an urban wildlife program to provide individuals in urban and suburban areas the opportunity to observe wildlife; and

(8) The development and implementation of a public education and information program to educate the public and school children about wildlife and habitat conservation.

(b) (1) In developing the wildlife conservation programs under this section, the Secretary shall solicit the advice of the Threatened and Endangered Species Committee established in the Department.

(2) The Secretary shall obtain recommendations from the Natural Heritage Program in the Department as to implementation of threatened and endangered species conservation programs under this section.

§1–706.

(a) On or before August 31 of each year, the Secretary shall submit a report to the General Assembly, pursuant to § 2-1246 of the State Government Article, on the administration of the Chesapeake Bay and Endangered Species Fund.

(b) The report required under subsection (a) of this section shall include:

(1) The gross amount of donations to the Fund;

(2) The costs of administration by the Comptroller of the income tax checkoff system;

(3) A description of promotional efforts undertaken with money from the Fund; and

(4) A detailed accounting of the use of the Fund:

(i) By the Chesapeake Bay Trust; and

(ii) For wildlife conservation.

§1–801.

(a) The Chief Judge of the District Court of Maryland may establish, by administrative regulation under the provisions of § 1-605 of the Courts and Judicial Proceedings Article, a schedule of prepayable fines for first offense misdemeanor violations of this article and regulations adopted under this article. The amount of a prepayable fine may be no more than the maximum and no less than the minimum criminal penalty established by the General Assembly in this article.

(b) By paying a fine set under this section in lieu of appearing for trial in District Court, a person is voluntarily accepting a conviction for the offense charged.

§1–901. IN EFFECT

// EFFECTIVE UNTIL SEPTEMBER 30, 2017 PER CHAPTER 22 OF 2014 //

(a) In this subtitle, "pilot program" means the Recreational Incentives Pilot Program.

(b) There is a Recreational Incentives Pilot Program in the Department.

(c) The purpose of the pilot program is to determine whether incentive discounts offered to individuals who have not purchased a recreational fishing or hunting license within the previous 3 years increase the purchase of recreational licenses issued under §§ 4–604, 4–745, and 10–301 of this article.

(d) (1) The Department shall develop a plan to implement the pilot program.

(2) The plan to implement the pilot program shall:

(i) Identify eligibility criteria for the incentive discounts;

(ii) Establish amounts for the incentive discounts; and

(iii) Include a marketing strategy for attracting eligible recreational license customers.

(3) Under the plan, an incentive discount may not:

(i) Exceed 50% of the underlying license fee; or

(ii) Be offered or provided for a specific recreational license to an individual who has held that license within the previous 3 years.

(e) The Department shall administer the pilot program in accordance with the plan developed under subsection (d) of this section.

(f) On or before September 30, 2017, the Department shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on the operation and results of the pilot program.

(g) The Department may adopt regulations to implement this section.

§2–101.

(a) In this title the following words have the meanings indicated.

(b) "Commission" means Commission of the Maryland Geological Survey.

(c) "Department" means Department of Natural Resources.

(d) "Paleontology" means the branch of geology that deals with prehistoric forms of life through the study of plant and animal fossils.

(e) "Secretary" means Secretary of Natural Resources.

(f) "Survey" means Maryland Geological Survey.

§2–201.

(a) There is a Maryland Geological Survey in the Department.

(b) The Governor, with the advice of the Secretary, shall appoint the Director of the Survey. The Director shall hold office under and subject to the provisions of § 1-101(d) of this article. He shall be a person with executive ability, and special training and experience in handling problems in the fields of geology and water resources.

§2–202.

The Survey shall:

(1) Conduct topographic, geologic, hydrographic, and geophysical surveys;

(2) Prepare topographic, geologic, and other types of maps to meet specific needs;

(3) Prepare reports on the extent and character of the State's geology, mineral, and water resources; and

(4) Periodically assess the paleontological resources of the State and coordinate the assessment with interested persons and public agencies.

§2–203.

The Director of the Survey shall exercise any power or duty and general supervision over matters conferred upon the Survey by law, subject to the authority of the Secretary.

§2–204.

(a) There is a Commission of the Maryland Geological Survey in the Survey. It consists of five members appointed by the Secretary from among citizens of the State who have character, ability, and active interest in the proper development, use, and conservation of geologic, mineral, and water resources. The members shall select their own chairman. A member's term of office is five years. The Secretary may remove any member for cause, and any vacancy shall be filled for the unexpired term. A member may not receive compensation for his services, but shall be reimbursed for necessary travel expenses and disbursements made in order to attend any meeting or perform any other official duty.

(b) The Commission shall advise the Director of the Survey with respect to any matter within the Survey's jurisdiction.

§2–401.

Any monument which marks the common boundary between the State and any adjacent state, commonwealth, or district is the joint property of the State and the adjoining state, commonwealth, or district.

§2–402.

The Survey shall examine, at least once every ten years, every monument which marks the boundaries of the State. Whenever the Survey finds the monument is lost, removed, or displaced causing the boundary to become obscure, inaccurate, or incorrect, it shall cooperate with the proper officials and agencies of the adjacent state, commonwealth, or district to replace, restore, or repair the monuments on the common boundary line. The Survey, on behalf of the State, may make any joint agreement or contract with appropriate officials or agencies of any adjacent state, commonwealth, or district, and the United States Coast and Geodetic Survey, or any similar disinterested party or agency, to resurvey, remark, or otherwise delineate more clearly any part of any common boundary between the State and any adjacent state, commonwealth, or district. In any resurvey, the present established boundaries of the State shall be preserved with the greatest possible fidelity.

§2–403.

The Survey may enter on any public or private property to examine any boundary monument. However, the Survey may not enter during the growing season on any land planted with crops which might be damaged by any entry.

§2–404.

A person may not move, remove, break, mutilate, deface, destroy, or otherwise injure any monument marking any boundary between the State and any adjacent state, commonwealth, or district. Any person who possesses any monument previously placed, or prepared to be placed, on any State boundary, upon demand by the Survey, shall surrender and deliver the monument to the Survey.

§2–405.

The Natural Resources police officers and forest or park wardens of the State have the power of arrest and other powers necessary to enforce this subtitle.

§2–406.

This section does not require either the Maryland Historical Society or the Historical Society of Pennsylvania to surrender or deliver to the Department the Mason and Dixon Monument placed in the custody of each society by the mutual consent of the State and the Commonwealth of Pennsylvania in 1902.

§2–407.

Any person who violates any provision of this subtitle is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding $50 for each offense with costs imposed in the discretion of the court.

§3–101.

(a) In this subtitle the following words and terms have the meanings indicated.

(b) "Board" means the Board of Directors of the Maryland Environmental Service.

(c) "Bonds" means all bonds or other evidences of indebtedness of the Service other than notes, whether general or limited obligations of the Service.

(d) "Cost" as applied to a water supply project, a solid waste disposal project, a wastewater purification project, an energy project, a service area, a service district, or to any activity undertaken by the Service, includes: (1) the cost of construction or acquisition, including the purchase price of any existing project or the cost of acquiring all or any portion of the right, title, or interest in the project and the amount to be paid to discharge all obligations necessary to vest title to the project or any part of it in the Service or other owner; (2) the cost of any reconstruction, extension, enlargement, alteration, repair, or improvement; (3) the cost of all lands, properties, rights, easements, interests, franchises, and permits acquired; (4) the cost of all labor, machinery and equipment, financing charges, interest prior to and during construction and for such period after completion of construction as the Service deems appropriate; (5) the cost of revenue estimates, engineering and legal services, plans, designs,

specifications, surveys, investigations, demonstrations, studies, estimates of cost, other expenses necessary or incident to determining the feasibility or practicability of any such acquisition, improvement, or construction; (6) administrative and overhead expenses, and all expenses necessary or incidental to the financing herein authorized, and to the acquisition, operation, maintenance, improvement, construction of water supply, liquid, solid waste, and energy project facilities, and the placing of these project facilities in operation, including reasonable provision for working capital; (7) reserves for principal and interest and for extensions, enlargements, additions and improvements. Any obligation or expense incurred prior to the issuance of bonds or notes under the provisions of this title in connection with the foregoing items of cost may be regarded as a part of such costs.

(e) The word "county" includes Baltimore City unless otherwise indicated.

(f) "Director" means Director of the Maryland Environmental Service.

(g) "Energy project" means any service, facility, system, or property, real or personal, used, useful, or having present capacity for use in connection with:

(1) Energy conservation; or

(2) The production, generation, or distribution of energy from a renewable or other energy source.

(h) "Facility" means a physical structure or appurtenance built, constructed, acquired, installed, or established to perform a function or service in connection with a water supply, wastewater purification, solid waste disposal, or energy project whether publicly or privately owned and whether existing or proposed.

(i) "Liquid waste" means:

(1) Stormwater runoff; and

(2) Any water–carried wastes or wastes which are liquid in nature created in and carried away, or to be carried away, from residences, institutions, industrial establishments, commercial establishments, or any other public or private building, structure, or facility.

(j) "Municipality" means any county, municipal corporation, sanitary district, State or local unit, or other public body or unit created or established by or pursuant to State or local law, ordinance, or resolution.

(k) "Notes" means bond anticipation notes, revenue anticipation notes, and grant anticipation notes of the Service, whether general or limited obligations of the Service.

(l) "Person" means any natural person, individual, firm, partnership, association, cooperative, limited liability company, corporation, or other entity.

(m) (1) "Project" means a solid waste disposal project, a wastewater purification project, a water supply project, or an energy project, as the case may be.

(2) "Project" includes any service, facility, or property used or useful or having present capacity for future use in connection with:

(i) The transporting, transferring, compacting, burying, incinerating, reduction, composting, collection, storage, treatment, utilization, processing, or final disposal of liquid wastes, solid wastes or water, as the case may be;

(ii) The conversion of liquid wastes, solid wastes or water, as the case may be, to fuel, steam, electricity, energy, or other resources or the generation of steam, electricity, or other forms of energy from fuel which is derived from, or is otherwise related to, liquid wastes, solid wastes or water, as the case may be;

(iii) The reconstruction, converting or otherwise recycling of liquid wastes, solid wastes or water, as the case may be, into material which is not liquid waste, solid waste or water or which is useful or is marketable; or

(iv) Any combination of items (i) through (iii) of this paragraph, whether or not such facilities are located on a single site.

(3) "Project" also includes:

(i) Waste disposal facilities, pollution control facilities, and facilities for generating and furnishing electric energy or gas or other forms of energy which can be financed by bonds the interest on which is exempt from income tax under the Internal Revenue Code of 1986, as amended, whether such interest would have been tax exempt at the time of the enactment of this subtitle or of any amendment thereto; and

(ii) Any facilities and properties within the definition of "project", "solid waste disposal project", "wastewater purification project", "water supply project", or "energy project" set forth in this subsection, whether or not such facilities or properties can be financed by bonds the interest on which is tax exempt under the Internal Revenue Code of 1986, as amended, it being the purpose and intent of this subtitle that the terms "project", "solid waste disposal project", "wastewater purification project", "water supply project", and "energy project" be liberally construed so as to effectuate the purposes of this subtitle.

(4) "Project", "solid waste disposal project", "wastewater purification project", "water supply project", and "energy project" include land, buildings, structures, machinery, equipment, rail or motor vehicles, barges, boats, and all properties and rights therein and appurtenances thereof, rights–of–way, franchises, easements, and other interests in land, all land and facilities that are functionally or administratively related and subordinate to the solid waste disposal project, wastewater purification project, water supply project, or energy project, as the case may be, and all patents, licenses, and other rights necessary or useful in the planning,

development, construction, or operation of a solid waste disposal project, wastewater purification project, water supply project, or energy project.

(n) "Service" means the Maryland Environmental Service.

(o) "Service district" means a geographic area established by the Service, after consultation with the municipalities affected, for the purpose of providing water supply projects, wastewater purification projects or solid waste disposal projects. Service districts may encompass areas containing projects of the Service as well as nonduplicating, noncompetitive projects owned and operated by municipalities or persons. Service districts shall be based upon approved State–county master water and sewerage plans or solid waste disposal plans, if any, adopted pursuant to the Environment Article, but they may also take account of other plans and studies.

(p) "Service region" means a geographic area which the Maryland Environmental Service designates and within which the Director, after consultation with the municipalities affected, causes surveys, plans, studies, and estimates to be made for the purpose of determining the most dependable, effective, and efficient means of providing services through water supply projects, solid waste disposal projects, or wastewater purification projects. Service regions shall be based upon needs set forth in approved State–county master water and sewerage plans, or solid waste disposal plans, if any, adopted pursuant to the Environment Article, but they may also take account of other plans and studies.

(q) "Solid waste disposal project" means any service, facility, or real or personal property used or useful or having present capacity for future use in connection with the measurement, management, collection, disposal, prevention, or recycling of solid wastes by any means, including disposal, recovery, or reuse to produce energy or products, or otherwise.

(r) "Solid wastes" means all waste materials, whether solid, liquid, or gas, including liquid wastes. The term includes garbage, rubbish, ashes, incinerator residue, wastewater treatment residue, street cleanings, dredged materials, dead animals, demolition and construction debris, household appliances, hazardous materials, automobile bodies, offal, paunch manure, methane or any other gases, sewage sludge and solid or gaseous waste materials from commercial, agricultural, residential, industrial, or community activities.

(s) "Wastewater purification project" means any service, facility, or property, real or personal, used or useful or having present capacity for future use in connection with the measurement, management, prevention, redirection, collection, or treatment of liquid wastes.

(t) "Water supply project" means any service, facility, or property, real or personal, used, useful, or having present capacity for future use in connection with water supply, protection, and distribution, including any water treatment facility or property and rights therein and appurtenances thereto.

§3–102.

(a) To assist with the preservation, improvement, and management of the quality of air, land, water, and natural resources, and to promote the health and welfare of the citizens of the State, it is the intention of the General Assembly in enactment of this subtitle to provide for dependable, effective, and efficient water supply and purification and disposal of liquid and solid wastes, to encourage reductions in the amount of waste generated and discharged to the environment and the generation of energy and the recovery of useable resources from such waste to the extent practicable; to promote the conservation of energy usage and to enable and provide for the production of energy from solid wastes and renewable and other sources; to encourage private sector participation in environmental protection; and to serve its political subdivisions and economic interests. For these purposes, the General Assembly creates an instrumentality of the State constituted as a body politic and corporate to provide water supply wastewater purification and disposal, solid and hazardous waste disposal, and energy conservation, generation, and transmission services in compliance with State and federal laws, regulations, and policies governing air, land, and water pollution to public and private instrumentalities, and with safeguards to protect the autonomy of the political subdivisions and the rights of the private entities it serves. It is also the intent of the General Assembly that the instrumentality may not participate in competitive bidding with the private sector to provide its services.

(b) This subtitle shall be liberally construed to effect its purposes. However, nothing contained in it shall restrict any control which the Departments of the Environment and Natural Resources, or of their units, are empowered to exercise over any water supply, wastewater purification, solid waste disposal, or energy project authorized by this subtitle, nor interfere with or affect the operation of existing wastewater purification, water supply, solid waste disposal, or energy projects found by the Secretary of the Environment to be adequately and lawfully operated by municipalities having jurisdiction or responsibility for them, except by their express consent and agreement. Nothing in this subtitle shall restrict any control which the Public Service Commission is empowered to exercise over any energy project authorized by this subtitle.

(c) Nothing in this subtitle shall be construed to alter, change, or modify the zoning or land use planning authority of any municipality or public instrumentality or cause a municipality or public instrumentality to take action inconsistent with the county solid waste management plan required under Title 9, Subtitle 5 of the Environment Article.

§3–103.

(a) There is a body politic and corporate known as the "Maryland Environmental Service". The Service is an instrumentality of the State and a public corporation by that name, style, and title, and the exercise by the Service of the powers conferred by this subtitle is the performance of an essential governmental

function of the State.

(b) (1) There are four officers of the Service: a Director, a Deputy Director, a Secretary, and a Treasurer. The four officers of the Service shall be appointed as follows:

(i) The Director shall be appointed by the Governor, with the advice and consent of the Senate solely with regard to the qualifications for the duties of the office. The Director serves at the pleasure of the Board with the concurrence of the Governor and shall receive such compensation as may be determined by the Board; and

(ii) The Deputy Director, the Secretary and the Treasurer shall be appointed by the Director with the approval of the Governor solely with regard to the qualifications for the duties of the office. The Deputy Director, the Secretary and the Treasurer serve at the pleasure of the Director and shall receive such compensation as may be determined by the Board.

(2) The Board of Directors of the Service shall consist of nine members as follows:

(i) The Director, Deputy Director, Secretary, and Treasurer of the Service;

(ii) Three members from the public sector in the State in positions responsible for water, wastewater, or solid waste management; and

(iii) Two members from the private sector in the State with technical, financial, development, or legal experience related to water, wastewater, or solid waste management.

(3) The public sector and private sector members of the Board, as set forth in paragraph (2)(ii) and (iii) of this subsection shall be appointed by the Governor with the advice and consent of the Senate.

(4) Six members constitute a quorum for the transaction of business of the Board. The affirmative vote of at least five members is necessary for any action taken by the Board.

(5) Those members of the Board not already holding a public office shall receive from the Service:

(i) Per diem compensation as established by the Board; and

(ii) Reimbursement for expenses under Standard State Travel Regulations.

(6) The term of a member who is not an officer of the Service is 4 years.

(7) The terms of members who are not officers of the Service are staggered as required by the terms provided for those members of the Board on July 1, 1993.

(8) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(9) A member who is appointed after a term has begun serves only the remainder of that term and until a successor is appointed and qualifies.

(c) (1) The Director is both the administrative head of the Service and the presiding officer of the Board. The Director is directly responsible to the Board and shall advise the Board on all matters assigned to the Service. The Director shall carry out the Board's policies related to the Service. He is responsible for the exercise of all powers and duties conferred upon the Service by the provisions of this subtitle except for those powers and duties specifically conferred by this subtitle on the Secretary, Treasurer, or Board.

(2) The Deputy Director shall have the duties provided by law or delegated by the Director.

(d) (1) The Secretary shall keep a record of the proceedings of the Board and be custodian of all books, documents, and papers filed with the Service and of the minute book or journal of the Service and its official seal. He may have copies made of all minutes, records, and documents of the Service and certify them to be true copies under the official seal of the Service. Any person dealing with the Service may rely upon these certificates, and certified copies shall be received as evidence in any court or other tribunal in the State, in the same manner and with the same effect as if the original books, papers, entries, records, or proceedings could be produced.

(2) The Secretary, with the approval of the Board, may delegate to the Deputy Director, during an absence of the Secretary, any duty enumerated in paragraph (1) of this subsection.

(e) (1) The Treasurer shall develop and maintain a detailed and accurate accounting system for all financial transactions of the Service, and he shall perform other duties relating to the financial affairs of the Service as required by law or by a directive of the Board. Unless any money of the Service is otherwise held by or payable to a trustee appointed pursuant to a resolution authorizing the issuance of bonds or notes or under a trust agreement securing the bonds or notes, the Treasurer shall receive money of the Service until otherwise prescribed by law, he shall deposit the money as soon as it is received to the credit of the Service in any financial institution in which the State Treasurer is authorized to deposit State funds. He shall disburse money for the purposes of the Service according to law, only upon his warrant. He shall make arrangements for the payment of the interest on and principal of the Service debt. Upon entering the performance of his duties, the Treasurer shall be covered by a surety bond in accordance with the provisions of law concerning the State Employees Surety Bond Committee.

(2) With the approval of the Board, the Treasurer may authorize an employee of the Service to serve as his deputy and to disburse money for the purposes of the Service as provided by law, and subject to restrictions and other conditions that the Treasurer establishes. The Deputy Treasurer shall be covered by a surety bond in accordance with the provisions of law concerning the State Employees Surety Bond Committee.

(f) The Attorney General of Maryland shall be the legal advisor for the Service and the Board. He shall enforce compliance with the requirements of this subtitle through any appropriate legal remedy and prosecute violations in accordance with the provisions of this subtitle. The Attorney General shall assign to the Service the number of assistant Attorneys General and other staff requested by the Service. One of the assistant Attorneys General shall be designated by the Attorney General as counsel to the Service. The counsel to the Service shall have no other duty than to render, subject to the discretion and control of the Attorney General, the legal aid, advice, and counsel required by the Director, the Board, and the other officials of the Service and, also subject to the discretion and control of the Attorney General, to supervise the other assistant Attorneys General assigned to the Service. The counsel and every other assistant Attorney General assigned to the Service shall be practicing lawyers of this State in good standing and shall be entitled to a salary from the funds of the Service. After the Attorney General has designated an assistant Attorney General to serve as counsel to the Service, the Attorney General may not reassign the counsel without consulting with the Director and the Board. With the approval of the Attorney General, the Service may employ additional counsel that it considers necessary to carry out the provisions of this subtitle.

(g) (1) The Service is exempt from the provisions of Subtitles 3, 4, 5, and 7 of Title 4 of the State Finance and Procurement Article.

(2) The Service is exempt from the provisions of Division II of the State Finance and Procurement Article, but is not exempt from Subtitle 3 of Title 14, Subtitle 4 of Title 12, Title 16, and Title 17 of the State Finance and Procurement Article.

(3) (i) Except as otherwise provided in this paragraph, all procurements by the Service for materials, equipment, services, or supplies performed or furnished in connection with the planning, development, design, equipping, construction, or operation of any project owned or controlled by the Service, shall be awarded in accordance with rules and regulations adopted pursuant to the Administrative Procedure Act.

(ii) The Service may procure materials, equipment, services, or supplies by utilizing:

1. Competitive sealed bids;

2. Competitive sealed proposals;

3. Sole source procurement;

4. Intergovernmental cooperative purchasing agreements;

5. A small procurement process, if the procurement is estimated by the Service to result in an expenditure of $25,000 or less; or

6. An emergency procurement process, if the procurement is necessary to avoid or to mitigate serious damage to public health, safety, or welfare.

(4) The Service may adopt rules and regulations to provide a process to resolve disputes between the Service and its contractors, that may include alternative dispute resolution by the parties to the dispute.

(h) (1) The Service:

(i) May create and establish 1 or more project reserve funds in such amounts as the Board considers appropriate, including the following project reserve funds:

1. An Eastern Correctional Institution Steam Turbine Contingency Fund;

2. A Department of Natural Resources Project Contingency Fund; and

3. A Reimbursable Project Contingency Fund; and

(ii) Subject to paragraph (2) of this subsection, may pay into such funds:

1. Any moneys appropriated and made available by the State for the purposes of such funds;

2. Any proceeds from the sale of bonds or notes, to the extent provided in the resolution authorizing the issuance of the bonds or notes;

3. Revenues derived from a project of the Service; and

4. Any other moneys which may be received by or otherwise made available to the Service from any other source or sources which the Service has designated for deposit into such funds.

(2) Moneys held in or credited to a project reserve fund established under this subsection shall be used solely to accomplish the purposes of this subtitle, as determined by the Board and, subject to paragraph (3) of this subsection, may be retained by the Service in the appropriate project reserve fund based on the project for which the money was received by the Service.

(3) (i) The Service may credit to a project reserve fund established under paragraph (1)(i)1 through 3 of this subsection only moneys that are reimbursable to the State.

(ii) The Service may not retain more than:

1. $1,500,000 in the Eastern Correctional Institution Turbine Project Contingency Fund;

2. $500,000 in the Department of Natural Resources Project Contingency Fund; or

3. $1,000,000 in the Reimbursable Project Contingency Fund.

(iii) If at the end of a fiscal year the balance in a project reserve fund exceeds the limits stated in subparagraph (ii) of this paragraph, the Service shall revert the excess to the State fund from which the moneys in the project reserve fund were originally appropriated.

(4) Moneys appropriated or made available to the Service by the State shall be expended in accordance with the provisions of this subtitle.

(i) The Service shall submit annually a budget reflecting the operating and capital program of the Service to the Department of Budget and Management for inclusion for informational purposes in the State budget book.

§3–103.1.

(a) The staff of the Service shall consist of such employees as the Service may determine are necessary to carry out the duties of the Service.

(b) (1) The Service shall adopt regulations to govern the employees of the Service.

(2) The Service shall establish a personnel system that:

(i) Is based on merit and compensates employees based on performance;

(ii) Includes fair and equitable procedures for the redress of grievances and for the hiring, promotion, and laying off of employees; and

(iii) Allows State employees who are employed by the Service prior to July 1, 1993 and members of the State retirement or pension systems to continue membership in the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland.

(3) (i) The Service shall be liable for and shall pay to the State

Retirement Agency the employer's share of employee retirement or pension costs for Service employees who participate in the State retirement or pension systems, as provided in Title 21, Subtitle 3 of the State Personnel and Pensions Article.

(ii) The Service shall be liable for and shall pay the employer's share of health insurance costs for Service employees.

(4) In carrying out the requirements of this subsection, the Service may:

(i) Create or abolish any position other than one specifically provided for in this subtitle;

(ii) Determine employee qualifications, appointment and removal procedures, terms of employment including compensation, benefits, holiday schedules, and leave policies, and any other matter concerning employees; and

(iii) Subject to the provisions of subsection (c) of this section, take such actions that are necessary for the transition to a new personnel system.

(c) (1) All State employees who are employed by the Service prior to July 1, 1993 shall be provided the opportunity to transfer to the Service's new personnel system without loss of pay. All nonstate employees of the Service employed prior to July 1, 1993 shall be members of the new personnel system.

(2) All persons hired by the Service on or after July 1, 1993 shall be members of the new personnel system.

(3) State employees who transfer to the Service's new personnel system shall, unless fairly compensated for the leave by the Service, retain vacation leave, sick leave, and personal and compensatory leave earned prior to the date of transfer until the time that the leave would normally expire under the regulations adopted under the State Personnel and Pensions Article.

(4) The Director and the Secretary of Personnel will use their combined resources to facilitate, prior to January 1, 1995, the placement, reassignment, or transfer of Service State employees who elect not to transfer to the new personnel system.

(5) Classified State employees who elect not to transfer to the new personnel system shall retain all rights and privileges of the State Personnel Management System until January 1, 1995.

(6) State employees who are not classified in the State Personnel Management System who elect not to transfer to the new personnel system shall retain such rights and privileges as existed on July 1, 1993, until January 1, 1995.

(7) The Service shall permit continuation of the rights of employee organizations in existence on July 1, 1993, to represent employees and to collect

union dues through a checkoff system. If State employees in general are authorized by law to enter into binding arbitration or binding collective bargaining agreements establishing wages, hours, pension rights, or working conditions for State employees, the Service may enter into the same type of agreements for employees of the Service.

§3–103.2.

The Service is exempt from the provisions of Division I of the State Personnel and Pensions Article that govern the State Personnel Management System.

§3–104.

(a) The Service has all powers necessary for carrying out the purposes of this subtitle, including the following rights and powers set forth in this section.

(b) To have perpetual existence as a corporation.

(c) To adopt bylaws, rules, regulations, policies, and procedures for the regulation of its affairs and conduct of its business.

(d) To adopt an official seal and alter it.

(e) To maintain one or more offices at a place or places it chooses.

(f) To appoint agents and employees, to prescribe their duties, and fix their compensation as set forth in this subtitle.

(g) To sue and be sued.

(h) To acquire, construct, reconstruct, rehabilitate, improve, maintain, lease as lessor or as lessee, repair and operate projects within or without the State. The Service shall establish reasonable rules and regulations for the use of any project. It may acquire, purchase, hold, lease as lessee, and use any franchise and any property, real, personal or mixed, tangible or intangible, or any interest therein necessary to carry out the purposes of the Service. It may sell, lease as lessor, transfer, and dispose of any property or interest in it that it has acquired.

(i) To acquire by gift, purchase, or the exercise of the right of eminent domain in the manner prescribed by law lands, structures, real or personal property rights, rights–of–way, franchises, easements, and other interests in lands, including lands lying underwater and riparian rights which are located within and without the State as it considers necessary or convenient for the construction or operation of a project, upon terms and at prices considered by the Service to be reasonable and can be agreed upon by the Service and the owner of the interest, and to take title to the interest in the name of the Service. At any time ten days after the return and recordation of the verdict or award in any condemnation proceeding, the Service may take possession of the property condemned, upon paying to the clerk of the court the amount of the award and all costs taxed to that date, notwithstanding any appeal or further proceeding by

defendant. At the time of the payment, the Service shall give its corporate undertaking to abide by any judgment in any appeal or further proceedings.

(j) To borrow money and issue bonds or notes for the purpose of paying all or any part of the cost of any one or more projects or for any other purpose of the Service; to provide funds to be paid into any debt service reserve fund; to secure the payment of the bonds or notes or any part thereof by pledge or deed of trust of all or any part of its revenues or other available money or by pledge, mortgage, or deed of trust of any one or more facilities or properties; to combine projects for financing purposes and to make agreements with or for the benefit of the purchaser or holder of the bonds or notes, with the issue of the bonds or notes, whether issued or to be issued, as the Service may deem advisable; and in general to provide for the security of the bonds or notes and the rights of their holders.

(k) To combine, after consultation with the municipalities affected, one or more water supply, wastewater purification, solid waste disposal, or energy project with any other project as a single system for the purpose of operation or financing.

(l) To fix, alter, charge, and collect rates, fees, and charges for the use of or for the services, products, or energy furnished or produced by the Service.

(m) To enter into contracts with the federal or any state government, or any unit, instrumentality, or subdivision thereof, or with any municipality or person within or without the State, providing for or relating to the furnishing of services to or the facilities of any project of the Service, or in connection with the services or facilities provided by any water supply project, solid waste project, wastewater purification project, or energy project owned or controlled by the other contracting party, including contracts for the construction and operation of any project in the State or in any other state. These contracts may make provision for:

(1) The payment by the other contracting party to the Service of a fixed amount for the collection, processing, treatment, storage, transporting, use, or disposal of a stated amount of solid waste (whether or not the stated amount of solid waste is collected, processed, treated, stored, transported, used, or disposed of), or of all or any portion of the operating expenses of one or more projects;

(2) The utilization by the other contracting party of one or more projects for the processing, treatment, storage, transporting, use, or disposal of all or any portion of solid waste over which such party has control;

(3) The collection by the other contracting party or its agents or by agents of the Service of fees, rates, or charges for the services and facilities rendered to a municipality or its inhabitants, and for the enforcement of delinquent charges for such services and facilities; or

(4) The abandonment, restriction, or prohibition of the construction or operation of competing facilities. The provisions of any contract with a municipality

shall be deemed to be for the benefit of bondholders or noteholders as designated by the Service and may be made irrevocable so long as any bonds or notes of the Service secured by such contract are outstanding.

(n) (1) To make any contract or agreement the Service determines to be necessary or incidental to the performance of its duties and to the execution of the purpose of and the powers granted by this subtitle, including contracts with the federal or any state government, or any unit, instrumentality, or municipality thereof, or with any person, on terms and conditions the Service approves.

(2) The Service may make contracts or agreements relating to:

(i) The use by the other contracting party or the inhabitants of any municipality of any project acquired, constructed, reconstructed, rehabilitated, improved, or extended by the Service under this subtitle or the services therefrom or the facilities thereof;

(ii) The use by the Service of the services or facilities of any water supply system or project, solid waste system or project, or liquid waste system or project, not owned or operated by the Service;

(iii) The sale of any fuel, steam, electricity, energy, waste product, or other material or resource derived from the operation of any project;

(iv) The acceptance, processing, treatment, use, and disposal of solid wastes by one or more projects; or

(v) The employment or retention of consulting and other engineers, superintendents, financial advisors, attorneys, accountants, and other employees, advisors, or agents as in the judgment of the Service are necessary or desirable.

(3) The contracts and agreements of the Service may provide for the collecting of fees, rates, or charges for the projects provided by the Service and for the enforcement of delinquent charges for the projects. The provisions of any contract or agreement of the Service, and of any ordinance or resolution of the governing body of a municipality enacted pursuant thereto, shall be deemed to be for the benefit of bondholders or noteholders.

(o) To enter upon and excavate any municipal street, road, alley, highway, or any other public way for the purpose of installing, maintaining, and operating a water supply, solid waste disposal, wastewater purification, or energy project provided for under this subtitle. The Service may construct, reconstruct, rehabilitate, or extend in the street, road, alley, or highway, a water supply facility, sewer or storm drain, energy transmission facility, or any appurtenance thereof, without a permit or the payment of a charge subject, however, to reasonable regulation established by the governing body of any municipality having jurisdiction in the particular respect. If any municipal street, road, alley, or highway is to be disturbed, the governing body shall be notified within a reasonable period of time, and the street, road, alley, or highway shall be repaired

and left by the Service in the same condition as, or in a condition not inferior to, that existing before the street, road, alley, or highway was torn up. The Service shall bear every incidental cost.

(p) To enter upon lands, waters, or premises as is necessary or desirable for the purposes of making surveys, soundings, borings, and examinations to accomplish any purpose authorized by this subtitle. The Service is liable for actual damage done.

(q) To make application for, receive, and accept from any state or federal government, or any unit, instrumentality, or subdivision thereof, grants for or in aid of the planning, financing, construction, acquisition, maintenance, or operation of any project, and to receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purpose for which the grants and contributions are made in the furtherance of the purposes of this subtitle. In those cases involving federal and State grants, including, but not limited to, grants administered by the Department of the Environment for the collection and treatment of sewage and industrial wastes under the Sanitary Facilities Fund, in Title 9 of the Environment Article, the Service shall be eligible the same as a municipality.

(r) To make directly, or through the hiring of consultants, any plans, surveys, investigations, and studies relating to water supply, liquid and solid wastes transportation, purification, disposal techniques, recycling, energy production and transmission, conservation of resources, and management methods or the effects of these techniques, and methods, in order to improve or evaluate the effectiveness or economy of its services and operations. The Service may charge in whole or in part the costs of the investigations and studies against one or more projects or Service districts, or it may include them in whole or in part in its general operating expenses depending on the expected applicability of the studies and investigations. The Service may supplement grants or other aids received from the federal government or from other sources to assist in carrying out the purposes of this subtitle. Consultants hired under this subsection may not be deemed to be providing architectural or engineering services as those terms are defined in § 11–101 of the State Finance and Procurement Article.

(s) To conduct hearings and investigations for the furtherance of the purposes of this subtitle.

(t) To take and hold title to any project that may be transferred to the Service, and to assume jurisdiction over and provide for the maintenance and operation of the project, all on such terms as may be mutually agreed upon between the Service and the transferor. The Service may contract with any municipality to assume the payment of the principal of and interest on obligations or indebtedness of such municipality incurred in connection with any project and may undertake to operate any project in such a manner as to provide for the payment of all outstanding obligations or indebtedness applicable to the project and the interest thereon and to transfer to the appropriate municipality an amount equal to the debt service payments prior to the

applicable payment date. Subject to the approval of the Board of Public Works, the State may lease, lend, grant, or otherwise convey to the Service any property that is necessary for the purposes of this subtitle.

(u) To do all things necessary to carry out its purposes and for the exercise of the powers granted in this subtitle.

(v) Except as provided in §§ 3–109 and 3–110 of this subtitle, the Service does not have any power to construct, establish, or operate any new solid waste disposal project within the boundaries of any county or municipal corporation without the express consent of the governing body of the county or municipal corporation.

(w) To permit a municipality to construct, operate, maintain, expand, relocate, replace, renovate, or repair facilities provided for in this subtitle when the Service certifies that it is not in a position to provide the necessary construction, operation, maintenance, expansion, relocation, replacement, renovation, or repair of facilities within the municipality. Notwithstanding other provisions in this subtitle and limited to the circumstances in this subsection, a municipality shall finance construction, operation, maintenance, expansion, relocation, replacement, renovation, or repair of facilities in accordance with its statutory authority, including the receiving of State and federal grants if available. The municipality may construct, operate, maintain, expand, relocate, replace, renovate, or repair these facilities.

(x) In making plans, surveys, studies, and investigations under this subtitle, the Service shall include in its findings its statement of the impact that a project may have on the site on which the project is to be located if that site has cultural, historic, or social significance.

(y) To create, with the approval of the Board, private corporations for purposes consistent with this subtitle.

(z) To exercise all the corporate powers granted Maryland corporations under the Maryland General Corporation Law.

§3–105.

(a) The Service is responsible for carrying out the following general activities subject to the limitations stated in this section.

(b) Planning, integrating, and establishing geographic service regions and districts, in cooperation with affected municipalities and based upon approved State–county master plans for water and sewerage, and solid waste disposal as provided in the Environment Article, as well as other plans and studies permitted by this subtitle.

(c) Research and developmental studies and investigations into improved methods and techniques of water supply, liquid wastes, solid wastes, and energy generation, acquisition, transportation, processing, recycling, purification, disposal

and management, and technical consultation and assistance to design, management, and operation personnel of the Service and, pursuant to an order or request, to appropriate municipalities or persons possessing similar responsibilities.

(d) To the extent appropriate in each instance, acquisition, design, construction, reconstruction, rehabilitation, improvement, operation, maintenance, and repair of a water supply project, wastewater purification project, and solid waste disposal project, pursuant to an order of the Secretary of the Environment as further provided in §§ 3–109 and 3–110 of this subtitle; or pursuant to a mandatory agreement to provide requested services, as provided in § 3–107 of this subtitle; or pursuant to an approved five–year plan, as provided in § 3–106 of this subtitle.

(e) Except upon request of a municipality and pursuant to a contract between the Service and the municipality, the Service may not acquire, construct, operate, or establish a wastewater purification project or solid waste disposal project, as the case may be, for (1) any area or district which, in the determination of the Secretary of the Environment, is receiving adequate service from a project owned by a municipality and operated in compliance with applicable laws and regulations; (2) any area or district which, in the determination of that Secretary, will receive, within a reasonable time, adequate service from a project owned by a municipality and operated in compliance with applicable laws and regulations; or (3) dredging or dredged material disposal projects.

(f) Execute the powers and perform the duties set forth in Title 7, Subtitle 4 of the Environment Article, including the financing, acquisition, leasing, and operation of hazardous waste disposal facilities.

§3–106.

(a) The Director, after consultation with the Secretary of Natural Resources, the Secretary of the Environment, the Director of Planning, and the municipalities affected, shall determine appropriate boundaries for water supply service regions, wastewater purification service regions, and solid waste disposal service regions. Service regions shall be based upon needs set forth in, and provide integration of, approved State-county master plans for water and sewerage or solid waste disposal, adopted pursuant to the Environment Article, but also may take account of other plans and studies.

(b) As soon as possible after the determination of appropriate boundaries, the Director, after consultation with the municipalities affected, shall establish priorities for designating water supply service regions, wastewater purification service regions, and solid waste disposal service regions and formally designate the regions.

(c) Identical service regions need not be designated for water supply, wastewater purification and solid waste disposal projects. No part of the State may be included in more than one of these service regions.

(d) As soon as possible after designation of a service region, the Service shall cause surveys, plans, studies, and estimates to be made, and after consultation with the municipalities located within the service region, prepare a five-year plan for each service region for the most effective and economical means of providing water supply, wastewater purification and solid waste disposal projects. In preparing a five-year plan, the Service shall consider the effects of public versus private ownership of water and wastewater facilities upon the provision of dependable, effective, and efficient water and wastewater services. Except as required by an order of the Secretary of the Environment under § 3-109 or § 3-110 of this subtitle, the five-year plans shall be consistent with the approved county water and sewerage plans adopted in compliance with Title 9 of the Environment Article. The five-year plans shall designate the existing facilities or portions that are to be transferred to the jurisdiction of the Service; improvements to and extension of existing facilities; construction of new water supply, wastewater purification, and solid waste disposal projects; proposed methods of acquisition, ownership, and operation by the Service or by affected municipalities and persons, or both together with anticipated expenditures, sources of revenue, and charges for projects to be levied against municipalities, persons, and property; and related matters the Service finds necessary or convenient.

(e) (1) The Service may adopt a five-year plan only after at least one public hearing in each of the counties affected. At least 60 days before a hearing, the proposed five-year plan shall be submitted for review and comment to each county, to each municipality which owns or operates a public facility affected by the plan, and to the Secretaries of Natural Resources and the Environment and the Director of Planning. A five-year plan can be adopted by the Service only after it is submitted to and approved by resolution of the governing body of each county and after consultation with the governing body of each municipality which owns or operates a public facility affected by the plan, or if the plan is not approved by each of the appropriate governing bodies within 120 days following submission of the plan for approval of the governing bodies, after the plan is approved by joint resolution of the General Assembly. If a joint resolution of the General Assembly approving a five-year plan contains any amendments or modifications to the plan, those amendments and modifications repeal the plan to the extent of any inconsistency. The provisions of this subtitle do not authorize the Service to take any action which would be inconsistent with the amendments or modifications without the approval of the governing body of each county and after consultation with the governing body of each municipality which owns or operates a public facility included within the plan.

(2) Notwithstanding any other provision of this subtitle, if any bonds or notes issued by the Service with respect to a project in a service area are outstanding and unpaid, any 5-year plan, contract, or charges relating to a service district or project may not be amended, terminated, or reduced, as the case may be, without the written consent of the Service, and any 5-year plan, contract, or charges to the service district remain in full force and effect so long as any such bonds or notes remain outstanding and unpaid.

(f) Upon adoption of a five-year plan by the Service, service districts shall

be established in the manner and following the schedule set forth in the plan. Immediately thereafter, the Service shall proceed with the acquisition, extension, and construction of facilities set forth in the plan and assume jurisdiction over and provide for the maintenance and operation of water supply, wastewater purification and solid waste disposal projects included in the plan, for those projects within the service region and districts placed under the jurisdiction of the Service by the plan.

(g) The Service may enter into contracts with municipalities and persons within a service district and stipulate the projects to be provided, the amount of compensation for acquiring existing projects, the charges to be apportioned to the municipalities and persons, the manner of repaying the Service for these charges, and the effective date or dates the Service will initiate the provision of projects.

(h) Existing projects providing water supply, wastewater purification and solid waste disposal services, including all rights, easements, laboratory facilities, vehicles, records and all other property, equipment, and furnishings necessary and normally associated with the operation of the facility, shall be transferred to the sole ownership of the Service at the time designated in the five-year plan. Compensation for existing projects may be based on the original cost of the project minus an allowance for depreciation, or on other terms and conditions satisfactory to the municipality or person transferring the project. All costs and obligations assumed by the Service incidental to the transfer of ownership of an existing project shall be included in the charges apportioned to the service district.

(i) The Service shall review, update, and readopt the five-year plan for each service region biennially after review by the municipalities and persons concerned. The five-year plan may be updated and readopted by the Service only after at least one public hearing in each of the counties affected. Upon updating and readopting, the Service shall take the actions necessary to implement the revised plan.

(j) The Service by formal action, and after consultation with the municipalities affected, may extend the boundaries of service regions or districts, combine two or more service regions or districts or parts thereof and combine, abandon, extend, enlarge, improve, or make any other modification of projects serving one or more service districts, but no change may diminish any existing level of service rendered to the district or districts concerned.

(k) Within a wastewater purification service district, the Service is responsible for the purification and disposal of liquid waste as set forth in the five-year plan, including the residue resulting from purification, that is delivered to the Service projects through the sewer pipes of any municipality or person in the Service district, except that the Service may exclude or require preconditioning of any waste that might otherwise be harmful to structures or purification processes or endanger the health or safety of workers. Within the Service district no municipality or person may discharge liquid waste onto the surface of the ground or into the waterways of the State except through the projects of the Service or of a municipality or person designated by the plan or under reasonable conditions the Service stipulates.

(l) Within a solid waste disposal service district the Service is responsible for the disposal of solid wastes as set forth in the five-year plan. Within the service district no municipality or person may dispose of solid wastes except through the projects of the Service or of a municipality or person designated by the plan, or under reasonable conditions the Service stipulates.

(m) Within a water supply service district, the Service shall be responsible for supply and distribution of water as set forth in the five-year plan.

(n) With the consent of the county or municipal corporation in which a project is to be located, the Service may implement a project not provided for in the five-year plan adopted under this subtitle, service region, or service district established under this section or if no five-year plan, service region, or service district has been established.

§3–107.

(a) Any municipality or person may request the Service to provide the water supply, wastewater purification, solid waste disposal, or energy projects, or any other services, authorized by this subtitle. The request shall set forth the type of proposed project or services to be furnished and the proposed boundaries of the area within which a project or services are requested.

(b) Notwithstanding any limitations or other provisions to the contrary of Division II, Title 9, Subtitle 2 or Subtitle 3, Title 10, or Title 11 of the Local Government Article, or of any charter or local law regulating the procurement or awarding of public contracts, a municipality may enter into contracts with the Service for the purpose of the Service providing any of the projects or services requested by the municipality. As soon as possible after receipt of a duly authorized request from a municipality or person, the Service shall draft a proposed contract with the municipality or person in accordance with the provisions of this subtitle specifying the type of project or services to be provided, whether or not a service district will be established, the boundaries and effective date of any service district, and the terms, conditions, and costs under which the project or services will be provided. Upon execution of the contract, the Service as soon as possible shall establish any service district provided for in the contract and provide, maintain, and operate the necessary project. For the purposes of this subsection, the express powers contained and enumerated in Division II and Title 10 of the Local Government Article and in the Charter of the City of Baltimore are deemed to incorporate and include the power and authority contained in this subsection.

(c) The charges levied against a service district shall be reduced by the full amount of federal and State grants which the Service receives and is entitled to retain to defray the cost of any project within the service district.

(d) Existing facilities providing service of the type requested, including all rights, easements, laboratory facilities, vehicles, records, and all other property, equipment, and furnishings necessary and normally associated with the operation of the facility, shall be transferred to the sole ownership of the Service on the date

a service district comes into existence unless the Service determines that it not be so transferred. Compensation for existing projects may be based on the original cost of the project minus an allowance for depreciation, or on other terms and conditions satisfactory to the municipality or person transferring the project. All costs and obligations assumed by the Service incidental to the transfer of ownership shall be included in the charge levied against the service district.

(e) At the request of any person or municipality having the responsibility for the collection of liquid waste or solid waste, the Service may enter into a contract to provide management and operation of waste collection services in any service district as an adjunct to the mandatory provision of projects as set forth in subsections (a) through (d) of this section, if (1) as a condition to the provision of management and operation of waste collection services, the municipality or person enters into a contract upon terms the Service determines reasonable; and (2) the Service and the municipality or person requesting collection services determines by agreement from time to time the charges including the amount and frequency of payments to the Service.

§3–108.

(a) (1) In calculating charges for water supply, wastewater purification, solid waste disposal, and energy projects, products, or services or in determining the costs to be levied against a municipality, person, or property in a service district established pursuant to this subtitle, the Service shall require that the charges reflect the full costs of providing the projects, products, or services.

(2) The charges and costs to be levied against any particular municipality, person, or property located within a service district shall take account of:

(i) Whether the property is eligible for water or sewerage service in accordance with the approved State–county master plans for water and sewerage adopted under Title 9 of the Environment Article;

(ii) The value and capacity of any existing facility transferred by the municipality or person to the Service; and

(iii) The costs and obligations assumed by the Service incidental to the transfer of the facility.

(3) To the extent deemed reasonable and practicable by the Service, charges for solid waste or wastewater purification projects or services also shall be based on but not necessarily limited to a formula reflecting the volume and characteristics of the wastes as they influence transportation, purification, final disposal, and time pattern of discharge.

(4) (i) Before establishing or adjusting charges in a service district, the Service shall publish notice of the proposed charges, at least once a week for 2 weeks, in at least one newspaper of general circulation in the municipality in which the service district is located and hold a public hearing on the proposed charges.

(ii) The published notice shall be at least 1/4 page in size, and use at least 18 point type. The notice may not be placed with legal notices or classified advertisements. The headline of the notice shall be in bold print, with all letters capitalized. The text of the notice, other than the headline, shall be in upper and lower case letters.

(iii) The charges shall become effective on the date set by the Service. The Service may, by resolution of the Board, provide that the charges are chargeable against all or part of the lots or parcels of land in the service district and constitute a first lien on such property. The resolution may establish reasonable times and methods of collection of the charges, which may be levied and collected by the Service and have the same priority and rights and bear the same interest and penalties and in every respect be treated the same as taxes of the State. The charges may be levied and collected notwithstanding the absence of a contract between the Service and the municipality, person, or property against whom the charge is imposed.

(b) If a municipality fails to pay the Service for projects or services provided pursuant to this subtitle within 60 days of the due date, as established by contract, all State funds, or that portion of them required, relating to the income tax, the tax on racing, the recordation tax, the tax on amusements and the license tax thereafter to be distributed to the municipality shall be paid by the Comptroller of Maryland directly to the Service until the amount paid to the Service is equal to the amount due the Service by the municipality.

(c) If a person fails to pay the Service for projects or services provided in accordance with this subtitle within 60 days of the due date, as established by the Service, the unpaid amount constitutes a statutory lien against the real property served, shall be referred to the Attorney General for collection, and may be collected through a tax sale.

(d) The governing body of any county may charge the Service a fee for final disposal of solid waste at any solid waste disposal project located in that county provided that any fees charged the Service are not greater than those charged other users of any solid waste disposal project.

§3–109.

(a) (1) Upon failure of a municipality to comply with an order of the Secretary of the Environment to provide a sewerage system or refuse disposal works as provided for in Title 9 of the Environment Article, the Secretary of the Environment shall direct the Service to install or put into operation sewerage or refuse disposal facilities to satisfy the requirements of the order.

(2) Except as provided in subsection (e) of this section, upon receipt of the directive from the Secretary of the Environment, the Service shall proceed to install and put into operation sewerage or refuse disposal projects to comply with the directive. Every cost the Service incurs to construct and operate the projects shall be charged to

the municipality against which the order is issued.

(3) Funds to pay the Service for construction and operation of projects may be raised under Title 9 of the Environment Article.

(4) Upon terms satisfactory to the Service and the municipality, the Service may enter into an agreement with the municipality to continue to operate the sewerage system or refuse disposal works installed by the Service under the provisions of this subsection. In this event, the municipality shall enter into a contract with the Service for the establishment of a service district as provided in § 3–107(e) of this subtitle.

(b) (1) Upon failure of a person to comply with an order of the Secretary of the Environment to abate pollution as provided for in Title 9 of the Environment Article, the Secretary of the Environment shall direct the Service to provide projects necessary to abate the pollution.

(2) Except as provided in subsection (e) of this section, upon receipt of the directive from the Secretary of the Environment, the Service shall provide the projects necessary to abate the pollution and the person shall discharge or deliver his wastes only to a service project or avail himself of the projects provided by the Service to abate the pollution. The cost of projects provided by the Service to abate pollution under the terms of this subsection shall be borne by the person against whom the order to the Secretary of the Environment was issued. The person and the Service shall determine by agreement the costs, rental, charges, or other fees to be paid by the person to the Service. If the fees and charges remain unpaid for a period of 60 days, the unpaid bills become a lien against the property served, if it is recorded and indexed as provided in this subtitle, and shall be referred to the Attorney General for collection.

(3) All projects provided by the Service under this subsection remain under the control and operation of the Service. It is unlawful for a person provided with projects by the Service under this subsection to duplicate or use any other project serving the same purpose.

(c) (1) Upon the failure of a municipality or person to comply with an order of the Secretary of the Environment to correct deficiencies on the operation of sewerage systems or refuse disposal works as provided in Title 9 of the Environment Article, the Secretary of the Environment shall direct the Service to take charge of and operate the systems or works to secure the results demanded by the Secretary of the Environment.

(2) Except as provided in subsection (e) of this section, upon the receipt of the directive from the Secretary of the Environment, the Service immediately shall take charge of and operate the systems or works to secure the results set forth in the directive of the Secretary of the Environment. All costs for maintenance, operation, and other services including legal fees incidental to taking possession of the sewerage system or refuse disposal works shall be charged to the municipality or person against which or whom the original order of the Secretary of the Environment was served.

(3) Funds to pay the Service for services rendered under this subsection shall be raised in the case of a municipality under Title 9 of the Environment Article. If the order is issued against a person, the Service shall bill the person for the full cost of services rendered. If payment is not made within 60 days, the costs become a lien against the sewerage system or refuse disposal works if it is recorded and indexed as provided in this subtitle, and the Director shall refer the matter to the Attorney General for collection.

(d) (1) Upon failure of a municipality or person to comply with an order of the Secretary of the Environment to extend or alter a sewerage system or refuse disposal works as provided in Title 9 of the Environment Article, the Secretary of the Environment shall direct the Service to make alterations or extensions to the systems or works, or install a new system or works as the Secretary of the Environment deems necessary to correct the improper conditions.

(2) Except as provided in subsection (e) of this section, upon receipt of the directive from the Secretary of the Environment, the Service shall assume jurisdiction over the systems or works and make the alterations, extensions, or new construction required to comply with the directive of the Secretary of the Environment. All costs, including legal fees incidental to assuming jurisdiction over the system or works, shall be charged to the municipality or person against which or whom the order of the Secretary of the Environment was issued.

(3) Funds to pay the Service for costs incurred as a result of actions taken under this subsection may be raised as provided in Title 9 of the Environment Article. If the order was against a person, the Service shall charge the person with the cost of making the necessary improvements to comply with the directive of the Secretary of the Environment. If the person fails to pay within 60 days, the cost becomes a lien against the property served if it is recorded and indexed as provided in this subtitle, and the matter shall be referred to the Attorney General for collection.

(e) (1) In the event the Service determines, at any time, that it will be unable to recoup all or a portion of its costs from the municipality or persons subject to the order of the Secretary of the Environment, the Service shall provide to the Secretary a full accounting of all costs incurred or anticipated to be incurred by it in complying with the Secretary's directive.

(2) Within 30 days of receipt of the accounting, the Secretary may request that the Service provide additional information.

(3) Within 90 days of receipt of the accounting or, when applicable, the additional information, the State shall pay to the Service the full amount of the Service's costs that are not paid or reasonably expected to be paid by the municipality or persons.

(4) (i) The State's payment of any amount to the Service does not preclude the State from seeking or obtaining reimbursement from the municipality or persons subject to the order of the Secretary.

(ii) The Service shall cooperate fully with the Secretary in seeking reimbursement from the municipality or persons.

§3–110.

(a) Upon the failure of a person to comply with an order to abate pollution provided for in Title 7, Subtitle 2 or Title 9, Subtitle 3 of the Environment Article, the Secretary of the Environment, if no remedy provided in Title 7, Subtitle 2 or Title 9, Subtitle 3 of the Environment Article is sought against that person, may direct the Service to provide projects necessary to abate the pollution.

(b) Except as provided in subsection (d) of this section, upon receipt of the directive from the Secretary of the Environment, the Service shall provide the project necessary to abate the pollution, and the person shall discharge or deliver his wastes only to a Service project or avail himself of the projects provided by the Service to abate the pollution. The cost of projects provided by the Service to abate pollution under the terms of this section shall be borne by the person against whom the order to abate pollution was issued. That person and the Service shall determine by agreement the costs, rental, charges, or other fees to be paid by the person to the Service. If the fees and charges remain unpaid for a period of 60 days, the unpaid amount becomes a lien against the property served if it is recorded and indexed as provided in this subtitle, and the matter shall be referred to the Attorney General for collection.

(c) All projects provided by the Service under this section remain under the control and operation of the Service. It is unlawful for a person provided with projects by the Service under this section to duplicate or use any other project serving the same purpose.

(d) (1) In the event the Service determines, at any time, that it will be unable to recoup all or a portion of its costs from the persons subject to the order of the Secretary of the Environment, the Service shall provide to the Secretary a full accounting of all costs incurred or anticipated to be incurred by it in complying with the Secretary's directive.

(2) Within 30 days of receipt of the accounting, the Secretary may request that the Service provide additional information.

(3) Within 90 days of receipt of the accounting or, when applicable, the additional information, the State shall pay to the Service the full amount of the Service's costs that are not paid or reasonably expected to be paid by the persons.

(4) (i) The State's payment of any amount to the Service does not preclude the State from seeking or obtaining reimbursement from the municipality or persons subject to the order of the Secretary.

(ii) The Service shall cooperate fully with the Secretary in seeking reimbursement from the municipality or persons.

§3–111.

Except as provided in § 3-104 of this subtitle, or in an approved five-year plan adopted under this subtitle, it is unlawful for a municipality or person provided with any projects by the Service under this subtitle to duplicate or use any other similar projects serving the same purpose unless the Service expressly permits it to do so.

§3–112.

(a) The Service may provide by resolution, adopted by a majority of the Board, for the issuance of bonds and notes of the Service.

(b) The Board has absolute discretion to determine with respect to the bonds or notes of any issue: (1) the date or dates of issue; (2) the date or dates and amount or amounts of maturity, provided only that no bond of any issue may mature later than 40 years from the date of its issue; (3) the rate or rates of interest payable thereon and the date or dates of such payment; (4) the form or forms, denomination or denominations, manner of execution and the place or places of payment thereof, and the interest thereon, which may be at any bank or trust company within or without the State; (5) whether the bonds or notes or any part thereof are made redeemable before maturity and, if so, upon what terms, conditions, and prices; (6) whether there shall be a debt service reserve fund and, if so, its amount; and (7) any other matter relating to the form, terms, conditions, issuance, and sale thereof.

§3–113.

(a) If any officer whose signature or a facsimile of whose signature appears on any bonds or notes ceases to be the officer before the delivery of the bonds or notes, the signature or facsimile is nevertheless valid and sufficient for all purposes as if he had remained in office until delivery.

(b) Notwithstanding any other provision of this title or any recitals in any bonds and notes issued hereunder, all bonds and notes shall be deemed to be negotiable instruments under the laws of the State.

(c) The bonds may be issued in registered form or in such other form as determined by the Board. Provision may also be made for the replacement of bonds which become mutilated or are lost or destroyed.

(d) The bonds and notes are exempt from the provisions of §§ 8–206 and 8–208 of the State Finance and Procurement Article. The Service may sell its bonds and notes in the manner, either at public or at private sale, and for the price it determines.

(e) The bonds and notes may be issued by the Service without obtaining the consent of any unit of the State government, and without any other proceedings or the happening of any other conditions or things than those specifically required hereunder.

§3–114.

Except as may otherwise be expressly provided by the Service, every issue of its bonds or notes shall be general obligations of the Service payable out of any revenues or other money of the Service subject only to any agreements with the holders of particular bonds or notes pledging any particular receipts or revenues.

§3–115.

The Service may provide, by resolution adopted by a majority of the Board, for the issuance of its renewal notes or of refunding bonds for the purpose of refunding any bonds or notes then outstanding which were issued under the provisions of this subtitle, whether or not the bonds or notes to be refunded have matured, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of the bonds or notes, and, if deemed advisable by the Board, for either or both of the following combined additional purposes: (1) paying all or any part of the cost of constructing improvements or extensions to or enlargements of any existing project or projects and (2) paying all or any part of the cost of any additional project or projects. The issuance of refunding bonds or renewal notes and the details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the Service in respect thereto, are governed by the provisions of this subtitle relating to bonds or notes, insofar as these provisions may be applicable.

§3–116.

The Service, by resolution adopted by a majority of the Board, may:

(1) Issue, prior to the preparation of definitive bonds, interim receipts or temporary bonds exchangeable for definitive bonds when these bonds have been executed and are available for delivery;

(2) Issue and sell its bond anticipation notes, revenue anticipation notes, or grant anticipation notes the principal of and interest on these notes to be made payable to the bearer or registered holder out of the first proceeds of the sale of any bonds, revenues or grants, as the case may be, issued under this subtitle, or from any other available money of the Service, but the authorizing resolution may make provision for the issuance of bond anticipation notes in series as funds are required and for the renewal of these notes at maturity, with or without resale. The issuance of notes and the details thereof, the rights of the holders, and the rights, duties, and obligations of the Service in respect thereto, are governed by the provisions of this title relating to bonds, insofar as these provisions may be applicable. A grant anticipation note may be issued or sold only after receipt of written commitment of the federal or State government or agency making the grant; and

(3) Issue and sell its revenue bonds or notes for the purpose of borrowing money to lend to any person or municipality for the accomplishment by such person or municipality of a project or projects. The principal of and interest on the bonds or notes

may be made payable out of:

(i) The revenues received by the Service from such person or municipality or otherwise received in connection with such project;

(ii) Any property pledged or mortgaged as security for such bonds or notes; or

(iii) Any other sources designated by the Service. The authorizing resolution may make provision for the issuance of such bonds or notes in series as funds are required. The issuance of bonds or notes and the details of the issuance, the rights of the holders of the bonds or notes, and the rights, duties, and obligations of the Service of the bonds and notes shall be governed by the provisions of this subtitle relating to bonds insofar as those provisions are applicable. The Service may make or approve such provisions in connection with the issuance of the bonds or notes authorized by this subsection, including the security for such bonds or notes, the priority of the bonds or notes with regard to such security (which priority may be senior, or subordinated to, or on a parity with, other obligations) as the Service may deem necessary or appropriate to effectuate the acquisition, construction, or provision of a project by any person or municipality. However, the Service does not have power to take any action in connection with the issuance of bonds or notes pursuant to this paragraph which would create any obligation on the part of any municipality without the consent of the municipality to the obligation.

§3–117.

(a) Bonds and notes authorized to be issued under the provisions of this subtitle by resolution of the Board may be secured by a trust agreement by and between the Service and a corporate trustee, which may be any trust company, or bank having trust powers, within or without the State. The trust agreement, or the authorizing resolution, may pledge or assign all or any part of the revenues of the Service or of any project or other available funds of the Service or pledge, convey, or assign any one or more facilities or properties. Any trust agreement or resolution authorizing the issuance of bonds or notes may contain the provisions for the protection and enforcement of the rights and remedies of the bondholders and the trustee deemed reasonable and proper and may restrict the individual right of action by bondholders. In addition, the trust agreement may contain other provisions which the Board deems reasonable and proper for the security of the bondholders, including, without limitation, covenants to abandon, restrict, or prohibit the construction or operation of competing facilities and covenants pertaining to the issuance of additional parity bonds or notes upon conditions stated therein consistent with the requirements of this subtitle. All expenses incurred in carrying out the provisions of any trust agreement may be treated as a part of the cost of the operation of any project or projects in connection with which the bonds or notes have been issued.

(b) The proceeds of the sale of bonds or notes secured by a trust agreement shall be paid to the trustee under the trust agreement securing the bonds or notes and shall

be disbursed in the manner and under the restrictions, if any, that may be provided in the trust agreement.

§3–118.

(a) The Service may fix, revise, charge, and collect rentals, rates, fees or other charges for the use of or for the services or products furnished by any project or projects, including projects within a service district, contract with any person or municipality desiring the use of the services or products, or any part of any project or projects, and fix the terms, conditions, rentals, rates, fees, and charges therefor. The rentals and other rates, fees and charges designated as security for any bonds or notes issued under this subtitle shall be fixed and adjusted in respect of the aggregate thereof from the projects under the control of the Service as to provide funds sufficient with other revenues, if any, (1) to pay the cost of maintaining, repairing, and operating any project or projects financed in whole or in part by outstanding bonds or notes, to the extent the cost is not otherwise provided, (2) to pay the principal of and the interest on the bonds or notes as they become due and payable, (3) to create reserves for those purposes, and (4) to provide funds for paying the cost of renewals or replacements, the cost of acquiring or installing equipment, and the cost of enlarging, extending, reconstructing, or improving any project or projects. The rentals, rates, fees, and charges are not subject to supervision or regulation by any unit of the State government or any political subdivision, except as provided in § 3–128 of this subtitle.

(b) The rentals, rates, fees, and other charges and revenues, or any part thereof, whether derived from the project or projects in connection with which the bonds or notes of any issue have been issued or from other projects, designated as security for the bonds or notes by the authorizing resolution or in the trust agreement securing the bonds or notes, shall be set aside at the regular intervals provided in the resolution or trust agreement in a sinking fund pledged to, and charged with, the payment of (1) the interest on the bonds or notes as it falls due, (2) the principal of the bonds or notes as it falls due, (3) the necessary charges of the trustee and other agents appointed by the trust agreement, and (4) the redemption price or purchase price of bonds or notes retired by call or purchase as provided in the resolution or trust agreement. Any amounts set aside in the sinking fund which are not needed to provide for the payment of items (1), (2), (3), and (4) may be used for any other lawful purpose to the extent provided in the resolution or trust agreement. The pledge is valid and binding from the time it is made. The rentals, rates, fees, and other charges, revenues or other money pledged and thereafter received by the Service immediately shall be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge is valid and binding as against all parties having any claims of any kind in tort, contract, or otherwise against the Service, irrespective of whether the parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Service, any public general or public local law to the contrary notwithstanding. The use and disposition of money to the credit of the sinking fund are subject to the provisions of the resolution authorizing the issuance of the bonds or notes or of the trust agreement.

§3–119.

All money received by the Service as proceeds from the sale of bonds or notes and all money received or by way of those rentals, rates, fees, or other charges or revenues, or portion thereof, from any project, or any continuation of projects and which are designated by any authorizing resolution or trust agreement as security for bonds or notes shall be deemed to be trust funds to be held and applied solely as provided by the provisions of this subtitle and in the resolution authorizing the issuance of bonds or notes or the trust agreement securing the bonds or notes.

§3–120.

Any holder of bonds or notes issued under this subtitle and the trustee, except to the extent the rights herein given may be restricted by the trust agreement, either at law or in equity, by suit, action, mandamus or other proceedings, may protect and enforce any and all rights under the laws of the State or granted hereunder, or in the resolution authorizing the issuance of the bonds or notes, or under the trust agreement, and may enforce and compel the performance of all duties required by this subtitle, or in the resolution authorizing the issuance of the bonds or notes, or by the trust agreement, to be performed by the Service, or by any officer thereof, including the fixing, charging, and collecting of rentals and other rates, fees, and charges for the use of the projects.

§3–121.

Bonds and notes issued under this subtitle are securities in which all public officers and public units of the State and its political subdivisions and all banks, trust companies, savings and loan associations, investment companies, and others carrying on a banking business, all insurance companies, insurance associations, and others carrying on an insurance business, all personal representatives, guardians, trustees, and other fiduciaries, and all other persons may legally and properly invest funds, including capital in their control or belonging to them. The bonds and notes are securities which may properly and legally be deposited with and received by any State or municipal officer or any unit or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is authorized by law.

§3–122.

(a) Bonds or notes issued under the provisions of this subtitle shall not be deemed to constitute or create a debt or a pledge of the faith and credit of the State or of any political subdivision. Every bond or note shall contain on its face a statement to the effect that neither the Service, the State, nor any political subdivision thereof is obligated to pay it or the interest thereon except from revenues or other money of the Service available therefor and that neither the faith and credit nor the taxing power of the State or any political subdivision is pledged to the payment of the principal of or the interest on the bonds or notes. However, this subsection does not limit the ability of the State or a political subdivision to set, impose, or collect an assessment, rate, fee, or charge to pay to the Service the cost of a project, including the principal of and

interest on a bond or note, under an agreement between the Service and the State or political subdivision.

(b) (1) Notwithstanding any limitations or other provisions to the contrary of Division II, Title 9, Subtitle 2 or Subtitle 3, Title 10, or Title 11 of the Local Government Article, or of any charter or local law regulating the creation of public debts, a municipality may enter into contracts with the Service for the purpose of defraying the Service's costs of acquiring or providing a solid waste disposal project, wastewater purification project, water supply project, or energy project, which costs may include debt service requirements of the Service relating to that project. These contracts shall not be deemed to constitute or create a debt of the municipality or a pledge of its faith or credit within the meaning of any of these limitations or other provisions. Such a solid waste disposal project, wastewater purification project, water supply project, or energy project may not be deemed to be a capital project of the municipality within the meaning of any of these limitations or other provisions, and a resolution, ordinance, or other official action authorizing such contracts is not subject to referendum or other procedure not applicable to all ordinances or resolutions enacted by the municipality. For the purposes of this subsection, the express powers contained and enumerated in Division II and Title 10 of the Local Government Article and in the Charter of the City of Baltimore are deemed to incorporate and include the power and authority contained in this subsection.

(2) (i) A county or municipal corporation may limit its obligations under contracts with the Service to a specific source of funds including revenues of its publicly operated or publicly contracted solid waste collection or disposal system.

(ii) The governing body of a county or municipal corporation may, by ordinance or resolution, impose reasonable rates and charges for publicly operated or publicly contracted solid waste collection, treatment, or disposal sufficient to defray expenses of its publicly operated or publicly contracted solid waste collection, treatment, or disposal system, including amounts due under a contract with the Service and the funding of reserves.

(iii) The ordinance or resolution may establish a reasonable basis for setting the rates and charges, and a schedule of rates and charges, and may designate solid waste collection, treatment, or disposal service areas within the county or municipal corporation, provided the county or municipal corporation is operating its own collection, treatment, or disposal service or has contracted out those services.

(iv) The ordinance or resolution may provide that the rates and charges are chargeable against all or part of the occupied lots or parcels of land in the county or municipal corporation or in service areas established by the county or municipal corporation and constitute a first lien on such property and may establish reasonable times and methods for collection of the rates or charges, which may be levied and collected and have the same priority and rights and bear the same interest and penalties and in every respect be treated the same as taxes of the county or municipal corporation.

(v) The county or municipal corporation may modify the amount of the rates and charges by a resolution of its governing body or by other action authorized by the ordinance or resolution imposing the rates and charges.

(vi) Before setting or modifying the rates and charges, the county or municipal corporation shall give notice of the proposed rates or charges in at least one newspaper of general circulation in the county or municipal corporation and hold a public hearing on the necessity or advisability of the proposed rates or charges.

(vii) The county or municipal corporation may enter into a rate covenant with the Service specifying the level of these rates and charges, the covenants described in § 3–104(m) of this subtitle, and other covenants of the county or municipal corporation to provide solid waste collection, treatment, or disposal service and assure that sufficient revenues are available to provide for the payments due under the contract.

(viii) The powers granted by this section are in addition to other powers of a county or municipal corporation granted under law and may not be restricted by any debt or tax rate limitation in any general law, local law, or charter provision.

(ix) Rates and charges imposed under this section are not subject to the jurisdiction of any entity other than the Service or the contracting municipality.

(3) Any contract between the Service and a municipality shall be valid, binding, and enforceable against the municipality if it is approved by resolution of the governing body of the municipality.

(4) A county or municipal corporation may exercise the powers granted under this section notwithstanding any limitations or other provisions to the contrary of Division II, Title 9, Subtitle 2 or Subtitle 3, Title 10, or Title 11 of the Local Government Article or of any charter or local law.

§3–123.

The exercise of the powers granted by this subtitle is for the benefit of the people of the State for the improvement of their health and living conditions. Since the activities of the Service and the operation and maintenance of its projects constitute the performance of essential governmental functions, the Service is exempt from any payment of or liability for any and all taxes, whether federal, State, or local, now or hereafter levied or imposed, and any assessments or other governmental charges. The bonds and notes of the Service issued pursuant to the authority of this subtitle, their transfer, the interest payable thereon, and any income derived therefrom, including any profit realized in the sale or exchange thereof, at all times shall be exempt from taxation of every kind and nature whatsoever by the State, or by any of its political subdivisions, municipal corporations, or public units of any kind.

§3–124.

The Service may not be required to give any bond as security for costs, supersedeas, or any other security in any suit or action brought by or against it, or in proceedings to which it may be a party in any court in the State. The Service may appeal to a court having jurisdiction without bonds, supersedeas, or security of any kind. No builder's, materialman's, contractor's, laborer's, or mechanic's liens of any kind or character may ever attach to or become a lien upon any property, real or personal, owned or controlled by the Service. No assignment of wages may be binding upon or recognized by the Service.

§3–125.

(a) Any lien created in favor of the Service or a municipality pursuant to this subtitle is effective against the person on whose property the lien exists and the owner of record. However, the lien is not effective against any third party unless written notice of the lien is recorded and indexed in a permanent record maintained in the office of the clerk of the circuit court in each county in which the property subject to the lien or any part of it is located.

(b) The notice shall contain the name and address of the owner of record against whose property the lien exists, the name and address of the Service or municipality, the amount of the lien, a description or reference to the property subject to the lien, and the date the lien was created.

(c) On presentation of a release of any lien of the Service or municipality, the clerk of the proper court in which the lien is recorded and indexed shall record and index the release and shall note in the lien docket the date the release is filed and the fact that the lien is released.

(d) The clerk of the proper court shall provide a suitable well-bound book, at the expense of the county or city, to be called the environmental service lien docket, in which the notices of liens shall be recorded and indexed. The clerk may not collect more than $2 for recording and indexing each lien or release of any lien.

§3–126.

(a) The Service may provide for the creation, continuation, and administration of whatever funds may be required. Money in these funds and other money of the Service shall be deposited, as directed by the Service, in any State or national bank, or federally insured savings and loan associations having a total paid–in capital of at least $1,000,000 or in any financial institution in which the State Treasurer is authorized to deposit State funds. The trust department of any State or national bank or savings and loan association may be designated as a depository to receive any securities acquired or owned by the Service. The restriction with respect to paid–in capital may be waived for any qualifying bank or savings and loan association which agrees to pledge securities of the State or of the United States to protect the funds and securities of the Service in

amounts and under arrangements acceptable to the Service.

(b) Any money of the Service, in its discretion and unless otherwise provided in any trust agreement, other agreement, or covenant made by the Service for the benefit of the holders of any of its obligations with respect to funds held under the trust or other agreement may be invested in:

(1) Bonds or other obligations of, or guaranteed as to principal and interest by, the United States or the State or its political subdivisions or units; or

(2) Any other obligation or security in which the State Treasurer may invest under § 6–222 of the State Finance and Procurement Article.

(c) The Service shall make provision for a system of financial accounting, controls, audits, and reports. All accounting systems and records, auditing procedures and standards, and financial reporting shall conform to generally accepted principles of governmental accounting. The Service shall adopt the fiscal year of July 1 to June 30, designate the necessary funds for complete accountability, and specify the basis of accounting for each fund.

(d) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial books, records, and accounts of the Service. The audit shall be made by independent certified public accountants, selected by the Service and licensed to practice in the State. The accountants may not have a personal interest either directly or indirectly in the fiscal affairs of the Service. They shall be experienced and qualified in the accounting and auditing of public bodies. The report of audit shall be prepared in accordance with generally accepted auditing principles and point out any irregularities found to exist. The accountants shall report the results of their examination, including their unqualified opinion on the presentation of the financial position of the various funds and the results of the Service's financial operations. If they are unable to express an unqualified opinion they shall state and explain in detail the reasons for their qualifications, disclaimer, or opinion including recommendations necessary to make possible future unqualified opinions.

(e) The books, records, and accounts of the Service are subject to audit by the State, including the Legislative Auditor.

(f) Any officer or employee who refuses to give the required assistance and information to the accountants selected by the Service or by the State, or who refuses to submit to them for examination the books, documents, records, files, accounts, papers, things, or property required for the audit, in the discretion of the Service, may be required to forfeit his office or employment.

(g) Any moneys received by the Service from State agencies for goods or services provided by the Service in accordance with agreements with those agencies shall be deposited and credited to the funds created under this subtitle.

(h) Within the first 90 days of each fiscal year, the Service shall make a

report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly of its activities for the preceding fiscal year. Each such report shall set forth the complete operating and financial statement covering the Service's activities during such year, the salaries for each position of the Service, and a summary of energy activities undertaken by the Service during such year.

§3–127.

(a) Except as otherwise provided by this subtitle, the Service may adopt, formulate, revise, and enforce rules and regulations necessary for the regulation of its internal affairs and for the use and operation of its projects, and of any other laws the administration of which is vested in the Service. A rule or regulation concerning the use or operation of a project may not conflict with any rule, regulation, permit, or hauler certificate of the Department of the Environment. The Service may limit or regulate water supply or liquid waste service, refuse collection, disposal service, and storm and surface water drainage service, in any area or to any premises served by Service projects, as the exigencies of the occasion and the protection of its systems require. The Service may adopt lawful and reasonable regulations it considers necessary for the public's health and safety, comfort, and convenience in the construction, operation, maintenance, expansion, relocation, replacement, renovation, and repair of its water supply, wastewater purification, solid waste disposal, and energy projects.

(b) Rules and regulations shall be approved by the Board and adopted under the provisions of the Administrative Procedure Act, except when necessary for the immediate preservation of the public health and safety and except for emergency provisions required to protect Service projects.

(c) Any regulation adopted by the Service under this section has the effect of law.

§3–128.

(a) If the Service and a municipality or person fail to reach agreement on rates, fees, or other charges to be exacted by the Service for a water supply or wastewater purification project, the Public Service Commission, on the petition of either party to the disagreement, shall assume jurisdiction for the purpose of arbitrating the disagreement. Its determination shall be final and binding on all parties concerned, subject to the right of any party to appeal the determination to the circuit court of any county within which the municipality or person is located, resides, or carries on business. In any appeal the decision of the Commission is prima facie correct and shall be affirmed unless clearly shown to be (1) in violation of constitutional provisions, or (2) made on unlawful procedure, or (3) arbitrary or capricious, or (4) affected by other error of law. It is the intention of this subtitle that judicial review in all instances includes the right to appeal to the Court of Special Appeals from the decision of the lower court. The provisions of this section and the jurisdiction of the Public Service Commission shall not apply to any rates, fees, or charges agreed to by contract between the Service and a municipality or person for a water supply or wastewater purification

project.

(b) The Service may not be deemed to be a public service company within the meaning of the Public Utilities Article, and, except as provided in this section and in § 3–102(b) of this subtitle, the jurisdiction and powers of the Public Service Commission do not extend to the Service.

§3–129.

Any person who violates any provision of this subtitle or of any rule or regulation adopted by the Service is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 for each violation. A separate offense exists for each day a violation occurs.

§3–130.

This subtitle shall be known as the "Maryland Environmental Service Act".

§3–201.

(a) There is a Maryland Environmental Trust established to conserve, improve, stimulate, and perpetuate the aesthetic, natural, health and welfare, scenic, and cultural qualities of the environment, including, but not limited to land, water, air, wildlife, scenic qualities, open spaces, buildings or any interest therein, and other appurtenances pertaining in any way to the State. Through educational and other means, the Trust shall encourage and motivate the populace of the State and others to do so and shall promote continuing interest in and the study of these matters. The purpose of the Trust is of general benefit to the citizens of the State, and it is charitable in nature.

(b) The Trust has perpetual existence subject to modification or termination by the General Assembly if necessary to effectuate its purpose or when and if its substantial purpose ceases.

§3–202.

(a) A board of 15 trustees has and shall exercise the powers and duties of the Trust. The Governor, the President of the Senate, and the Speaker of the House of Delegates are ex officio members of the board of trustees. Of the remaining 12 trustees, three shall be elected each year for a term of four years at any regular or special meeting by unanimous vote of the trustees present. If an elected trustee for any reason fails to serve or complete any elected term, a successor shall be elected for the remainder of the term at any regular or special meeting by unanimous vote of the trustees present. Elected trustees shall be selected to obtain a broad distribution from the professions and other occupations, and a broad geographical distribution throughout the State, insofar as is practicable and consistent with the purposes of the Trust.

(b) A trustee serves without compensation.

(c) (1) An ex officio member of the board of trustees may delegate any of the powers or duties of the member to an authorized representative.

(2) (i) The representative of the Governor shall be a member of the Executive Department of this State.

(ii) The representative of the President of the Senate shall be a member of the Senate.

(iii) The representative of the Speaker of the House shall be a member of the House of Delegates.

§3–203.

The trustees have the powers and duties to:

(1) Receive annual appropriations as provided in the budget;

(2) Sponsor, assist, conduct, or otherwise cause to be undertaken, comprehensive programs of research and education pertaining to the aesthetic, natural, health and welfare, scenic, or cultural qualities of the State environment, including the provision of financial grants to public and private agencies, organizations, and persons engaged by the trustees for consulting and other special participation in these programs;

(3) Acquire and hold real and personal property, or any interest therein, of aesthetic, scenic, or cultural significance, or of significance to the health and welfare of the public, by lease, gift, purchase, devise, bequest, or by any other means, and conserve, improve, administer, invest, or dispose of the properties for the purposes of the Trust, and in the acquisition of these properties to acquire property adjacent thereto deemed necessary for the proper use and administration of the Trust;

(4) Accept any gift. The trustees may expend both principal and income of any gift of money or invest it in whole or in part in general obligations of the State or other securities in furtherance of the Trust, as decided at a regular or special meeting, if a quorum is present, by the affirmative vote of a minimum of seven elected trustees;

(5) Apply any money, assets, property or other things of value it may receive as an incident to its operation, to the general purposes of the Trust;

(6) Cooperate with and assist as far as practicable, any unit of the State, any political subdivision, and any private, public, or federal agency, foundation, or person, in furtherance of the purposes of the Trust;

(7) Take any action necessary or proper to effectuate the powers expressly conferred by this subtitle;

(8) Adopt, subject to the terms of this subtitle, rules and regulations

necessary or proper for the regulation of their own government or to effectuate the purpose of the Trust;

(9) Delegate any of the powers conferred to any one or more of the trustees or the director of the Trust; and

(10) Report annually to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the Trust's activities during the preceding year together with any recommendations or requests deemed appropriate to further the purposes of the Trust.

§3–203.1.

(a) When any person offers to donate a perpetual conservation easement to the Maryland Environmental Trust, notification shall be mailed by the Maryland Environmental Trust to the appropriate governing body in which the land is located, as specified in subsection (b) of this section.

(b) The appropriate governing body for the purposes of this section means:

(1) The board of county commissioners in a commission county;

(2) The county executive and county council in a charter home rule county;

(3) The county commissioners in a Code home rule county; and

(4) The Mayor and City Council in Baltimore City.

§3–204.

The trustees shall elect from among the elected membership a chairman, secretary, and other officers as they determine. The trustees shall meet at least twice a year at places and on dates they determine. The chairman may call other meetings, and must call one at the request of four or more trustees. The secretary shall notify in writing every trustee of the time and place of every meeting at least seven days in advance of the meeting, except that meetings may be held on shorter notice if all trustees agree. Eight trustees constitute a quorum to conduct business. If at any time there is no director, the chairman shall assume the director's duties and powers. The chairman with the consent of the trustees may appoint an advisory council.

§3–205.

The trustees may appoint a director of the Trust to administer its activities subject to the trustees' supervision. They may employ other persons as necessary. The director and staff are employees of the State, but the director shall not be a member of the skilled service or professional service, with the exception of special appointments. The trustees may remove the director at their will.

§3–206.

The trustees may request and shall receive from the Attorney General legal counsel and services necessary to carry out effectively the purposes of the Trust.

§3–207.

The State may pay money or transfer property to the Trust to carry out the purposes of the Trust. The Trust may receive, manage, expend, and dispose of grants, money, and property from the federal government or political subdivision of the State.

§3–208.

Subject to the limitations of § 3–207 of this subtitle, the Trust may improve, sell, convey, assign, lease, or otherwise transfer or dispose of any property, or interest in property, it holds, and enter into any contract, easement, or other legal arrangement incident thereto, including but not limited to, the authority to lease properties for various commercial and residential uses consistent with the purposes of the Trust on terms and conditions the trustees deem appropriate. Any lease the trustees make shall be in immediate furtherance of the purposes of the Trust and not merely for investment purposes. Notwithstanding any provision of law to the contrary, a lease the Trust makes may not be subject to redemption at the option of the tenant, unless expressly provided.

§3–209.

Each State political subdivision, by appropriate action of its respective legislative body, may appoint a subcommittee to cooperate with, and work under, the guidance and control of the trustees of the Trust to further the objectives of the Trust at the local level.

§3–210.

Any function or activity of the Governor's Committee to Keep Maryland Beautiful is transferred to the Trust. These functions and activities include, by way of enumeration and not limitation:

(1) Educating Maryland citizens and visitors in their individual responsibility in litter prevention and care of the out-of-doors through a two-fold approach:

(i) Awareness-publicity through radio, TV, newspapers, and other public media;

(ii) Action-cleanup and beautification projects carried out by civic organizations, county committees, and community groups in cooperation with public agencies;

(2) Efficient use of public and private funds spent on cleaning up highways, parks, beaches, and other public and private property;

(3) Increasing beauty through stimulation of private business, community, and public planting projects;

(4) Stimulating pride and appreciation for home, community, and State.

§3–211.

The provisions relating to the Trust do not limit the power or activity of any unit of the State, any political subdivision, any private unit, or person interested in the aesthetic, natural, health and welfare, scenic, and cultural qualities of the environment of the State.

§3–2A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) "Department" means the Department of Natural Resources.

(c) "Grant Fund" means the Land Trust Grant Fund established under § 3-2A-02 of this subtitle.

(d) "Land trust" means a qualified conservation organization that:

(1) Is a qualified organization under § 170(h)(3) of the Internal Revenue Code and regulations adopted under § 170(h)(3); and

(2) Has executed a cooperative agreement with the Maryland Environmental Trust.

(e) "Trust" means the Maryland Environmental Trust.

§3–2A–02.

(a) There is within the Department a Land Trust Grant Fund.

(b) (1) The Grant Fund shall be used as a nonlapsing revolving fund to make grants to land trusts in the State.

(2) The Grant Fund may be used only to encourage the preservation and protection of open space and natural areas in the State.

(3) When deemed appropriate by the Trust, grants from the Grant Fund to land trusts shall be reimbursable to the Grant Fund, subject to § 3–2A–08 of this subtitle.

(c) (1) The Maryland Environmental Trust shall administer the Grant Fund.

(2) In addition to their other powers and duties under this title, the trustees of the Trust may take any action necessary or proper to administer the Grant Fund.

(d) Funds shall be included in the Department's annual budget for the costs of administering the Grant Fund.

§3–2A–03.

(a) All receipts designated for the Grant Fund shall be placed in the Grant Fund held by the Department and administered by the Trust, including:

(1) Moneys appropriated by the State to the Grant Fund;

(2) Premiums, fees, and payments on reimbursement of grants, where required;

(3) Income from investments that the State Treasurer, on instruction of the Department, makes for the Department under this subtitle; and

(4) Any other moneys made available to the Grant Fund.

(b) Any unspent moneys in the Grant Fund at the end of the fiscal year shall remain in the Grant Fund and may not revert to the General Fund of the State.

§3–2A–04.

(a) If, at any time, the amount of money in the Grant Fund exceeds the amount that the Trust considers necessary currently to meet its expenses and obligations, the Department shall deposit the excess money with the State Treasurer, who shall invest the money in the manner provided for by law.

(b) Annually, the State Treasurer shall report to the Department as to:

(1) The status of the money invested under this subtitle;

(2) The market value of the assets in the Grant Fund as of the date of the report; and

(3) The interest received from investments for the Grant Fund during the period covered by the report.

§3–2A–05.

(a) Subject to conditions necessary to carry out the purposes and requirements of this subtitle, the Trust, on application by a land trust, may provide a grant to the applicant from the Grant Fund.

(b) The Trust may make a grant to an applicant only if:

(1) The applicant meets the qualifications required by this subtitle;

(2) The grant is to be used only for the acquisition of interests or rights in real property for recreational or preservation purposes;

(3) The Department approves the project as being in conformity with the Department's criteria governing land acquired under a State grant from Program Open Space;

(4) The trustees of the Trust approve the grant; and

(5) The Board of Public Works approves the grant.

§3–2A–06.

(a) To apply for a grant, an applicant shall submit to the Trust an application in the form that the Trust requires.

(b) The application shall include:

(1) A detailed description of the proposed acquisition;

(2) An itemization of known and estimated costs;

(3) The total amount of investment required to acquire the property;

(4) The funds available to the applicant without financial assistance from the Trust;

(5) The amount of financial assistance sought from the Trust;

(6) Information that relates to the financial status of the applicant; and

(7) Any other relevant information that the Trust requests.

§3–2A–07.

(a) In making grants under this subtitle, the Trust shall give consideration to:

(1) The amount of funds contributed to the project by the land trust as a match against the grant;

(2) The amount of funds contributed to the project by parties other than the land trust or the Trust;

(3) The natural resource, open space, or recreational value of the project;

(4) Geographic distribution;

(5) The degree of development pressure in the area; and

(6) Whether the grant will be reimbursed to the Land Trust Grant Fund, as provided by § 3-2A-08 of this subtitle.

(b) The Trust may not make a grant under this subtitle to a land trust unless the land trust:

(1) Contributes an amount not less than 15% of the amount of the grant as a match; or

(2) Agrees to resell the property to the Department or a local governing body as provided by § 5-903 or § 5-905 of this article.

§3–2A–08.

(a) A land trust may, with the approval of the Trust, subsequently sell or transfer the acquired property to a third party.

(b) As a condition of the grant, the Trust may require the dedication of a conservation easement on or reversionary interest in the property in favor of the Trust.

(c) (1) Grants awarded to land trusts under this subtitle may be fully or partially reimbursed to the Land Trust Grant Fund under the general conditions set forth in paragraph (2) of this subsection, to be further specified by the Trust in the grant conditions.

(2) When land or an interest in land is acquired by the land trust with a grant under this subtitle, on resale of the property a proportion of the moneys from the resale shall be repaid to the Land Trust Grant Fund as may be provided in the grant conditions.

§3–2A–09.

(a) Except as provided in this subtitle, the Trust may set the terms and conditions for grants.

(b) If the Trust decides to grant money to an applicant, the Trust shall prepare grant documents.

§3–2A–10.

(a) If the Trust approves the application, the Trust shall recommend to the Board of Public Works approval of the grant.

(b) The Board of Public Works may approve the grant conditional on modifying its terms.

§3–2A–11.

If an applicant violates any provision of the grant documents or ceases to meet the requirements of this subtitle, on reasonable notice to the applicant, the Trust may exercise any remedy for which the grant documents provide.

§3–2A–12.

(a) A person may not knowingly make or cause to be made any false statement or report, including any understatement or overstatement of financial condition for a new grant or affecting a grant already made under this subtitle:

(1) In any application or in any document furnished to the Trust; or

(2) For the purpose of influencing the action of the Trust on an application for financial assistance or for the purpose of influencing any action of the Trust affecting financial assistance whether or not such assistance may have already been extended.

(b) Any person or any aider or abettor, who violates any provision of this subtitle, is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50,000 or imprisonment in the penitentiary not exceeding 5 years or both.

§3–2A–13.

The Department shall adopt any regulations necessary to carry out the purposes of this subtitle.

§3–2A–14.

(a) The Trust shall report on or before September 1 of each year to the Governor, the budget committees of the General Assembly, and the Department of Legislative Services on the status of the Grant Fund as of the end of the previous fiscal year.

(b) The Trust's report shall include:

(1) The total amounts of funds expended;

(2) The total amounts of funds committed;

(3) The total amounts of funds remaining;

(4) A list of projects for which funds have been expended or are committed;

(5) A projection of projects in the near future for which grants will be made;

(6) An assessment of which grants are expected to be fully or partially reimbursable to the Grant Fund;

(7) An evaluation of the program's effectiveness; and

(8) Projections as to future funding needs.

§3–301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Fund" means Environmental Trust Fund.

(c) "Generator lead route" and "route" means a transmission line from a generation site to the first substation or substations connecting the line to the grid.

(d) "Program" means a continuing research program for electric power plant site evaluation and related environmental land use considerations.

(e) "Secretary" means Secretary of Natural Resources.

§3–302.

(a) (1) There is an Environmental Trust Fund.

(2) For the purpose of this subtitle, there is established as an added cost of electricity distributed to retail electric customers within the State, an environmental surcharge per kilowatt hour of electric energy distributed in the State to be paid by any electric company as defined in § 1–101 of the Public Utilities Article. The Public Service Commission shall impose the surcharge per kilowatt hour of electric energy distributed to retail electric customers within the State and shall authorize the electric companies to add the full amount of the surcharge to retail electric customers' bills. To the extent that the surcharge is not collected from retail electric customers, the surcharge shall be deemed a cost of distribution and shall be allowed and computed as such, together with other allowable expenses, for rate–making purposes. Revenues from the surcharge shall be collected by the Comptroller and placed in the Fund.

(b) (1) The Secretary, in consultation with the Director of the Maryland Energy Administration, annually shall coordinate the preparation of a budget required to carry out the provisions of this subtitle. Upon approval of the budget by the General Assembly, the Public Service Commission shall establish the amount of the surcharge per kilowatt hour for the fiscal year beginning July 1, 1972, and for each subsequent fiscal year.

(2) Notwithstanding any other provisions of this subtitle, the amount of the surcharge for each account for each retail electric customer may not exceed the lesser of 0.15 mill per kilowatt hour or $1,000 per month and the surcharge may not continue beyond fiscal year 2020.

(3) The Comptroller shall maintain the method of collection of the surcharge from the companies and the collections shall accrue to the Fund. The Department shall credit against the amount required to be paid into the Environmental Trust Fund by each electric company an amount equal to 0.75% of the

total surcharge attributed to each company on the basis of the electricity distributed within Maryland.

(c) (1) (i) The Secretary shall administer the Fund.

(ii) The Fund is subject to the provisions for financial management and budgeting established by the Department of Budget and Management.

(iii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(iv) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(v) Except as provided in paragraph (2) of this subsection, the moneys in the Fund shall be used to carry out the provisions of this subtitle as provided for in the budget.

(vi) For the purposes of this subtitle, the Secretary, in consultation with the Director of the Maryland Energy Administration, may execute appropriate contracts with any State or federal agency, research organization, industry, or academic institution to conduct the necessary research, construct or acquire, or both, real property including physical predictive models, laboratories, buildings, land, and appurtenances, or support the technological development of extraordinary systems related to power plants designed to minimize environmental impact.

(vii) The Secretary may utilize available expertise in any other State unit in the development, execution, and management of contracts and agreements on projects relating to their areas of prime responsibility.

(2) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1–103(b)(2) of this article.

(d) (1) The Maryland Energy Administration shall receive administrative and fiscal support from the Fund for studies relating to the conservation or production of electric energy.

(2) Fiscal support to the Maryland Energy Administration from the Fund may not exceed $250,000 in any fiscal year.

(3) The Chesapeake Bay Trust shall receive $250,000 from the Fund each fiscal year for the purpose of funding energy conservation projects through the Chesapeake Conservation Corps Program, as provided under §§ 8–1913 through 8–1924 of this article.

(e) The Legislative Auditor shall conduct post audits of a fiscal and compliance nature of the Fund and of the appropriations and expenditures made for the purposes of this subtitle. The cost of the fiscal portion of the post audit examinations shall be an

operating cost of the Fund.

§3–303.

(a) The Secretary, in consultation with the Director of the Maryland Energy Administration and in cooperation with the Secretaries of the Environment, Agriculture, and Business and Economic Development and the Director of Planning and electric company representatives shall implement a continuing research program for electric power plant site evaluation and related environmental and land use considerations. The Secretary shall seek from additional sources recommendations for related research to be included in the program. The additional sources shall include appropriate federal and State agencies, electric companies and technical, scientific or educational institutions or organizations. The Secretary in consultation with the Director of the Maryland Energy Administration shall institute effective procedures for coordinating environmental research assignments to prevent dissipation of money, time, and effort. To this end, the State's electric companies shall be reimbursed from the Fund for environmental research specifically required to satisfy application and permit requirements for any federal, State, or local regulatory agencies, if the electric company has requested reimbursement in advance and furnishes an outline of the program and its estimated cost so that the Secretary can budget it in advance.

(b) The program shall include:

(1) General biological and ecological baseline studies, including, but not limited to, appropriate environmental studies of the biology, physics, and chemistry of the Chesapeake Bay and tributaries; sediment and biological surveys to determine and identify essential marine organism nursery areas of the State's waters, including the Chesapeake Bay and tributaries; epibenthos; bottom species; crab; finfish and human use studies;

(2) Research to assist prediction, including but not limited to experimental research, field and laboratory, and the development and provision for physical, mathematical, and biological modeling tools to assist in determining and evaluating the effects of variation of natural waters resulting from electric generating plant operations including changes in temperature, oxygen levels, salinity, biocides, radionuclides, and "heavy" metals. This research also includes collection and organization of relevant information and data necessary to operate physical, mathematical, and biological modeling tools;

(3) Provisions for monitoring operations of electric power facilities located in the State. These provisions include but are not limited to a determination of actual distribution and effect of temperature, salinity, oxygen, radionuclides, "heavy" metals, and biological effects; radiological; "heavy" metals and biocide effects; recreational and commercial fishing gains and losses; and human health and welfare effects;

(4) Research and investigations relating to effects on air resources of electric power plants and effects of air pollutants from power plants on public health

and welfare, vegetation, animals, materials, and esthetic values, including baseline studies, predictive modeling, and monitoring of the air mass at sites of proposed or operating electric generating stations, evaluation of new or improved methods for minimizing air pollution from power plants and other matters pertaining to the effect of power plants on the air environment;

(5) An environmental evaluation of electric power plant sites proposed for future development and expansion and their relationship to the waters and air of the State;

(6) Evaluation of the environmental effects of new electric power generation technologies and extraordinary systems related to power plants designed to minimize environmental effects;

(7) Determining the potential for constructive uses of waste energy to be released at proposed electric plant sites; and

(8) Analysis of the socioeconomic impact of electric power generation facilities on the land uses of the State.

§3–304.

In cooperation with the Public Service Commission, the Maryland Energy Administration, and the Secretary of the Environment, the Secretary shall implement a long–range environmental evaluation of power plant building sites projected for at least 10 years. To facilitate providing adequate electric power on reasonable schedules at reasonable costs with the least possible depreciation of the quality of Maryland's environment, the following responsibilities and procedures are set forth:

(1) The Public Service Commission shall assemble and evaluate annually the long–range plans of Maryland's public electric companies regarding generating needs and means for meeting those needs. Beginning January 1, 1972, the Chairman of the Public Service Commission shall forward annually to the Secretary a ten–year plan of possible and proposed sites, including associated transmission routes, for the construction of new electric power plants within the State and extensions of existing plants.

(2) Upon receipt of a ten–year plan from the Public Service Commission, the Secretary with the advice of the Secretary of the Environment and the Director of the Maryland Energy Administration and in accordance with paragraph (1) of this section and § 7–201 of the Public Utilities Article, shall prepare and submit, within 180 days a preliminary environmental statement on each possible and proposed site, including associated transmission routes. The statement, on the basis of the environmental research program, shall include but not be limited to the following considerations:

(i) The environmental impact at the proposed site;

(ii) Any adverse environmental effects which cannot be avoided if the proposed site is accepted;

(iii) Possible alternatives to the proposed site;

(iv) Any irreversible and irretrievable commitments of resources which would be involved at the proposed site if it is approved;

(v) Where appropriate, a discussion of problems and objections raised by other State and federal agencies and local entities;

(vi) A plan for monitoring environmental effects of the proposed action and provision for remedial actions if the monitoring reveals unanticipated environmental effects of significant adverse consequences; and

(vii) The ability to adequately provide emergency response plans to residents if a nuclear power plant is considered for location at a site.

The Secretary shall state to the Public Service Commission which possible and proposed sites, based on preliminary environmental statement, justify an unsuitable classification. Unless the electric company whose proposed site is involved offers the Secretary substantial evidence to the contrary, the site shall be deleted from the plan. The site may be included in a subsequent ten–year plan.

(3) The Secretary with the advice of the Director of the Maryland Energy Administration and the Secretary of the Environment shall initiate a detailed investigation of any site proposed in the ten–year plan which appears desirable or acceptable on the basis of preliminary environmental statements. With respect to any site in the plan on which authorized construction has not commenced by July 1, 1974, at least two years before construction is estimated to begin and if the preponderance of newly offered scientific evidence does not justify a revised classification as unsuitable, the Secretary shall publish a detailed environmental statement on the site. The statement shall consider and include information developed in the program outlined in § 3–303 of this subtitle.

(4) The Secretary, with the advice of the Director of the Maryland Energy Administration, the Secretary of the Environment and the Director of Planning, shall publish on a biennial basis, commencing July 1, 1972, a cumulative environmental impact report on all electric power plants operating in the State. The report shall include a section specifying the changes that can occur as additional electric power plants are constructed in accordance with the ten–year plan. It shall include recommendations to the Governor which delineate State environmental policy and objectives. The Director of Planning and the Director of the Maryland Energy Administration shall jointly include a section devoted exclusively to the question of growth and the specific growth related factors which necessitate specific additional increments of electric energy by development of a site in the ten–year plan. In preparing this section, they shall consider the projected estimates and

recommendations of electric company representatives.

§3–305.

(a) The expertise of the electric utilities in the basic requirements, including environmental considerations, of a site for power generation and generator lead route is a needed element in site selection. Therefore, for the purposes of insuring adequate power on reasonable schedules while also protecting the quality of the State's environment, site acquisition and generator lead route designation may occur as follows:

(1) Notwithstanding any other provision of this subtitle, any site either already owned or purchased in the future by electric companies shall be included in the inventory of possible and proposed sites.

(2) The Secretary, on the advice of the Secretary of Business and Economic Development, shall acquire in the name of the State a sufficient number of sites to satisfy the expected requirements as submitted by the Director of Planning and the Director of the Maryland Energy Administration, as provided in § 3–304(4) of this subtitle. Site selection shall be based on research findings that show the site is desirable for power plant construction. Following site acquisition, the Secretary and the local governing bodies of the areas through which the potential generator lead routes pass shall designate mutually one or more desirable routes. After designation of a route, each county within which the route is located shall designate the proposed public utility corridor by enactment of an ordinance or by incorporation in its appropriate land use plan. Any investigation to ascertain the suitability of a site for the construction of an electric generating station shall be completed within 2 years of the date the site has been identified. By the end of the 2 year period, the Secretary shall purchase or remove from consideration the site and make public his decision.

(3) Notwithstanding any other provision of this subtitle, the Secretary may acquire a site for an electric company if the Public Service Commission requests the Secretary to purchase a site under § 7–202 of the Public Utilities Article.

(4) If the Secretary decides to dispose of any property acquired by condemnation under this subsection, the Board of Public Works may transfer the property to another unit of the Executive Branch of State government in accordance with § 10–304 of the State Government Article.

(5) If the Secretary decides to dispose of any property acquired by condemnation under this subsection and the property is not transferred in accordance with paragraph (4) of this subsection, the Secretary shall provide the opportunity to purchase the property within 90 days from the date the offer is made:

(i) To the county where the property is located;

(ii) If the county rejects the offer, to the original owner of the property; and

(iii) If the original owner of the property cannot be found or is dead or rejects the offer, to the general public.

(6) For the purposes of this section, "site" means land which is reasonably necessary for a new site or for the expansion of an existing site owned by a utility. "Site" includes land necessary for such ancillary purposes as disposal of solid wastes produced by an electric generating station operating on the site, transmission or cooling water access, or transportation access.

(b) If the other requirements of this subtitle have been satisfied, the Secretary may acquire any site by agreement or condemnation under the condemnation law and pay for them from the Fund. Prior to such acquisition, the Secretary shall hold one or more informational meetings and one public hearing in the legislative district where the proposed site or sites are located. The Secretary holds the property in the name of the State and may not permit its temporary use for any purpose which might logically be expected to impede its prompt availability for power plant siting as and when needed. Temporary uses which the Secretary may authorize may include but are not limited to public recreational facilities, including open space areas, parks, forests and beaches, fish and wildlife refuges and other public recreational uses as authorized within this article. The Secretary may not hold, at any one time, more than eight sites, suitable for either single or multiple power plant siting.

(c) Fifty percent of all revenues the Secretary obtains through temporary use of sites shall be deposited in the Fund. The remaining 50 percent shall be paid to the county in which the site is situated. If the site lies within two or more counties, the 50 percent shall be distributed proportionally according to the area within each county. The Secretary shall pay from the Fund to the county an amount equal to the real estate taxes assessed on the land at the time of acquisition less any funds received by the county for any temporary use of the site.

(d) An electric company as defined in § 1–101 of the Public Utilities Article may request from the Secretary an appropriate site in his possession under the provisions of this subtitle, and the Secretary shall make the site available. The electric utility may purchase the site. The purchase price shall be the fair market value of the site as determined by a committee of three independent qualified real estate appraisers, one of whom is chosen by the Secretary, one by the electric company making the application, and the third by the two appraisers first selected. Each party compensates its own appraiser and bears one–half the cost of the third appraiser. Receipts from the purchase transactions shall be deposited in the Fund.

(e) (1) When property held in the name of the State under this section is not used for the purposes for which it is being held, the Secretary shall provide for the temporary use of the property. In providing for the temporary use of the property, the Secretary shall consider the recommendations of the local governing body of the subdivision in which the property is located.

(2) (i) The local governing body of the subdivision in which the property

is located shall appoint an advisory committee to recommend temporary uses of the property acquired under this section. The advisory committee shall consider, with the assistance of the Conservation Education Council of Maryland, the possibility of using the property for environmental education.

(ii) Upon receipt and evaluation of the advisory committee's recommendations, the local governing body in which the property is located shall submit its recommendations to the Secretary.

(3) (i) The Secretary shall provide the local subdivision in which the property is located up to $25,000 for development of an effective program for approved temporary uses of the property, as authorized in the annual budget.

(ii) The Secretary shall provide the local subdivision in which the property is located up to $10,000 annually for the operation of approved temporary uses, as authorized in the annual budget.

(f) (1) For the purposes of performing the duties required under this subtitle, or, upon written request from an electric company setting out the nature, extent, and duration of the work to be done, the Department, its agents, employees, and contractors may enter upon private property to collect data and otherwise conduct environmental and engineering studies related to potential sites for electric generating facilities, potential corridors for rail and pipeline access to electric generating facilities, and potential overhead transmission lines in excess of 69,000 volts. The studies may include the installation of meteorological testing equipment, biological sampling, soil borings, and installation of test wells.

(2) Entry onto private property as authorized by paragraph (1) shall not be undertaken without prior consent of the property owner. If, after real and bona fide effort, the consent of the property owner cannot be secured, the Department may apply to the circuit court where the property or any part of it is located for an order directing that entry be permitted. "Bona fide effort" shall include either 30 days' advance notice in writing by certified mail, return receipt requested, to the last known address of the property owner or posting notice on the property not less than 30 days in advance, or such other requirements as the court may deem appropriate.

(3) The Department shall reimburse the landowner or lessee who is farming the property for those agricultural products which are either destroyed or damaged by its agents, employees, or contractors. The Department shall be responsible for any other damages that may be incurred as a result of entry on private property as authorized by this section.

§3–306.

(a) Notwithstanding anything to the contrary in this article or the Public Utilities Article, on application to the Public Service Commission for a certificate of public convenience and necessity associated with power plant construction involving,

but not limited to, use or diversion of the waters of the State, or private wetlands, the Commission shall notify immediately the Department of Natural Resources and the Department of the Environment of the application. The Commission shall supply the Department of Natural Resources and the Department of the Environment with any pertinent information available regarding the application. The Department of the Environment shall treat the application for a certificate of public convenience and necessity as an application for appropriation or use of waters of the State under Title 5 of the Environment Article and as an application for a license for dredging and filling under Title 16 of the Environment Article.

(b) Within 60 days after the application for a certificate of public convenience and necessity has been filed with the Commission, the Secretary shall require the Department of Natural Resources to complete any additional study and investigation concerning the application, and the Secretary of the Environment shall require the Department of the Environment to study and investigate the necessity for dredging and filling at the proposed plant site and water appropriation or use. The Secretary and the Secretary of the Environment jointly shall forward the results of the study and investigation, together with a recommendation that the certificate be granted, denied, or granted with any condition deemed necessary, to the chairman of the Commission.

(c) The results and recommendations shall be open for public inspection and shall be presented by the Secretaries or their designees at the hearing the Commission holds as required by Title 7, Subtitle 2 of the Public Utilities Article. Within 15 days from the conclusion of the hearing, and based on the evidence there presented, the Secretaries jointly shall present their final recommendation to the chairman of the Commission including, but not limited to, any specific conclusions as to any private wetlands involved and any specific conclusions as to any water use or restriction of water use involved.

§3–306.1.

In view of the safeguards provided by this subtitle through State units, and to assure the controlling effect of their determinations, any property certified as a suitable site by the Secretary of Natural Resources and placed in inventory as provided in this subtitle or any sites acquired and placed in inventory as provided in this subtitle shall be used and operated for electric generating and associated on-site transmission purposes without regard to any local zoning rule, regulation, law, or ordinance, and this use is not required to be submitted to or approved by any county or municipal zoning board, authority, or unit.

§3–307.

Judicial review shall in all instances include the right to appeal to the circuit courts as set forth in Title 3, Subtitle 2 of the Public Utilities Article.

§3–3A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) "Acid deposition" means the process whereby acid-forming chemical compounds are transported from the atmosphere to the surface of the earth.

(c) "Acid deposition precursor" means an air contaminant that may be transformed to an acid gas or particle in the atmosphere.

(d) "Commission" means the Maryland Public Service Commission.

(e) "Departments" means the Department of Natural Resources and the Department of the Environment.

(f) "Participating agencies" means the Commission, the People's Counsel of the Public Service Commission, and the Departments of Business and Economic Development, Agriculture, and Transportation, and the Department of Planning.

§3–3A–02.

(a) The Director of the Power Plant Siting and Research Program shall be responsible for the direction and coordination of the activities required under this subtitle.

(b) (1) To the extent funds are provided in the State budget, the departments, in cooperation with the participating agencies, shall conduct a comprehensive evaluation of:

(i) The sources of acid deposition received in the State;

(ii) The impact of acid deposition on the State;

(iii) Any available effective methods to alleviate any significant adverse impact on the State; and

(iv) The costs of the available effective methods to alleviate any significant adverse impact on the State.

(2) The departments shall utilize the results of studies conducted by other organizations where applicable and shall conduct independent research and monitoring studies where necessary.

(c) (1) The departments, in cooperation with the participating agencies, shall consult with and involve interested parties, including affected private sector industries and resource conservationists, in the comprehensive evaluation in subsection (b)(1) of this section.

(2) The interested parties shall participate in the planning of the research

program and monitoring activities, the design of specific projects, the review of the results of studies, and the production of final reports.

§3–3A–03.

(a) The departments shall design and operate a comprehensive research and monitoring program through:

(1) New studies on issues affecting the State;

(2) Application of the results from ongoing and completed projects sponsored by the State; and

(3) The results of research conducted by the National Acid Precipitation Assessment Program and other programs funded by the federal and state governments or private institutions.

(b) The comprehensive research and monitoring program shall:

(1) Determine the relative contributions, if any, to acid deposition in the State of various sources of acid deposition precursor emissions;

(2) Determine if acid deposition varies significantly from 1 geographic region of the State to another and identify the relative contribution of various sources of precursor emissions responsible for this variability;

(3) Expand and improve impact data bases through the compilation of existing data on precipitation and surface water chemistry, improved quality control, and standardization of sampling and analytical techniques;

(4) Identify regions, localized areas, or specific ecosystems of the State especially sensitive to acid deposition;

(5) Assess the consequence of the environmental impacts of acid deposition on resources such as surface water, groundwater, crops, forests, fisheries, and structures;

(6) Identify and evaluate the technological effectiveness, if any, and economic cost of technologies and noncontrol mitigative techniques that are feasible for use in the State to control acid deposition precursor emissions or to mitigate the impact of acid deposition;

(7) Identify and monitor activities of the federal government and private industry towards development of innovative technologies for cleaner coal combustion that are feasible for possible use in the State to reduce acid deposition precursor emissions from facilities in the State;

(8) Document and apply all current federal, State, and other monitoring

and research results related to acid deposition relevant to the State to insure that State activities are coordinated to prevent unnecessary duplication and waste of financial and technical resources;

(9) Evaluate issues concerning implementation that may arise due to federal acid deposition control legislation, including:

(i) The examination of the regulatory authority of the Commission and the Department of the Environment to implement a federally enacted emissions control program; and

(ii) The identification and analysis of issues such as nitrogen oxide controls, cost sharing, emissions trading, and costs of controls that may be applied to the industrial, mobile, and residential sectors versus the utility sector;

(10) Initiate research and monitoring projects that are found to be necessary to augment information related to the sources and impacts of acid deposition affecting the State; and

(11) Examine the possible contribution to the control and reduction of acid deposition through energy management, enhanced conservation activities by electric utilities, and development of alternative sources of energy.

§3–3A–04.

(a) Not later than January 1, 1987, and biennially thereafter, the departments, with the advice of the participating agencies and interested private parties, shall prepare and submit a report to the Governor, and subject to § 2-1246 of the State Government Article, to the General Assembly.

(b) The report shall include:

(1) A description of activities undertaken in accordance with this subtitle;

(2) The costs of the activities undertaken in accordance with this subtitle;

(3) The findings of the research and monitoring program, including the current levels and anticipated significant adverse effects and future trends of acid deposition in the State;

(4) Recommended State responses, when appropriate, to federal legislative or regulatory initiatives; and

(5) Potential options to evaluate acid deposition and its potential adverse effects in the State.

§3–401.

The University of Maryland Center for Environmental Science, a branch of the University System of Maryland, is designated to encompass the functions of the Natural Resources Institute and the additions set forth in this subtitle.

§3–402.

The University of Maryland Center for Environmental Science shall be under the supervision, direction, and control of the Board of Regents of the University System of Maryland. Academic rank and faculty status may be assigned to the director and qualified personnel staff members.

§3–403.

(a) The University of Maryland Center for Environmental Science shall conduct a comprehensive program to develop and apply predictive ecology for Maryland to the improvement and preservation of the physical environment, through a program of research, public service, and education. The University of Maryland Center for Environmental Science shall perform the following functions:

(1) Maintain liaison with the State to identify the important regional and environmental problems, including the relationship to the use of the waters of the State and in particular those environmental problems affecting the waters of the Chesapeake Bay;

(2) Inventory appropriate:

(i) Professional individuals;

(ii) Organizations which are private, public, and commercial;

(iii) Facilities; and

(iv) Programs, including:

1. Educational;

2. Research and development; and

3. Public service;

(3) Arrange or prepare critical reviews, analyses, summaries of present levels of understanding and technical status reports on topical environmental problems, in formats ranging in depth from informal consultation to formal reports;

(4) Assist the development and coordination of single or multidisciplinary programs and projects on the environment at public and private educational and research institutes;

(5) Develop and promote environmental educational programs in the State;

(6) Conduct environmental research programs;

(7) Implement a program of environmental education to include participation in undergraduate and graduate collegiate programs, assist public and private educational systems, and participate in the education of the public and environmental fields;

(8) Implement joint graduate degree programs and post baccalaureate certificate programs, if authorized by the Maryland Higher Education Commission and the Board of Regents of the University System of Maryland in accordance with the Education Article;

(9) Perform other acts of public service relating to the environment in the best interest of the citizens of the State; and

(10) Implement the application of the institutional and physical resources of the University to the needs of State agencies in environmental matters.

(b) The University of Maryland Center for Environmental Science staff may collect any animal, plant, and other sample and use any collection device, technique, and seizure necessary for and pertinent to its research, public service and education program.

§3–601.

The General Assembly finds and declares that the increasing energy requirements of the State and nation continue to exceed domestic sources of energy supply and that demand must be met, at least in the near future, by imported oil. Construction of deepwater ports in waters adjacent to the continental shelf of the United States could accommodate oil tenders too large for present ports and port facilities. As compared to smaller tanker systems, transfer of oil to the United States by these large tankers may have certain advantages, including assured access to the world's total petroleum shipping fleet, a reduction in economic costs and safety hazards, increased transportation efficiency, and reduced environmental hazards to harbors and shorelines. The legislature, in recognition of these objectives and those of protecting the coastal environment, regulating growth and determining land use, and in order to carry out its delegated responsibilities under the federal Deepwater Port Act of 1974, hereby defines the policy and procedure to advance and protect the interests of the people of the State of Maryland in the location, construction and operation of deepwater ports in the waters beyond the State.

§3–602.

(a) In this subtitle the following words have the meanings indicated.

(b) "Adjacent coastal state" means any coastal state which:

(1) Would be connected directly by pipeline to a deepwater port, as proposed in an application;

(2) Would be located within 15 miles of any proposed deepwater port; or

(3) Is so designated by the federal Secretary in accordance with § 9(a)(2) of the federal act.

(c) "Application" means any application submitted under the federal act for:

(1) A license for the ownership, construction, and operation of a deepwater port;

(2) Transfer of any license; or

(3) Any substantial change in any of the conditions and provisions of any license.

(d) "Coastal environment" means the State's navigable waters and the adjacent shorelines. The term includes transitional and intertidal areas, bays, lagoons, salt marshes, estuaries, and beaches and their fish, wildlife and other living resources, and the recreational and scenic values of the lands, waters and resources.

(e) "Deepwater port" means any fixed or floating manmade structure other than a vessel, or any group of structures, located beyond territorial waters of a state and off the coast of the United States and which are used or intended for use as a port or terminal for the loading or unloading and further handling of hydrocarbons and their products for transportation to any state, except as otherwise provided in § 23 of the federal act. A deepwater port is a "new source" for purposes of the federal Clean Air Act and the Federal Water Pollution Control Act.

(f) "Federal act" means the federal Deepwater Port Act of 1974.

(g) "Federal Secretary" means the Secretary of the United States Department of Transportation.

(h) "Hydrocarbon" means petroleum, crude oil, any substance refined from petroleum or crude oil and natural gas.

(i) "Marine environment" means the coastal environment, State waters of the contiguous zone, and State waters of the high seas; the fish, wildlife, and other living resources of the waters; and the recreational and scenic values of the waters and resources.

§3–603.

The Governor, a State agency or official may not represent the State, individually or by joint agreements and compacts, as an applicant under the federal act without express authorization under State law.

§3–604.

In order to carry out the policy of this subtitle, the Secretary of Natural Resources shall:

(1) On his or the Governor's determination that the State's interest should be considered in an application proceeding under the federal act, request the federal Secretary to designate the State of Maryland as an "adjacent coastal state". The request shall be communicated only with the approval of the Governor and shall include evidence to support the conclusion that there is a risk of damage to the coastal environment of the State equal to or greater than the risk posed to a state directly connected by pipeline to the proposed deepwater port. A request shall be communicated in accordance with § 9(a)(2) of the federal act;

(2) Determine and collect reimbursement for those costs to the State associated with the processing of an application for which the applicant is responsible to the State under the federal act;

(3) Present the views of the State to the federal Secretary, other than those required under paragraph (1) of this section, regarding the location, construction and operation of a deepwater port;

(4) Request all documents, reports or other information from the federal Secretary under the federal act which are necessary to assist the State in the processing of an application;

(5) Set reasonable fees permitted under the federal act for the use of a deepwater port facility and State land-based facilities directly related to a deepwater port facility; and

(6) The Secretary of Natural Resources shall obtain the suggestions and comments of those departments having responsibility associated with the duties enumerated in this subsection.

§3–605.

(a) If the State has qualified as an adjacent coastal state under the federal act, the Governor preliminarily shall determine the State's decision on the pending application, and submit his recommendation to the legislature, under subsection (d) of this section.

(b) The State's decision shall consist of one of the following:

(1) Approval of the application;

(2) Disapproval of the application; or

(3) Conditional approval of the application, under which approval would be granted if the application were amended to remove certain inconsistencies with State programs relating to environmental protection, land and water use, or coastal zone management.

(c) In the preliminary determination of the State's decision, the Governor shall consider factors, including:

(1) Environmental review criteria, including:

(i) The effect on the marine environment;

(ii) The effect on oceanographic currents and wave patterns;

(iii) The effect on alternate uses of the oceans and navigable waters, including scientific study, fishing, and exploration of other living and nonliving resources;

(iv) The effect of land-based developments related to deepwater port development;

(v) The effect on human health and welfare;

(vi) The effect on the State's coastal zone management program under § 301(a) and (b) of the federal Coastal Zone Management Act of 1972; and

(vii) Other considerations the federal Secretary may deem necessary and appropriate;

(2) Economic, social, and cultural impacts;

(3) Impacts on existing and future State and local public facilities and services;

(4) Evidence presented at public hearings held within the State either required under the federal act or conducted by the State;

(5) The findings of any statement prepared under § 14-506 of the Environment Article, and the status of any permit action under Title 14, Subtitle 5 of the Environment Article;

(6) Views of all interested county or local governments; and

(7) Views of the Secretaries of Agriculture, Natural Resources, Transportation, the Environment, and Business and Economic Development and the

Director of Planning.

(d) (1) Within 30 days after the last public hearing mandated by § 9(b)(1) of the federal act, the Governor shall submit a recommendation for the State's decision to the legislature in the following manner:

(i) If the legislature is convened in regular or special session, the Governor shall submit a recommendation to the legislature for appropriate legislative action.

(ii) If the legislature is not convened in regular or special session, the Governor shall submit a recommendation to the Administrative, Executive, and Legislative Review Committee. Within five days of receipt of the Governor's recommendation and after a public hearing, the Committee shall recommend to the President of the Senate and the Speaker of the House whether the Governor's recommendation should represent the State's decision or whether the legislature should convene in special session to review the Governor's recommendation for appropriate legislative action. However, failure of the Committee to recommend review by the full legislature may not preclude convening of the legislature.

(2) (i) When the full legislature reviews the Governor's recommendation under paragraph (1)(i) or (ii) of this subsection, the legislature, after a public hearing, may take appropriate legislative action to approve, disapprove, or conditionally approve the pending application.

(ii) In order to modify the Governor's recommendation in any way, the legislature shall take action by joint resolution requiring at least three-fifths vote of each house. The joint resolution shall constitute the State's decision on the pending application.

(iii) If the legislature fails to modify the Governor's recommendation by the 44th day after the last public hearing mandated by the federal act, the Governor's recommendation shall constitute the State's decision on the pending application.

(3) The Governor shall send the State's decision to the federal Secretary no later than 45 days after the last public hearing mandated by the federal act.

§3–901.

This subtitle shall be known as the "Northeast Maryland Waste Disposal Authority Act".

§3–902.

For the benefit of the people of the State of Maryland, the increase of their commerce, welfare and prosperity, and the improvement of their health and living conditions, it is essential that provision be made for the efficient collection and disposal of waste on a regional basis from both public and private sources in compliance with

State and federal laws, regulations, and policies and for the generation of energy and the recovery of useable resources from such waste to the extent practicable. It is the purpose of this subtitle to assist certain participating political subdivisions of this State, other public entities and the private sector of the economy to provide adequate waste disposal facilities (including those which provide for energy generation and resource recovery) and facilities for the generation of steam, electricity, or other forms of energy from fuels which are derived from or are otherwise related to waste disposal facilities by providing a regional coordinating agency and a financing vehicle for such facilities. It is the purpose of this subtitle to assist the participating counties to effect waste disposal programs on a regional basis and to that end this subtitle provides for the creation of the Authority. It is the intention and purpose of this subtitle that, without in any way limiting the discretion of the Authority, the Authority and the Maryland Environmental Service cooperate to the maximum extent practicable in effecting a regional waste disposal program in the participating counties.

§3–903.

(a) (1) There is hereby created a body politic and corporate to be known as the "Northeast Maryland Waste Disposal Authority" which is constituted a public instrumentality of the State of Maryland. The exercise by the Authority of the powers conferred by this subtitle shall be deemed to be the performance of an essential public function.

(2) The Authority was organized and commenced its activities on October 21, 1980, when there were filed with the Secretary of State and the Department of Legislative Services certified copies of the resolutions of participation of at least two of the following four counties: Mayor and City Council of Baltimore, Baltimore County, Maryland, Anne Arundel County, Maryland, and Harford County, Maryland.

(3) Montgomery County, Maryland, also became a participating county in the Authority by filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Montgomery County, Maryland, had all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have, including the power to participate in projects and to enter into contracts with the Authority, including the contracts relating to the Authority's Southwest Resource Recovery Facility located in the City of Baltimore, in order to defray and provide for the Authority's costs of acquiring, constructing, operating, or providing a project, including debt service requirements of the Authority relating to a project.

(4) Carroll County, Maryland, may also become a participating county in the Authority by the County Commissioners of Carroll County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Carroll County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(5) Howard County, Maryland, may also become a participating county in the Authority by the County Council of Howard County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Howard County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(6) Frederick County, Maryland, may also become a participating county in the Authority by the County Council of Frederick County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Frederick County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(7) Cecil County, Maryland, may also become a participating county in the Authority by the Board of County Commissioners of Cecil County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Cecil County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(8) Wicomico County, Maryland, may also become a participating county in the Authority by the County Council of Wicomico County filing certified copies of a resolution of participation with the Secretary of State and the Department of Legislative Services, whereupon Wicomico County, Maryland, shall have all of the rights, privileges, and powers under this subtitle that the other participating counties have or may have.

(9) Each resolution of participation contained:

(i) A declaration by the county of its intention and consent to participate in the activities of the Authority; and

(ii) Such provisions, if any, as the participating counties approved and required as being necessary or desirable for the Authority to be an organization described in § 501(c)(3) of the Internal Revenue Code.

(10) Each resolution of participation was presented by the chief executive officer of a county to the body exercising legislative powers of that county and was effective after adoption by such legislative body and approval by such chief executive officer.

(b) The Authority shall consist of one member from each of the participating counties and the director of the Maryland Environmental Service, ex officio. Each member from a participating county shall be appointed by the Governor from a list of at least three persons, which list has been submitted to the Governor by such participating county. Each such list shall be submitted to the Governor after approval

by the chief executive officer of the county submitting such list. Members from a participating county shall serve terms of 4 years and shall continue in office until their successors have been appointed and qualified. A member from a participating county shall be eligible for reappointment. Each member of the Authority, before entering upon his or her duties, shall take an oath to administer the duties of the office faithfully and impartially, and such oath shall be filed with the Secretary of State. The members of the Authority may be removed by the Governor for good cause or may be removed at the will of the Governor at any time in the event the Governor has previously received a resolution of that county which nominated such a member for appointment requesting that such member be removed.

(c) The Authority shall appoint, subject to the approval of the Governor, an executive director. The executive director may not be a member of the Authority. The Authority may also appoint, subject to the approval of the Governor, a general counsel, either on a full–time or a part–time basis as the Authority may determine, or it may otherwise provide for the provision of necessary legal services to the Authority. The general counsel shall not be a member of the Authority. Both the executive director and the general counsel shall serve at the pleasure of the Authority, and shall receive such compensation as may be determined by the Authority.

(d) The executive director shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents, and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. The executive director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates. The records and documents of the Authority shall be considered public records subject to reasonable inspection. The executive director shall, subject to the supervision and direction of the Authority, be the chief administrative officer of the Authority.

(e) The general counsel, if one is appointed, shall be the legal advisor to the Authority. He shall, when directed by the Authority, represent the Authority in judicial or other proceedings.

(f) A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of the members present at a meeting of the Authority having a quorum present shall be necessary for any action taken by the Authority. The director of the Maryland Environmental Service is a voting member of the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority as aforesaid. Any action taken by the Authority under the provisions of this subtitle may be authorized by resolution at any regular or special meeting. Each such resolution, other than resolutions promulgating rules and regulations, shall take effect immediately and need not be published or posted. Rules and regulations shall be promulgated under the provisions of the Administrative Procedure Act, except when necessary for the immediate preservation of the public health and safety and except for emergency

provisions required to protect projects of the Authority.

(g) Each member of the Authority, the executive director and such employees as may be designated by the Authority, shall, upon entering the performance of their duties, be covered by a surety bond in accordance with the provisions of Title 9, Subtitle 17 of the State Government Article.

(h) The members of the Authority shall receive no compensation for the performance of their duties hereunder, but each such member shall be paid his necessary expenses incurred while engaged in the performance of such duties.

(i) The participating counties may grant, loan, or otherwise transfer to the Authority, and the Authority may accept, from time to time such moneys, property or other assets as may be necessary or desirable to enable the Authority to initiate its operations or those of any project or to carry out any of its corporate purposes.

(j) The staff of the Authority shall consist of such employees as the Authority may determine to be necessary to carry out the duties of the Authority. The executive director shall appoint and remove the staff of the Authority in accordance with the provisions and restrictions of a "merit system" to be developed by the Authority.

(k) (1) Whenever the Authority shall undertake to provide service to or within any participating county, such county shall have the option (which option must be exercised prior to the effectiveness of such undertaking) of:

(i) Designating those employees who, at the time of the transfer, were engaged primarily in the rendering of such service, whereupon the Authority shall be responsible for the continuation of such employees with all rights and privileges and equivalent benefits that such employees theretofore enjoyed; or

(ii) Not certifying to the Authority any employees formerly engaged in providing the "take–over" services, but continuing such employees in the county's employment.

(2) In the event that any employee of a county so certified to the Authority does not desire to be transferred to the Authority, such employee shall be given first priority in the filling of any vacancy for which he or she is qualified as determined by the head of such county's merit system. In the event there are no vacancies, such employee shall be placed on the reemployment list and shall be given first preference in the filling of any position for which such person is qualified.

(l) If the Authority determines that the provision of pension benefits for its employees cannot be effected practicably by means of the State Retirement System, the Authority shall be empowered to provide a pension benefit for employees upon their retirement on account of age, service, or disability and shall have the right to contract with an insurance company or other appropriate body to provide such pension benefits or by resolution to establish a retirement system to be operated on an actuarial basis under the applicable laws of the State of Maryland. Any employee of the State of

Maryland or any subdivision who is employed by the Authority shall have the right to transfer to the pension system of the Authority and receive credit in the Authority's system for the service in the system from which such employee transferred contingent upon a transfer of the pension reserve applicable to such employee (employee and employer share) as certified by the actuary of the transferee system. With respect to employees initially transferred from any subdivision to the Authority, such employee shall elect within 6 months of said date of transfer whether to transfer his pension membership.

(m) The Authority shall by regulation establish the boundary of the Northeast Maryland waste disposal region. The boundary of the waste disposal region may include all or any part of the area within the boundaries of the participating counties. The director of the Maryland Environmental Service shall designate the Northeast Maryland waste disposal region as a solid waste disposal service region as provided in § 3–106 of this title.

(n) (1) Upon designation of the Northeast Maryland waste disposal region as a service region, the Authority, and not the Maryland Environmental Service, shall prepare the five–year plan providing for solid waste disposal projects required in § 3–106 of this title, and provide for its adoption, approval and implementation in accordance with the provisions of that section. The acquisition or purchase of any waste disposal facility as a project which is in existence as of July 1, 1980, if it is to be acquired or purchased, shall be included in the five–year plan of the Authority as approved by each county under the provisions of § 3–106 of this title, as amended from time to time.

(2) The five–year plan may include provisions for the establishment and implementation of a regional system of service fees to be charged at public waste disposal facilities within the participating jurisdictions. The Authority, by agreement with a subdivision or person outside the boundaries of the service region, may establish various service fees for the disposal of waste generated within the service region consistent with the 5–year plan. The Secretary of the Environment shall supervise any pricing structure proposed for adoption in the five–year plan or subsequent amendments thereto, for reasonableness and consistency with county solid waste plans pursuant to Title 9 of the Environment Article.

(o) Upon adoption by the Authority of a five–year plan providing for solid waste disposal projects and approval of such plan by the affected county or counties or the General Assembly, as the case may be, service districts shall be established within the Northeast Maryland waste disposal region in the manner and following the schedule set forth in the five–year plan providing for solid waste disposal projects. Within each service district in the Northeast Maryland waste disposal region, the Authority, and not the Maryland Environmental Service, is responsible for the disposal of solid wastes (including any wastewater treatment residue) as set forth in the five–year plan providing for solid waste disposal projects. Within the service district, no subdivision or person may dispose of solid wastes except through projects of the Authority or of a subdivision or person designated by the five–year plan or under reasonable conditions

the Authority stipulates; provided however, that it is not intended by this section that the Authority, in the absence of an agreement to do so, be required to assume responsibility over any wastewater treatment activity or project or over any existing solid waste activity or project of any person or subdivision. Nothing contained in this subtitle shall affect the power of the Secretary of the Environment, as set forth in § 3–109 of this title, to direct the Maryland Environmental Service to undertake any of the actions authorized therein.

(p) Notwithstanding any other provision of this subtitle, all general funds appropriated to the Maryland Environmental Service to prepare the five–year plan providing for solid waste disposal projects in the participating counties as provided in § 3–106 of this title or to provide for its adoption, approval and implementation shall be transferred to the Authority for application by the Authority to such purposes.

§3–904.

(a) As used in this subtitle, the words and terms listed in this section have the meaning given, unless the context clearly indicates another or different meaning.

(b) "Bonds" means all bonds, bond anticipation notes, revenue anticipation notes, grant anticipation notes, or other evidences of indebtedness of the Authority, whether general or limited obligations of the Authority.

(c) "Cost" shall include the purchase price of any project or the cost of acquiring all or any portion of the right, title, or interest of a project and the amount to be paid to discharge all obligations necessary or desirable to vest title to the project or any part thereof in the Authority or other owner; the cost of any reconstruction, extension, enlargement, alteration, repair or improvement; the cost of all lands, properties, rights, easements, franchises, and permits; the cost of all labor, machinery, and equipment; financing charges; interest prior to and during construction and if, deemed desirable by the Authority, for a limited period after the completion of construction; reserves for principal and interest and for extensions, enlargements, additions and improvements; the cost of revenue estimates, engineering and legal services, plans, designs, specifications, surveys, investigations, demonstrations, studies, estimates of cost, other expenses necessary or incident to determining the feasibility or practicability of any such acquisition, improvement, repair or construction; administrative expenses, and other expenses as necessary or incident to the financings herein authorized, and to the acquisition, operation, maintenance, improvement, construction of a project and the placing of the same in operation by the Authority, including reasonable provision for working capital. Any obligation or expense incurred prior to the issuance of bonds under the provisions of this subtitle in connection with the foregoing items of cost may be regarded as a part of such cost.

(d) The word "county" includes the Mayor and City Council of Baltimore unless otherwise indicated.

(e) "Person" means any natural person, corporation, firm, partnership,

cooperative, or other entity.

(f) (1) "Project" means the facilities and properties used or useful or having present capacity for future use in connection with:

(i) The transporting, transferring, compacting, burying, incinerating, reduction, composting, collection, storage, treatment, utilization, processing, or final disposal of waste;

(ii) The conversion of waste to fuel, steam, electricity, energy, or other resources or the generation of steam, electricity, or other forms of energy from fuel which is derived from, or is otherwise related to, waste;

(iii) The reconstruction, converting or otherwise recycling of waste into material which is not waste or which is useful or is marketable; or

(iv) Any combination of the foregoing (whether or not such facilities are located on a single site). The term "project" also includes but shall not be limited to:

1. Waste disposal facilities, pollution control facilities, and facilities for generating and furnishing electric energy or gas or other forms of energy which can be financed by bonds the interest on which is exempt from income tax under the Internal Revenue Code, whether such interest would have been tax exempt at the time of the enactment of this subtitle or of any amendment thereto; and

2. Any facilities and properties within the definition of "project" set forth in this section, whether or not such facilities or properties can be financed by bonds the interest on which is tax exempt under the Internal Revenue Code, it being the purpose and intent of this subtitle that the term "project" be liberally construed so as to effectuate the purposes of this subtitle.

(2) The term "project" includes (without limitation) land, buildings, structures, machinery, equipment, rail or motor vehicles, barges, boats, and all properties and rights therein and appurtenances thereof, rights-of-way, franchises, easements and other interests in land, all land and facilities which are functionally related and subordinate to the project and all patents, licenses and other rights necessary or useful in the construction or operation of a project.

(g) "Resolution of participation" means the resolution filed by a county with the Secretary of State and the Department of Legislative Services in order to evidence the consent of the county to participate in the activities of the Authority in accordance with the provisions of this subtitle.

(h) "Revenues" means, but is not necessarily limited to, all moneys received by the Authority from or in connection with any project, including (without limitation) grants, rentals, rates, fees, charges for the use of the services furnished or available and all other income inuring to the Authority; provided that the Authority, from time to time, may further define or limit the term "revenues" as applied to a particular project,

financing, or other matter.

(i) "Subdivision" means any county, municipal corporation, sanitary district, State or local agency, or other public body or agency created or established by or pursuant to State or local law, ordinance, or resolution.

(j) "Wastes" means all waste materials, whether solid, liquid or gas, including but not limited to garbage, refuse, and other discarded materials, waste materials resulting from industrial, commercial and agricultural operations and from community activities, rubbish, ashes, incinerator residue, wastewater treatment residue, street cleanings, dead animals, demolition and construction debris, discarded household appliances, automobile bodies, offal and paunch manure.

§3–905.

(a) The Authority is granted and has and may exercise all powers necessary for carrying out the purposes of this subtitle, including but not limited to, the following rights and powers:

(1) To have perpetual existence as a corporation;

(2) To adopt bylaws, rules, regulations, policies, and procedures for the regulation of its affairs and the conduct of its business;

(3) To adopt an official seal and alter the same at pleasure;

(4) To maintain an office or offices at such place or places as it may designate;

(5) To appoint officers, agents and employees, and to prescribe their duties and to fix their compensation as set forth in this subtitle;

(6) To sue and be sued in its own name;

(7) To acquire, construct, reconstruct, rehabilitate, improve, maintain, equip, lease (as lessor or as lessee), repair, and operate projects within or without the State of Maryland and to establish reasonable rules and regulations relating to any project;

(8) To acquire, purchase, hold, lease as lessee, and use any franchise, patent or license and any property (real, personal or mixed or tangible or intangible), or any interest therein, necessary or convenient for carrying out the purposes of the Authority;

(9) To sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it;

(10) To acquire, either directly or by or through any person or political

subdivision, by purchase or by gift or devise such lands, structures, property (real or personal) rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights which are located within or without the State as it may deem necessary or convenient for the construction or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon by it and the owner thereof, and to take title thereto in the name of the Authority;

(11) To borrow money and to issue bonds for the purpose of paying all or any part of the cost of any one or more projects or for any other corporate purpose of the Authority; to secure the payment of such borrowing or any part thereof by pledge of or mortgage or deed of trust on all or any part of its properties or revenues; to combine projects for financing or operating purposes; to make agreements with or for the benefit of the purchasers or holders of bonds or with others in connection with the issuance of any such bonds, whether issued or to be issued, as the Authority may deem advisable; and in general to provide for the security of such bonds and the rights of the holders thereof;

(12) To take and hold title to any project which may be transferred to the Authority, and to assume jurisdiction over and provide for the maintenance and operation of said project, all on such terms as may be mutually agreed upon between the Authority and the transferor. The Authority may contract with any subdivision to assume the payment of the principal of and interest on obligations or indebtedness of such subdivision incurred in connection with any project and may undertake to operate any project in such a manner as to provide for the payment of all outstanding obligations or indebtedness applicable to such project and the interest thereon and to transfer to the appropriate subdivision an amount equal to the debt service payments prior to the applicable payment date;

(13) To fix and revise from time to time and to collect rates, rentals, fees, and charges for the use of or for services and facilities provided or made available by the Authority;

(14) To make and enter into contracts with the federal or any state government (or any agency, instrumentality or subdivision thereof) or with any subdivision or person within or without the State of Maryland providing for or relating to the acquisition, construction, management, operation, and maintenance of any project or the furnishing of services by or to any project or in connection with the services of any project owned, operated, or controlled by the other contracting party; such contracts may make provision for:

(i) The payment by the other contracting party to the Authority of a fixed amount for the collection, processing, or disposal of a stated amount of waste (whether or not the stated amount of waste is collected, processed or disposed of), or of all or any portion of the operating expenses of one or more projects;

(ii) The utilization by the other contracting party of one or more

projects for the processing or disposal of all or any portion of waste over which such party has control;

(iii) The collection by the other contracting party or its agents or by agents of the Authority of fees, rates or charges for the services and facilities rendered to a subdivision or the inhabitants thereof, and for the enforcement of delinquent charges for such services and facilities; or

(iv) The abandonment or restriction or prohibition of the construction or operation of competing facilities. The provisions of any such contract with a subdivision shall be deemed to be for the benefit of bondholders as designated by the Authority and may be made irrevocable so long as any bonds of the Authority secured by such contract shall be outstanding;

(15) To make and enter into all contracts or agreements which the Authority determines are necessary or incidental to the performance of its duties and to the execution of the purposes of and the powers granted by this subtitle, including (without limitation) contracts relating to:

(i) The use or management by the other contracting party of any project or the services therefrom or the facilities thereof;

(ii) The use by the Authority of the services or facilities of any project owned, leased, operated or controlled by the other contracting party;

(iii) The sale of any fuel, steam, electricity, energy, or other material or resource derived from the operation of any project;

(iv) The acceptance, processing and disposal of wastes by one or more projects; or

(v) The employment or retention of consulting and other engineers, superintendents, financial advisors, attorneys, accountants, and such other employees, advisors or agents as in the judgment of the Authority may be deemed necessary or desirable;

(16) To enter with the permission of the owner upon lands, waters, or premises for the purpose of making surveys, soundings, borings, and examinations to accomplish any purpose authorized by this subtitle, the Authority being liable for any actual damage done;

(17) To make application for, receive and accept from the federal or any state government (or any agency, instrumentality, or subdivision thereof) or from any person grants relating to the Authority or any project, including (without limitation) grants for or in aid of the planning, financing, construction, acquisition, maintenance, or operation of any project; to receive and accept aid or contributions from any source, whether in the form of money or property, labor, or other things of value; and to participate in any price support program, loan program or other program of the

federal or State government relating to waste disposal, resource recovery or energy generation;

(18) To make rules and regulations pertaining to the Authority and projects, which rules and regulations may (without limitation) exclude or require preconditioning of any waste that might otherwise be harmful to the project or its efficient operation or endanger the health or safety of workers or others;

(19) To enter into agreements with the Maryland Environmental Service providing for the assumption by the Maryland Environmental Service of such activities of the Authority as the Authority may deem necessary or desirable to effectuate its purposes, including agreements relating to the exchange of information between the Authority and the Maryland Environmental Service, the sharing of planning resources, the provision by the Maryland Environmental Service of personnel, consulting services and technical assistance to the Authority, and the acquisition, construction, supervision, operation or maintenance of one or more projects by the Maryland Environmental Service; and

(20) To do all things necessary to carry out its purposes and for the exercise of the powers granted in this subtitle.

(b) Anything in this subtitle to the contrary notwithstanding, the Authority does not have any power to acquire, construct, operate, finance, or otherwise provide any project located outside the boundaries of the participating counties and within the State of Maryland unless:

(1) The project is included in a service region plan adopted and approved pursuant to § 3-106 of this title; and

(2) The project is consistent with any plan which has been adopted by the subdivision in which the project is to be located and which has been approved by the Department of the Environment pursuant to Title 9 of the Environment Article.

§3–906.

All expenses incurred in carrying out the provisions of this subtitle shall be payable solely from funds provided under the authority of this subtitle and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this subtitle.

§3–907.

(a) The Authority is hereby authorized and empowered, by resolution, to issue bonds for the purpose of financing the cost of one or more projects or for any other corporate purpose. Except as may otherwise be expressly provided by the Authority, every issue of its bonds shall be general obligations of the Authority payable from any revenues or moneys of the Authority available therefor and not otherwise pledged, subject only to any agreements with holders of particular bonds

pledging any particular revenues or moneys and to any agreements with any persons or subdivisions. The Authority may issue its bonds without obtaining the consent of any board, agency, department or unit of the State, and without any other proceedings or the happening of any conditions or things other than those specifically required hereunder. The Authority and the Maryland Environmental Service may enter into agreements providing for (i) the financing by the issuance of bonds of the Maryland Environmental Service of projects provided for any subdivision by the Authority or (ii) the financing by the issuance of bonds of the Authority of projects provided for any subdivision by the Maryland Environmental Service.

(b) The Authority shall have absolute discretion to determine with respect to the bonds of any issue:

(1) The date or dates of issue;

(2) The date or dates of maturity and the amount or amounts maturing on such date or dates, provided only that no bond of any issue shall mature later than 40 years from the date of its issue;

(3) The rate or rates of interest payable on such bonds and the date or dates of such payment;

(4) The form or forms, denomination or denominations, manner of execution and the place or places of payment thereof and of the interest thereon, which may be at any bank or trust company within or without this State;

(5) Whether such bonds or any part thereof shall be made redeemable before maturity and, if so, upon what terms, conditions, and prices; and

(6) Any other matter relating to the forms, terms, conditions, issuance, and sale thereof.

§3–908.

(a) In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

(b) Notwithstanding any other provisions of this subtitle or any recitals in any bonds issued hereunder, all such bonds shall be deemed to be negotiable instruments under the laws of this State.

(c) The bonds may be issued in coupon or in registered form or both, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of coupon and registered bonds. Provision may also be made for the replacement of bonds

which become mutilated or are stolen, lost or destroyed.

(d) The bonds shall be exempt from the provisions of §§ 19–205 and 19–206 of the Local Government Article and §§ 8–206 and 8–208 of the State Finance and Procurement Article, and the Authority may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine.

§3–909.

(a) The Authority is hereby authorized to provide for the issuance of its bonds for the purpose of refunding any bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of such bonds, and, if deemed advisable by the Authority, for the additional purpose of paying all or any part of the cost of a project or any portion thereof. Refunding bonds may be issued in the discretion of the Authority for any corporate purpose, including (without limitation) the public purposes of realizing savings in the effective costs of debt service, directly or through a debt restructuring, or alleviating an impending or actual default or relieving the Authority of contractual agreements which, in the opinion of the Authority, have become unreasonably onerous or impracticable or impossible to perform. Refunding bonds (in one or more series) may be issued in an amount in excess of that of the bonds to be refunded. Without limiting the extent or nature of any sources of payment provided by the Authority, refunding bonds may be made payable from escrowed bond proceeds and from interest, income, and profits, if any, on investments. Such sources may be so applied in addition to other lawful uses and shall constitute revenues of a project under this subtitle.

(b) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the Authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date, and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the Authority.

(c) Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations of or guaranteed by the United States of America, or in certificates of deposit or time deposits secured by obligations of or guaranteed by the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the Authority for use by it in any lawful manner.

(d) The portion of the proceeds of any such bonds issued for the additional

purpose of paying all or any part of the cost of a project may be invested and reinvested in obligations of or guaranteed by the United States of America, or in certificates of deposit or time deposits secured by obligations of or guaranteed by the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the Authority in any lawful manner.

§3–910.

The Authority is further authorized and empowered, by resolution:

(a) To issue, prior to the preparation of definitive bonds, interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(b) To issue and sell its bond anticipation notes, the principal of and interest on such notes to be made payable to the bearer or registered holder thereof out of the first proceeds of sale of bonds therein designated and to issue and to sell its revenue anticipation notes or grant anticipation notes, the principal of and interest on such notes to be made payable to the bearer or registered holder thereof out of the first receipts of the revenues or grants (as the case may be) therein designated. The authorizing resolution may make provision for the issuance of such notes in series as funds are required and for the renewal of such notes at maturity with or without resale. The issuance of such notes and the details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the Authority in respect thereto, shall be governed by the provisions of this subtitle relating to bonds, insofar as the same may be applicable.

(c) To issue and sell its revenue bonds in the nature of industrial development bonds, whether the bonds be pollution control revenue bonds, solid waste disposal revenue bonds or other types of industrial development revenue bonds, for the purpose of borrowing money to lend to any person or subdivision for the accomplishment by such person or subdivision of a project or projects. The principal of and interest on such bonds may be made payable to the bearer or registered holder thereof out of:

(1) The revenues received by the Authority from such person or subdivision or otherwise received in connection with such project;

(2) Any property pledged or mortgaged as security for such bonds; or

(3) Any other sources designated by the Authority. The authorizing resolution may make provision for the issuance of such bonds in series as funds are required. The issuance of such bonds and the details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the Authority in respect thereto shall be governed by the provisions of this subtitle relating to the bonds, insofar as the same may be applicable. The Authority, however, in its discretion, may make or approve

such provisions in connection with the issuance of the bonds authorized by this paragraph, including (without limitation) the security for such bonds, the priority of the bonds with regard to such security (which priority may be senior, or subordinated to, or on a parity with, other obligations) as the Authority may deem necessary or appropriate to effectuate the acquisition, construction or provision of a project by any person or subdivision; provided, however, that the Authority shall not have power to take any action in connection with the issuance of bonds pursuant to this paragraph which would create any obligation on the part of any subdivision without the consent of such subdivision to such obligation.

§3–911.

(a) Bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having trust powers, within or without the State. Such trust agreement may pledge or assign all or any part of the revenues of the Authority or of any project, and may mortgage or grant a lien on or security interest in any project or any part thereof. Any such trust agreement or resolution authorizing the issuance of bonds may contain such provisions for the protection and enforcement of the rights and remedies of the bondholders as may be deemed reasonable and proper, including covenants setting forth the duties of the Authority in relation to the acquisition or construction of any project, the extension, enlargement, improvement, maintenance, operation, repair and insurance of any project and the custody, safeguarding and application of moneys and may contain provisions for the employment of consulting engineers and other experts in connection with the construction or operation of any project. It shall be lawful for any bank or trust company incorporated under the laws of this State which may act as depository of the proceeds of the bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, such trust agreement may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders, including (without limitation) covenants to abandon, restrict, or prohibit the construction or operation of competing facilities and covenants pertaining to the issuance of additional parity bonds upon conditions stated therein consistent with the requirements of this subtitle. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of any project or projects in connection with which such bonds shall have been issued.

(b) The proceeds of the sale of bonds shall be paid to the trustee under any trust agreement securing such bonds and shall be disbursed in such manner and under such restrictions, if any, as may be provided in such trust agreement.

§3–912.

(a) The rates, rentals, fees, and charges of the Authority in connection with each project shall be so fixed, revised, and collected as to provide funds, with other funds

available for such purposes, sufficient at all times:

(1) To pay the cost of maintaining, repairing, and operating the project on account of which the Authority shall have issued bonds, including such reserves as the Authority may deem necessary or desirable for such purposes and for replacement and depreciation and necessary extensions;

(2) To pay the principal of and redemption premium (if any) and interest on the bonds as the same shall become due and payable and to create and maintain such reserves as the Authority may deem necessary or desirable for such purposes; and

(3) To fulfill the terms and provisions of any agreements made with the purchasers or holders of any of its bonds or with any person or subdivision.

(b) In cases where the character of the waste from any source is such that it imposes an unreasonable burden upon any project, an additional charge may be made therefor, or the Authority may, if it deems advisable, require that such waste be treated or processed in such manner as shall be specified by the Authority prior to the deposit of such waste at the project. Such rentals and other rates, fees, and charges shall not be subject to supervision or regulation by any department, division, commission, board, bureau, or agency of the State or any political subdivision thereof.

(c) The revenues, or any part thereof (whether derived from the project or projects in connection with which the bonds of any issue shall have been issued or from other projects or sources), designated as security for such bonds by the authorizing resolution or in the trust agreement securing the bonds shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a special fund which is hereby pledged to, and charged with, the payment of:

(1) The interest upon such bonds as such interest falls due;

(2) The principal of such bonds as it falls due;

(3) The necessary charges of paying agents for paying principal and interest; and

(4) The redemption price or purchase price of bonds retired by call or purchase as provided in such resolution or trust agreement.

Any amounts set aside in such special fund which are not needed to provide for the payment of such items (1), (2), (3), and (4) may be used for any other lawful purpose, to the extent provided in such resolution or trust agreement. Such pledge shall be valid and binding from the time when the pledge is made. Such revenues or other moneys so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having any claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof.

Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the Authority, any public general or public local law to the contrary notwithstanding. The use and disposition of moneys to the credit of such special fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement.

(d) Without in any way limiting or restricting the effect or application thereof, the provisions of this subtitle are intended and shall be construed to authorize the Authority to finance any project or projects or any combination of projects by any combination of issues or series of bonds which shall be secured by the pledge of the net or gross (or combination thereof) revenues from any project or projects or combination of projects, designated by a resolution authorizing the issuance of such bonds or by any trust agreement securing such bonds.

(e) Any net earnings of the Authority (beyond that necessary for the retirement of bonds or to implement the public purposes or programs of the Authority) shall not inure to the benefit of any person, other than the State of Maryland for use to accomplish the purposes of this subtitle.

§3–913.

Any holder of bonds or of any of the coupons thereto appertaining and the trustee (except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or by any trust agreement securing, such bonds) may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of this State or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this subtitle or by such resolution or trust agreement to be performed by the Authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, rentals, fees, and charges herein authorized required by the provisions of such resolution or trust agreement to be fixed, charged, and collected.

§3–914.

Bonds are hereby made securities in which all public officers and public bodies of the State of Maryland and its political subdivisions and all banks, trust companies, savings and loan associations, investment companies and others carrying on a banking business, all insurance companies and insurance associations and others carrying on an insurance business, all personal representatives, executors, administrators, guardians, trustees and other fiduciaries, and all other persons may legally and properly invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by a State or municipal officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

§3–915.

The bonds shall not be deemed to constitute a debt, liability or a pledge of the faith and credit of the State of Maryland or of any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds herein provided therefor. All such bonds shall contain on the face thereof a statement to the effect that neither the State of Maryland nor any political subdivision thereof other than the Authority shall be obligated to pay the same or the interest thereon except from revenues pledged thereto and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under the provisions of this subtitle is not directly or indirectly or contingently an obligation, moral or other, of the State of Maryland or any political subdivision thereof to levy or pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing contained in this section shall prevent the Authority from pledging its full faith and credit to the payment of bonds authorized pursuant to this subtitle. However, this section does not limit the ability of the State or a subdivision to set, impose, or collect an assessment, rate, fee, or charge to pay to the Authority the cost of a project, including the principal of and interest on a bond or note, under an agreement between the Authority and the State or subdivision.

Notwithstanding any limitations or other provisions to the contrary of Division II, Title 9, Subtitle 2 or Subtitle 3, Title 10, or Title 11 of the Local Government Article, or of any charter or local law regulating the creation of public debts, a subdivision may enter into contracts with the Authority for the purpose of defraying the Authority's costs of acquiring, constructing, operating, or providing a project, which costs may include debt service requirements of the Authority relating to that project. These contracts are not intended and shall not be deemed to constitute or create a debt of the subdivision or a pledge of its faith or credit within the meaning of any of these limitations or any constitutional or other provisions. Such a project shall not be deemed to be a capital project of the subdivision within the meaning of any of these limitations or other provisions, and a resolution, ordinance, or other official action authorizing such contracts is not subject to referendum or other procedure not applicable to all ordinances or resolutions enacted by the subdivision. For the purposes of this section, the express powers contained and enumerated in Division II and Title 10 of the Local Government Article and in the charter of the City of Baltimore are deemed to incorporate and include the power and authority contained in this section.

§3–916.

The exercise of the powers granted by this subtitle is and will be in all respects for the benefit of the people of the State of Maryland and the participating counties, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and since the activities of the Authority and the operation and maintenance of its projects will constitute the performance of essential governmental functions, the Authority shall be exempt from any payment of or liability for any and all taxes, whether federal, State, or local, now or hereafter

levied or imposed, and any assessments or other governmental charges. The bonds of the Authority, their transfer, the interest payable thereon, and any income derived therefrom, including any profit realized in the sale or exchange thereof, shall at all times be exempt from taxation of every kind and nature whatsoever by the State of Maryland or by any of its political subdivisions, municipal corporations, or public agencies of any kind.

§3–917.

The Authority shall not be required to give any bond as security for costs, supersedeas, or any other security in any suit or action brought by or against it, or in proceedings to which it may be a party, in any court in this State, and the Authority shall have the remedies of appeal of whatever kind to all courts without bonds, supersedeas, or security of any kind. No builder's, materialman's, contractor's, laborer's, or mechanic's liens of any kind or character shall ever attach to or become a lien upon any property, real or personal, belonging to the Authority and no assignment of wages shall be binding upon or recognized by the Authority.

§3–918.

(a) Except as otherwise provided by this subtitle, the Authority is hereby authorized to adopt, formulate, and revise from time to time, and enforce rules and regulations necessary for the regulation of its internal affairs and for the use and operation of its projects, and of any other laws the administration of which is vested in the Authority; provided, however, that no such rule or regulation concerning the use or operation of a project shall be in conflict with any rule or regulation of the Department of the Environment. The Authority may limit or regulate waste disposal service on a temporary basis in any area or to any premises served by Authority projects, as the exigencies of the occasion and the protection of its systems require. The Authority shall make such regulations consistent with law as it may deem necessary for the public safety, health, comfort or convenience, in the construction, operation, maintenance, expansion, relocation, replacement, renovation, and repair of its projects.

(b) Notwithstanding any other provision of law granting to the State or to any of its agencies or instrumentalities an exemption from charges and/or fees, the State or any of its agencies or instrumentalities shall pay to the Authority any contractual obligation, or benefit or connection charges imposed thereon, for services rendered.

§3–919.

(a) Nothing in this subtitle shall be construed to alter, change, modify, or restrict the zoning or land use planning authority of any subdivision, municipality, or public instrumentality.

(b) The Authority shall not be deemed to be a public service company within the meaning of the Public Utilities Article, and the jurisdiction and powers of the Public Service Commission shall not extend to the Authority.

(c) Unless otherwise expressly prohibited by any contractual agreement, a subdivision may enter into a contract with the Maryland Environmental Service relating to the provision by the Maryland Environmental Service of any project.

§3–920.

Prior to the acquisition, construction, leasing or installation of a project or the material extension of an existing project, the Authority shall deliver or mail by certified mail a notice of its intention to undertake such project or extension of a project to the chief executive officer of the county in which such project is or is to be located and to the secretary or clerk of the board of county commissioners or the legislative body of such county (as the case may be). The Authority shall not acquire, construct, lease, or install a project or materially extend any existing project if the board of county commissioners, the city council, or the county council (as the case may be) of the county in which such project is or is to be located advises the Authority, within 120 days following the date of the notice required in this section, that it has found that, after a public hearing which has been advertised in a newspaper of general circulation in the affected county at least 14 days prior to such hearing and after considering the recommendations of the chief executive officer of the county and such other facts as it deemed relevant and material, such acquisition, construction, leasing, installation, or extension would be contrary to the best interests of the residents of such county because it would be contrary to the health, safety and welfare of the citizens of such county by reason of (i) the impact of such project on the environment, or (ii) a conflict of such project with the master plan of the county, or (iii) such other facts concerning such project or effects of such project as such legislative body shall find would have an adverse effect on such health, safety and welfare.

§3–921.

All purchases, including but not limited to contracts and orders for materials, services and supplies performed or furnished in connection with the construction of any project owned by the Authority, shall be awarded in accordance with rules and regulations adopted pursuant to the Administrative Procedure Act, which rules and regulations shall provide, with respect to contracts and orders involving the expenditure of more than $10,000 for award by resolution of the Authority after either competitive bidding or public design competition, and which rules and regulations need not be approved by any other board, agency or department of the State. The Authority's rules and regulations providing for competitive bidding or public design competition may include competitive sealed bidding, competitive negotiation, and revised bids after competitive sealed bidding where all bids are rejected as methods for source selection and contract formation. The State Finance and Procurement Article does not apply to the Authority.

§3–922.

Judicial review of any action under this subtitle shall in all instances include the right to appeal to the Maryland Court of Special Appeals and the Maryland Court of

Appeals; provided, however, that nothing in this subtitle shall be construed or applied so as to permit any court or State or local regulatory authority to impair any obligation of the Authority to fix, charge and collect rates, rentals, fees and charges in amounts sufficient to satisfy any covenant in any resolution authorizing bonds or in any trust agreement securing bonds.

§3–923.

(a) Within the first ninety days of each fiscal year, the Authority shall make a report to the Governor and to the chief executive officer and the legislative body of each participating county of its activities for the preceding fiscal year. Each such report shall set forth the complete operating and financial statement covering its operations during such year.

(b) The Authority shall make provision for a system of financial accounting, controls, audits, and reports. All accounting systems and records, auditing procedures and standards, and financial reporting shall conform to generally accepted principles of governmental accounting. The Authority shall adopt the fiscal year of July 1 to June 30, designate the necessary funds for complete accountability, and specify the basis of accounting for each fund. As soon as practical after the closing of the fiscal year, an audit shall be made of the financial books, records, and accounts of the Authority. The audit shall be made by independent certified public accountants, selected by the Authority and licensed to practice in the State. The accountants may not have a personal interest either directly or indirectly in the fiscal affairs of the Authority. They shall be experienced and qualified in the accounting and auditing of public bodies. The report of audit shall be prepared in accordance with generally accepted auditing principles and point out any irregularities found to exist. The accountants shall report the results of their examination, including their unqualified opinion on the presentation of the financial position of the various funds and the results of the Authority's financial operations. If they are unable to express an unqualified opinion they shall state and explain in detail the reasons for their qualifications, disclaimer, or opinion including recommendations necessary to make possible future unqualified opinions.

(c) The books, records, and accounts of the Authority are subject to audit by the State. Any officer or employee who refuses to give the required assistance and information to the accountants selected by the Authority or by the State, or who refuses to submit to them for examination the books, documents, records, files, accounts, papers, things, or property required for the audit, in the discretion of the Authority, may be required to forfeit his or her office or employment.

§3–924.

The Authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the Authority shall have bonds outstanding, unless adequate provision has been made for the payment thereof. Upon making adequate provision for the payment of all outstanding

bonds of the Authority, the Authority may merge into the Maryland Environmental Service, with the consent of the Maryland Environmental Service and the approval of the Governor, by filing a statement of merger with the Secretary of State and the Department of Legislative Services. Upon termination of the existence of the Authority, all its rights and properties shall pass to and be vested in the State for such distribution as may be provided for in contracts between the Authority and the participating counties and in the statement of merger, if any.

§3–925.

The provisions of this subtitle are severable, and if any of its provisions are held unconstitutional by any court of competent jurisdiction, the decision of the court shall not affect or impair any of the remaining provisions.

§3–926.

When the principal of and interest on bonds of the Authority issued to finance the cost of a particular project or projects for a subdivision or person, (including any refunding bonds issued to refund and refinance such bonds), have been fully paid and retired, or when adequate provision has been made to fully pay and retire the same, and all other conditions of the resolution or trust agreement authorizing and securing the same have been satisfied and the lien of such resolution or trust agreement has been released in accordance with the provisions thereof, the Authority, to the extent required by applicable agreements with any person or subdivision shall promptly do such things and execute such deeds, releases, and documents as are necessary and required:

(1) To convey title to such project or projects to such person or subdivision, free and clear of all liens and encumbrances, all to the extent that title to such project or projects shall not, at the time, then be vested in such person or subdivision; and

(2) To release securities held as collateral by a trustee or trustees pursuant to the trust agreement to such person or subdivision, which had, pursuant to the trust agreement, deposited and turned over such securities to a trustee or trustees in order to assure the full payment and retirement of said bonds, free and clear of all liens and encumbrances, all to the extent that title to such securities shall not, at the time, then be vested in such person or subdivision.

§3–927.

This subtitle shall be deemed to provide an additional and alternative method for the doing of things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

§3–928.

This subtitle, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes hereof.

§3–9A–01.

(a) By resolution or ordinance of its legislative body, any charter county not a party to the Northeast Maryland Waste Disposal Authority provided for in § 3-903 of this title may enter into contracts with any industrial concern for the collection, storage, treatment, utilization, processing or final disposition of solid waste or for the recovery of material or energy therefrom, or any combination thereof.

(b) The contracts:

(1) Shall be only in connection with solid waste disposal facilities financed under this article located within the charter county or another participating county; and

(2) May not be in connection with a landfill.

(c) The contracts may be for a period not to exceed 30 years.

(d) The contracts may provide for minimum amounts of waste to be delivered or processed, and payment based thereon, whether or not the waste is actually delivered or processed, and may contain other terms and conditions as the parties consider appropriate.

(e) Any contract may not be deemed a debt of or gift of the county within the meaning of any provision of law or charter, but shall constitute only the contractual liability provided by its terms.

(f) The county may award or negotiate contracts which it deems to be in its best interest in the manner provided with respect to State competitive sealed proposals under § 13-104 of the State Finance and Procurement Article.

(g) If construction of any waste disposal facility subject to the provisions of subsection (a) of this section is proposed within 1 mile of the border of an adjoining county, the government of the county in which construction is proposed shall provide the government of the adjoining county with a copy of the filings and notice of public hearings required under § 9-209 of the Environment Article.

§3–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Coast Smart" means a construction practice in which preliminary planning, siting, design, construction, operation, maintenance, and repair of a structure avoids or minimizes future impacts associated with coastal flooding and sea level rise.

(2) "Coast Smart" includes design criteria and siting criteria that are applicable throughout the entire life cycle of a project.

(c) "Council" means the Coast Smart Council.

(d) "Design criteria" means standard specifications related to the shape, size, or form of a construction practice.

(e) "Siting criteria" means specifications related to the location or use of a structure.

§3–1002.

(a) There is a Coast Smart Council in the Department.

(b) The Department shall provide staff support for the Council.

§3–1003.

(a) The Coast Smart Council shall include:

(1) The Secretary of Natural Resources, or the Secretary's designee;

(2) The Secretary of Budget and Management, or the Secretary's designee;

(3) The Secretary of the Environment, or the Secretary's designee;

(4) The Secretary of General Services, or the Secretary's designee;

(5) The Secretary of Planning, or the Secretary's designee;

(6) The Secretary of Transportation, or the Secretary's designee;

(7) The Secretary of Business and Economic Development, or the Secretary's designee;

(8) The Chair of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, or the Chair's designee;

(9) The Director of the Maryland Emergency Management Agency, or the Director's designee;

(10) The Chancellor of the University System of Maryland, or the Chancellor's designee; and

(11) Five members appointed by the Governor to represent local government, environmental, and business interests.

(b) The Secretary of Natural Resources or the Secretary's designee shall chair the Council.

(c) (1) Subject to paragraph (2) of this subsection, the term of a member

appointed by the Governor is 2 years.

(2) The Governor shall stagger the terms of the initial appointed members.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the remainder of that term and until a successor is appointed and qualifies.

(5) The Governor may remove an appointed member for incompetence, misconduct, or failure to perform the duties of the position.

(d) A member appointed by the Governor may not receive compensation but is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§3–1004.

(a) The Council shall:

(1) Study and provide analysis regarding standards and factors relevant to the establishment of Coast Smart siting criteria and design criteria;

(2) Develop siting and design criteria to establish and implement Coast Smart practices and requirements;

(3) Develop eligibility criteria, standards, and procedures for applying for and obtaining a waiver from compliance with the Coast Smart requirements; and

(4) Establish procedures for evaluating Coast Smart waiver applications that include the consideration of proposed capital projects with regard to:

(i) The anticipated need to prepare for, respond to, and recover from extreme weather events, sea level rise inundation, coastal flooding, storm surges, and shoreline erosion; and

(ii) The need to prevent danger to life and property and to avoid environmental, socio–economic, and economic harm.

(b) The chair of the Council may establish subcommittees consisting of members of the Council, experts in fields related to climate change and sea level rise, and interested parties to address or study specific issues.

§4–101.

(a) In this title the following words have the meanings indicated.

(b) "Apprenticeship permit" means a permit issued by the Department that

authorizes the permittee to gain practical experience in the presence of a tidal fish licensee regarding commercial fishing activities.

(c) "Authorization" means an authorization under a tidal fish license issued by the Department which entitles a licensee to engage in a particular fishing activity.

(d) "Catch" includes to take, kill, trap, gather, harvest, or in any manner reduce any fish to personal possession.

(e) "Closed season" means the time during which any particular species of fish may not be caught legally and includes any period of time not included within the open season.

(f) "Commercial fishing pier" means a pier open to the public that charges a fee to fish in the tidal waters of the State.

(g) "County" includes Baltimore City unless otherwise indicated.

(h) "Crew member" means a person who assists a tidal fish licensee during commercial fishing activities including operating a boat, handling fishing related gear, or culling fish.

(i) "Department" means Department of Natural Resources.

(j) "Fish" means finfish, crustaceans, mollusks, and amphibians and reptiles which spend the majority of their life cycle in water and any part, egg, offspring, or dead body of any of these species.

(k) "Game and freshwater fish" means fish found in nontidal water, including but not limited to, a pond, lake, or canal, whether publicly or privately owned.

(l) "Hailing system" means a communication system used by licensees to notify the Department of a fishing trip, harvest, or other fishing related information as required by the Department.

(m) "Nontidal water" means water above a point where the tide ebbs and flows.

(n) "Open season" means the time during which fish legally may be caught and includes both the first and last day of the season or period designated in this title.

(o) "Person" includes the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

(p) "Resident" means an individual who:

(1) For more than 6 months of the taxable year maintains a residence in

the State; or

(2) Moves to the State with the intent to be domiciled in the State.

(q) "Secretary" means Secretary of Natural Resources.

(r) "Tidal fish license" means a license issued by the Department which authorizes the licensee to guide fishing parties, catch fish for commercial purposes and buy, sell, process, transport, export or otherwise deal in fish which were caught in the tidal waters of Maryland.

(s) "Tidal water" means water below a point where the tide ebbs and flows.

§4–102.

(a) Any local or general law of the State which sets or regulates minimum and maximum sizes of fish, or regulates or prohibits the sale of fish, applies whether the fish are caught in the waters of the State or in the waters of any other state, county, or territory and brought into the State. Any fine or penalty prescribed for violation of these laws applies to the same extent.

(b) Notwithstanding any general or local laws or ordinances to the contrary, finfish, crabs, oysters, clams, and other shellfish, caught in the waters within the jurisdiction of the Potomac River Fisheries Commission, in compliance with regulations prescribed by the Commission pursuant to the Potomac River Compact of 1958, may be possessed, stored, marketed, and otherwise disposed of elsewhere in the State.

§4–202.

The Secretary is responsible for conservation management of the fish, fisheries, fish resources and aquatic life within the State.

§4–203.

Every right, power, duty, obligation, and function previously conferred upon or exercised by the Department of Game and Inland Fish or the Fish and Wildlife Administration is transferred to and may be exercised by the Department. Every reference to the Department of Game and Inland Fish or the Fish and Wildlife Administration which appears in the Code, in any other State law, or in any ordinance, resolution, rule, regulation, legal action, directive, or document, means the Department.

§4–204.

(a) (1) There is a Tidal Fisheries Advisory Commission in the Department.

(2) The Commission is composed of up to 15 members appointed and

serving in accordance with the procedures adopted under § 1–102(c) of this article.

(3) (i) Up to 14 commercial watermen and one member of the Sport Fisheries Advisory Commission shall comprise the Commission.

(ii) The composition of the Commission shall reflect the geographic regions of the State where the commercial fishing industry is operating.

(4) The term of a member is 2 years.

(5) The terms of members are staggered as required by the terms provided for members of the Commission on July 1, 2010.

(6) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(7) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(b) (1) There is a Sport Fisheries Advisory Commission in the Department.

(2) The Commission shall provide the Department advice on recreational fisheries matters.

(3) (i) The Commission is composed of 16 members appointed and serving in accordance with the provisions of § 1–102(c) of this article, including one member of the Tidal Fisheries Advisory Commission who is not the representative of the Sport Fisheries Advisory Commission serving on the Tidal Fisheries Advisory Commission under subsection (a)(3)(i) of this section.

(ii) The experience and backgrounds of Commission members shall represent the diversified angling interests and waters of the State.

(4) (i) The term of a member is 4 years and a member may be reappointed.

(ii) The terms of members are staggered as required by the terms provided for members of the Commission on July 1, 2010.

(iii) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(iv) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(c) (1) There is an Oyster Advisory Commission in the Department.

(2) The Commission consists of members appointed by the Secretary.

(3) The Commission shall:

(i) Provide the Department with advice on matters related to oysters in the Chesapeake Bay;

(ii) Review the best possible science and recommend changes to the framework and strategies for rebuilding and managing the oyster population in the Chesapeake Bay under the Chesapeake Bay Oyster Management Plan;

(iii) Review the latest findings relevant to the Environmental Impact Statement evaluating oyster restoration alternatives for the Chesapeake Bay;

(iv) Review any other scientific, economic, or cultural information relevant to oysters in the Chesapeake Bay; and

(v) By December 31, 2007 and to the extent reasonably appropriate, report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly on:

1. Strategies to minimize the impact of oyster disease, including the State repletion program and bar cleaning;

2. The framework and effectiveness of the oyster sanctuary, harvest reserve, and repletion programs, and the overall management of natural oyster bars, after performing a cost–benefit analysis that considers biological, ecological, economic, and cultural issues;

3. Strategies to maximize the ecological benefits of natural oyster bars; and

4. Strategies to improve enforcement of closed oyster areas.

§4–205.

(a) The Department may operate, sell, buy, lease, exchange, rent, or repair any vehicle, vessel, boat, net, or other equipment necessary for its work. It may equip a vehicle, vessel, or boat, which it owns or operates, with any required arms, ammunition, or equipment. The Department's authority under this subsection is subject to the provisions of law concerning budget and procurement.

(b) The Department may contract for research or scientific investigation with the Natural Resources Institute of the University of Maryland, the Chesapeake Bay Institute of the Johns Hopkins University, or any other appropriate research organization.

(c) The Department, in accordance with the provisions of this title, may conduct demonstrations of extended duration to improve fisheries and for any other purpose necessary to carry out its duties. The Department also may import fish or any other

organism of any variety for experimental purposes.

(d) The Department shall inspect fish caught or sold in the State and enforce the cull laws and other protective measures. This subsection may not be construed to interfere with any inspections made by the Department of Health and Mental Hygiene.

(e) The Department shall inspect the waters of the State in order to stock them with food fish which in its judgment are most advantageous.

(f) The Department may negotiate any agreement with any other state concerning catching fish, the size of fish, and opening and closing fishing seasons.

(g) The Department may use any funds the federal government makes available, and any gift, for any purpose necessary to rehabilitate the seafood industry, subject to budgetary limitations.

(h) The Department may establish and conduct an extension service for persons engaged in seafood production to apprise them of the Department's objectives and programs, the principles of natural resources conservation and management, current problems affecting seafood production, and any other matter considered significant in development of full potential of the State's seafood resources.

(i) The Department may issue a new commercial fishing license when the license is forfeited.

(j) The Department may define the boundaries of tidal and nontidal waters within the jurisdiction of the State, and promulgate them by rule or regulation.

(k) The Department shall propose a separate fisheries resource management program and shall make recommendations to the General Assembly for legislation for implementation of the program for the following bodies of water and their tributaries:

(1) Assawoman Bay and the Isle of Wight;

(2) Chincoteague Bay;

(3) Sinepuxent Bay;

(4) St. Martin River; and

(5) Atlantic Ocean adjacent to Worcester County.

(l) (1) The Department shall require an applicant for any recreational license under this title to provide the last four digits of the applicant's Social Security number, if the applicant has a Social Security number.

(2) Except as provided in § 4–334 of the General Provisions Article, the partial Social Security number of an applicant may not be disclosed as part of the public

record of the application.

(m) Except for any appropriation made for aquaculture, an appropriation from the General Fund made for fishery management purposes shall be allocated fairly and reasonably between the recreational and commercial fisheries.

§4–205.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Aquatic organism" means an organism that lives part of its life in water.

(3) "Ecosystem" means a system of living organisms and their environment, each influencing the life of the other and necessary for the maintenance of life.

(4) "Introduction into State waters" includes use of an organism as bait in the waters of the State.

(5) "Native" means having historically lived, grown, and reproduced in State waters.

(6) "Naturalized" means documented as having lived, grown, and reproduced in State waters without known harm to the ecosystem.

(7) "Nonnative" means other than native or naturalized.

(8) "Nuisance organism" means a nonnative aquatic organism that will foreseeably alter and threaten to harm the ecosystem or the abundance and diversity of native or naturalized fish and other organisms.

(9) "State of nuisance" means a condition in which a nuisance organism will foreseeably alter and threaten to harm the ecosystem or the abundance and diversity of native or naturalized fish and other organisms.

(b) (1) Except as provided under paragraph (2) of this subsection, the Secretary may adopt regulations to:

(i) Prohibit the importation, possession, or introduction into State waters of a nonnative aquatic organism in order to prevent an adverse impact on an aquatic ecosystem or the productivity of State waters; and

(ii) Manage the sale, transport, purchase, importation, possession, harvest, season, size limits, open area, catch devices, and introduction of nuisance organisms.

(2) The provisions of this section do not apply to:

(i) An aquaculture operation for which the Department has issued a permit under Subtitle 11A of this title;

(ii) The possession, importation, or transport of a nonnative aquatic organism for purposes related to a permitted aquaculture operation; or

(iii) A person that has a valid nursery inspection certificate or plant dealer license issued in accordance with Title 5, Subtitle 3 of the Agriculture Article.

(c) (1) (i) Subject to the requirement under subparagraph (ii) of this paragraph, the Department may enter and inspect a property to determine whether a state of nuisance exists.

(ii) The Department shall give reasonable notice of an intent to enter the property of a landowner, occupant, or tenant or any other person reasonably believed to be in possession of a nuisance organism.

(2) (i) When making a determination regarding the existence, imminence, and gravity of a state of nuisance, the Secretary shall consult appropriate experts and any other available scientific resources.

(ii) The Department shall investigate and determine, to the extent possible, the person who is causing or has caused the state of nuisance.

(3) (i) The Department may seize a nuisance organism that has created or will foreseeably create a state of nuisance.

(ii) The Department may dispose of a seized nuisance organism in any manner deemed appropriate.

(d) (1) If the Secretary finds that a state of nuisance exists but does not present an imminent danger to the healthy balance of an ecosystem, the Secretary shall serve a written notice to the person determined to have caused the state of nuisance and order the person to abate the state of nuisance within a time specified in the notice.

(2) The notice shall be served:

(i) On the person determined to have caused the state of nuisance; or

(ii) If the person determined to have caused the state of nuisance cannot be found, on the owner or occupant of the property:

1. Where the state of nuisance exists; or

2. That must be entered to access or abate the state of nuisance.

(3) If the person served with the notice under paragraph (2)(i) of this subsection fails to comply with the requirements of the notice or if the person complies but the state of nuisance is likely to recur on the same property, the Secretary may file a complaint in the circuit court for the county where the state of nuisance exists.

(4) A complaint filed under paragraph (3) of this subsection may seek a court order requiring the person to:

(i) Comply with the requirements of the Secretary's abatement notice;

(ii) Abate the state of nuisance within a time specified in the order; or

(iii) Prevent the state of nuisance from recurring.

(5) (i) This paragraph applies to a person served with a notice under paragraph (2)(ii) of this subsection.

(ii) 1. If the person voluntarily abates the state of nuisance within the time specified in the notice, the Department shall reimburse all reasonable costs of abatement.

2. If the person consents, the Department may enter the property and, at the Department's expense, do any work and use any materials necessary to abate the state of nuisance.

(iii) If the person does not voluntarily abate the state of nuisance within the time specified in the notice and refuses to allow the Department to enter on the property for the purpose of abating the state of nuisance, the Secretary may file a complaint in the circuit court for the county where the state of nuisance exists.

(iv) A complaint filed under subparagraph (iii) of this paragraph may seek a court order requiring the person to allow the Department to:

1. Enter on the property; and

2. At the expense of the Department, do any work and use any materials necessary to abate the state of nuisance.

(v) If the Department abates a state of nuisance under this paragraph, the Department shall:

1. Make reasonable efforts to repair any property damage caused by abatement activities; or

2. Reimburse the person for repair or replacement costs associated with damages caused by abatement activities.

(e) (1) If the Secretary determines that a state of nuisance exists that presents an imminent danger to the healthy balance of an ecosystem, the Secretary may summarily abate the state of nuisance.

(2) Before summarily abating a state of nuisance under this subsection, the Secretary shall, as appropriate:

(i) If the owner, tenant, or other occupant of the property where the state of nuisance exists is reasonably believed to have caused the state of nuisance, serve an abatement order on the owner, tenant, or other occupant;

(ii) If the property is unoccupied and the owner cannot be found, attach an abatement order to the property where the state of nuisance exists; or

(iii) If a person other than the property owner, occupant, or tenant is reasonably believed to have caused the state of nuisance:

1. Serve an abatement order on that person; and

2. A. Serve a copy of the abatement order on the owner of the property where the state of nuisance exists or, if the owner cannot be found, on the occupant or tenant of the property; or

B. If the property is unoccupied and the owner cannot be found, attach a copy of the abatement order to the property where the state of nuisance exists.

(3) (i) An abatement order under this subsection shall require and state:

1. A time period within which the property owner, occupant, or tenant or any other person determined to have caused the state of nuisance shall abate the state of nuisance; and

2. To the best knowledge of the Department, the work and materials necessary to abate the state of nuisance.

(ii) The time period within which to abate the state of nuisance or to commence abatement, as within the discretion of the Secretary, may not be less than 24 hours from the date and hour that the order is served.

(4) If the property owner, occupant, or tenant or any other person served with an abatement order under this subsection fails to abate or commence abatement of the state of nuisance within the time specified in the order, the Department may:

(i) Enter on the property; and

(ii) At the expense of the property owner, occupant, or tenant or any other person determined to have willfully or negligently caused the state of nuisance,

do any work and use any materials necessary to abate the state of nuisance.

(5) (i) 1. As soon as the total cost of any abatement activities performed by the Department under this subsection has been determined, the Secretary shall provide a full statement of charges to any person determined to have willfully or negligently caused the state of nuisance.

2. If, within 90 days after the receipt of charges the person does not remit payment to the Secretary, the Secretary may file suit against the person in the county where the state of nuisance was abated.

(ii) 1. To the extent possible, the Department shall minimize property damage during abatement activities.

2. If the Department has not determined that the property owner, occupant, or tenant caused the state of nuisance, the Department shall:

A. Make reasonable efforts to repair any property damage caused by abatement activities; or

B. Reimburse the owner, occupant, or tenant for repair or replacement costs associated with damages caused by abatement activities.

(f) All abatement activities shall be performed in accordance with criteria established by the Department.

(g) An owner, occupant, or tenant of a property on which the Department has performed abatement activities may not be held civilly liable for damages claimed by a third party as a result of abatement activities performed by the Department, unless the owner, occupant, or tenant has been determined to have willfully or negligently caused the state of nuisance.

(h) A person may not:

(1) Interfere with the Secretary, a representative of the Secretary, or any other individual engaged in the abatement or summary abatement of a state of nuisance under this section; or

(2) Refuse to allow the Secretary, a representative of the Secretary, or any other individual to enter on any property for the purpose of abating or summarily abating a state of nuisance under this section.

(i) (1) In addition to any other penalty provided under law, a person who violates a provision of this section or a regulation adopted under this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding $2,500 or both for each offense, but not exceeding a total of $25,000 for offenses arising out of the same enforcement action.

(2) Each nuisance organism imported or possessed in violation of this section or a regulation adopted under this section constitutes a separate offense.

§4–206.

(a) The Department shall audit the books of any person who packs or deals in fish resources within the jurisdiction of the Department including anyone who catches and ships directly to market. The Department audit shall be conducted to determine the quantity of resources caught and any other data needed for reporting and accounting to State officials.

(b) Every person engaged in the business of packing or dealing in any fish resource within the Department's jurisdiction shall keep accurate books, statements, and accounts showing every detail of the business. Every book, statement, and account shall be open for the Department to inspect at reasonable hours. Every person engaged in the business of packing or dealing in any fish resource within the Department's jurisdiction shall make any report the Department requires on forms the Department prescribes.

(c) Every person the Department licenses to catch the fish resource shall make any report the Department requires on forms the Department provides.

(d) An officer or employee of any department or unit of the Executive Branch of State government may not divulge or use in any manner information contained in any report submitted pursuant to the provisions of this section that would reveal the income of any person submitting the report. This section does not prohibit the publication of statistics classified to prevent the identification of particular reports and items of them or prohibit inspection of reports and records by any official or employee of the Executive Branch having a proper interest in them.

§4–207.

The State assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950, Public Law 681, Eighty-First Congress, 64 Stat. 658. The Department shall perform every act necessary to conduct and establish cooperative fish restoration projects, as defined in this act of Congress, in compliance with act and rules and regulations the Secretary of the Interior promulgates pursuant to it.

§4–208.

(a) In this section, "Fund" means the State Fisheries Management and Protection Fund.

(b) There is a State Fisheries Management and Protection Fund in the Department.

(c) The purpose of the Fund is to finance the scientific investigation, protection, propagation, and management of nontidal finfish.

(d) The Department shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) Any money received for a fish and fisheries license, stamp, permit, or application fee under this title, unless otherwise provided;

(2) Any investment earnings of the Fund; and

(3) Money appropriated from the General Fund of the State in accordance with subsection (j) of this section.

(g) The Fund may be used only for:

(1) The scientific investigation, protection, propagation, and management of nontidal finfish; and

(2) Administrative costs calculated in accordance with § 1–103(b)(2) of this article.

(h) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

(j) Beginning with fiscal year 2009 and each fiscal year thereafter, the Governor may include in the budget bill an appropriation from the General Fund for the Fund.

§4–209.

(a) In this section, "Fund" means the Fisheries Research and Development Fund.

(b) There is a Fisheries Research and Development Fund in the Department.

(c) The purpose of the Fund is to:

(1) Finance the replenishment of fisheries resources and related research; and

(2) Match federal funds available for research and development of fisheries resources.

(d) The Department shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) Any money received under this title for:

(i) Commercial licenses and permits;

(ii) Service fees, taxes, and royalties paid to the State for oyster shells and clam shells removed from the bottom beneath the tidal waters of the State;

(iii) The sale of seed oysters under § 4–1103 of this title; and

(iv) Any fine or forfeiture collected under § 4–1202 of this title;

(2) Any investment earnings of the Fund;

(3) Money received from any other source; and

(4) Money appropriated from the General Fund of the State in accordance with subsection (j) of this section.

(g) Subject to §§ 4–701(q), 4–1020, 4–1028, and 4–1035 of this title, the Fund may be used for:

(1) Replenishing fisheries resources and related research;

(2) Matching federal funds available for research and development of fisheries resources; and

(3) Administrative costs calculated in accordance with § 1–103(b)(2) of this article.

(h) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund may not be transferred or revert

to the General Fund of the State, but shall remain in the Fund.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

(j) Beginning with fiscal year 2009 and each fiscal year thereafter, the Governor may include in the budget bill an appropriation from the General Fund for the Fund.

(k) The Governor shall include in the budget bill for each fiscal year a General Fund appropriation to the Fisheries Research and Development Fund of not less than $1,794,000.

§4–210.

(a) Except for a person employed to operate a vessel for a master fishing guide under § 4–701(r) of this title or a person permitted to operate a charter boat under § 4–210.2 of this subtitle, any person who desires to accept direct or indirect consideration for providing services as a fishing guide shall obtain a license.

(b) In addition to any license required by this section, a person may not furnish any service as a fishing guide that requires operating a boat or vessel as part of that service without first obtaining appropriate federal licenses to operate a vessel carrying passengers for hire.

(c) A person who is required to be licensed under this section must have all appropriate federal and State licenses in the person's possession whenever performing services as a fishing guide.

(d) A commercial fishing guide shall be required to submit reports monthly on forms provided by the Department.

(e) (1) The Secretary may establish by regulation first aid and safety requirements with which all licensed fishing guides shall comply.

(2) The Department may suspend, revoke, or refuse to issue a license for failure to comply with the terms of the license.

(f) The Department may issue a tidal fish license under § 4–701 of this title and a freshwater fishing guide license under § 4–210.1 of this subtitle.

(g) (1) The Department may issue a limited fishing guide license that is applicable in all waters of the State to allow a license holder to guide:

(i) Anglers in up to 3 boats or vessels that:

1. Have 1 or 2 occupants; and

2. Are propelled by oars or paddles; or

(ii) 1. Except as provided in item 2 of this item, up to 10 anglers fishing from shore or on foot in the water; or

2. Any number of anglers who are participating in an educational or recreational program sponsored by a State, local, or municipal government and who are fishing from shore or on foot in the water.

(2) A person may not accept any consideration for services as a fishing guide licensed under this subsection unless the person and all persons being guided possess, as applicable, an angler's license issued under § 4–604 of this title or a Chesapeake Bay and coastal sport fishing license issued under § 4–745 of this title.

(3) A recreational angler under the guidance of a limited fishing guide in tidal waters may not:

(i) Catch or possess the species of fish known as the striped bass or rockfish in the tidal waters designated in § 4–210.1(f) of this subtitle; and

(ii) From March 1 through May 31, catch or attempt to catch the species of fish known as the striped bass or rockfish in spawning areas and rivers, including all waters north of a line from Abbey Point to Worton Point, including the Sassafras River, Bohemia River, Elk River, Northeast River, Susquehanna River, Susquehanna Flats, and the Chesapeake and Delaware Canal.

(h) (1) The fee for a limited fishing guide license under subsection (g) of this section shall be:

(i) For a resident, $50; and

(ii) For a nonresident, $100.

(2) All fees collected by the Department under this subsection shall be used for monitoring the freshwater fishery.

(3) The Department shall publicly report annually the amounts collected under this subsection.

§4–210.1.

(a) A person providing fishing guide services for compensation to a person fishing in nontidal freshwater or areas of tidal water designated in subsection (f) of this section for game and freshwater fish shall obtain a freshwater fishing guide license.

(b) An applicant for a license shall:

(1) Submit to the Department an application on the form that the Department requires;

(2) Pay to the Department an application fee of:

(i) $20 for residents or $50 for nonresidents to operate in nontidal freshwater; and

(ii) $50 for residents or $100 for nonresidents to operate in nontidal freshwater and the areas of tidal water designated in subsection (f) of this section; and

(3) Possess any necessary fishing licenses and stamps.

(c) Before a freshwater fishing guide license expires, the licensee may renew the license for an additional 1 year term. The licensee may renew a freshwater fishing guide permit if the licensee:

(1) Otherwise is entitled to hold the license;

(2) Submits to the Department a renewal application on the form that the Department requires; and

(3) Submits to the Department the annual license application fee under subsection (b) of this section.

(d) (1) All fees collected by the Department pursuant to this section shall be used for monitoring the freshwater fishery, including the capture and tagging of black bass in order to develop information and methods to sustain a healthy black bass population.

(2) The Department shall publicly report annually the amounts collected and the expenditures under this section.

(e) Beginning January 1, 2000 the Department may issue a freshwater fishing guide license which shall be valid for not more than 1 year and shall expire on December 31 of each year following the date of issuance.

(f) The freshwater fishing guide license is not valid in tidal waters except for the following designated areas:

(1) In the upper Chesapeake Bay upstream of a line from Sandy Point to Turkey Point;

(2) In the Elk River upstream of a line from Turkey Point to the State launching ramp at Pearce Creek;

(3) In the Pond Creek upstream of a line connecting the two unnamed points at the entrance to the creek;

(4) In the Sassafras River upstream of a line from Grove Point to Howell Point;

(5) In the Still Pond Creek upstream of a line from Meeks Point to Rocky Point;

(6) In the Worton Creek upstream of a line from the point at Copeland to Handys Point;

(7) In the Fairlee Creek upstream of a line across the entrance of the creek;

(8) (i) In the Chester River upstream of a line from Spaniard Point to Nichols Point;

(ii) In the Corsica River, a tributary of the Chester River, upstream of a line from Spaniard Point to Holton Point;

(iii) In the Langford Creek, a tributary of the Chester River, upstream of a line from Nichols Point to Grays Inn Point;

(iv) In the Grays Inn Creek, a tributary of the Chester River upstream from Grays Inn Point to Little Gum Point;

(9) In the Choptank River upstream of the Dover Bridge on Route 331;

(10) In the Blackwater River upstream of a line from the lower point of Snake Island to the southernmost point on the opposite shore;

(11) In the Transquaking River upstream of a line from Alabaster Point running magnetic north to the opposite shore;

(12) In the Nanticoke River upstream of a line from Long Point to Runaway Point;

(13) In the Wicomico River upstream of the Whitehaven ferry crossing;

(14) In the Pocomoke River upstream of the landing at Rehobeth;

(15) (i) In the Maryland tributaries of the Potomac River above the Route 301 bridge; and

(ii) In the Wicomico River, a tributary of the Potomac River, upstream of a line from Mills Point in a westerly direction to the northernmost point at the entrance to Dolly Boarmans Creek;

(16) (i) In the Patuxent River upstream of the overhead power lines north of Gods Grace Point;

(ii) In the Swanson Creek, a tributary of the Patuxent River, upstream of a line from Teague Point to Chalk Point;

(17) In the Patapsco River upstream of the Hanover Street crossing parallel

to the Potee Street crossing;

(18) In the Back River upstream of a line from Cuckhold Point to Rocky Point;

(19) In the Middle River upstream of a line from Booby Point to Bowley Bar Point;

(20) In the Seneca Creek upstream of a line from Bowley Bar Point to Lowen Point;

(21) In the Gunpowder River upstream of a line from Weir Point to Rickett Point; and

(22) In the Bush River upstream of a line from Abbey Point to Sandy Point.

(g) (1) A recreational angler under the guidance of a freshwater fishing guide in tidal waters may not:

(i) Possess the species of fish known as striped bass or rockfish; or

(ii) From March 1 through May 31, catch or attempt to catch striped bass in spawning areas and rivers.

(2) For the purposes of item (1)(ii) of this subsection, spawning areas and rivers include everything north of a line from Abbey Point to Worton Point, including the Sassafras River, Bohemia River, Elk River, Northeast River, Susquehanna River, Susquehanna Flats, and the Chesapeake and Delaware Canal.

(h) An applicant for a freshwater fishing license that will be used in tidal waters must demonstrate to the Department that the applicant has obtained the appropriate federal licenses.

(i) The Department shall adopt regulations necessary to implement this section including regulations that:

(1) Prohibit a person from furnishing any service as a fishing guide that requires operating a boat or vessel as part of that service without complying with appropriate federal regulations governing the operation of a vessel carrying passengers for hire;

(2) Limit to 150 the number of freshwater fishing guide licenses that will be issued annually that allow a person to operate in nontidal freshwater and tidal water areas designated in subsection (f) of this section;

(3) Allocate not more than 20% to nonresidents of the 150 freshwater fishing guide licenses that allow a person to operate in nontidal freshwater and tidal areas designated in subsection (f) of this section; and

(4) Establish provisions for maintaining a waiting list for applicants in excess of the maximum number of fishing guide licenses that allow a person to operate in nontidal freshwater and tidal areas designated in subsection (f) of this section.

§4–210.2.

(a) In this section, "permit" means a Maryland Provisional Chesapeake Bay Charter Boat Permit.

(b) The Department shall establish a Maryland Provisional Chesapeake Bay Charter Boat Permit.

(c) The Department may issue a permit if the person:

(1) Is licensed by Virginia to operate a charter boat in its jurisdictional tidal waters; and

(2) Provides the Department with documentation of fishing activity for 2001 and 2002 based upon licensing and reporting requirements of the Virginia Marine Resources Commission.

(d) A permit issued by the Department:

(1) Is valid only for an authorized person operating a vessel for charter fishing trips originating from the tidal waters of Virginia; and

(2) Is nontransferable.

(e) A person in possession of a permit is not required to possess a Maryland commercial fishing guide license under § 4-210 of this subtitle to operate a charter boat in tidal waters of the Chesapeake Bay in Maryland.

(f) A person operating a charter boat under the provisions of this section shall have all appropriate federal and State licenses and the required permit in possession whenever operating a charter boat.

(g) The holder of a permit issued under this section is subject to the penalties under Subtitle 12 of this title.

(h) The Department may adopt regulations necessary to implement this section.

§4–211.

(a) (1) Any person who desires to commercially practice the art of taxidermy or who desires to mount or preserve any species of finfish for a person other than himself first shall obtain a taxidermist and fur-tanning license.

(2) A taxidermist and fur-tanning license also shall permit the holder:

(i) To mount, preserve, or tan any species of wildlife legally acquired; and

(ii) Except as provided in paragraph (3) of this subsection, with the written approval of the Department for each specimen, to sell or dispose of any tanned, cured, or mounted specimen legally acquired but unclaimed by the customer within 30 days after written notice to the customer by certified mail.

(3) A license holder may not sell or dispose of any tanned, cured, or mounted specimen that is not permitted to be fished in the State.

(b) (1) A person desiring a taxidermist and fur-tanning license shall:

(i) Apply on forms the Secretary supplies;

(ii) Pay a $50 annual license fee; and

(iii) Provide recent work samples for examination by the Department.

(2) Upon receipt of the application and license fee, and examination of work samples, the Secretary may issue the license permitting the practice of taxidermy or fur-tanning, as provided in the license, if the work samples meet minimum professional standards, as determined by the Department.

(c) A taxidermist and fur-tanning license:

(1) Shall expire on June 30 following the date of issuance; and

(2) May be renewed by providing information on forms the Secretary supplies and paying the $50 annual license fee.

(d) Each taxidermist or fur-tanner shall keep a ledger on a form provided by the Department indicating the name, address, telephone number, and current angling or fishing license number of each person, from whom finfish were purchased or received within or outside the State, the date of purchase or receipt and the quantity of each species of finfish purchased or received and the date the species was delivered or returned to the customer. The ledger shall indicate the country, state, and county or political subdivision in which the finfish were caught, along with the date the finfish were caught and identify any appropriate official possession tag or bill of sale. The tag or bill of sale shall be attached to the finfish. The licensee must also include in the ledger the same information with regard to any finfish caught by the licensee. The ledger shall cover all transactions from date of issuance of the taxidermist and fur-tanner's license until date of expiration and shall be kept up-to-date. In addition to any other penalty provided by this subtitle, any person failing to maintain or keep up-to-date a ledger required by this subsection or making false entries may have his license revoked for a period not to exceed 5 years.

(e) The licensee shall allow any Natural Resources police officer or any law

enforcement officer to enter at all reasonable hours for the following purposes:

(1) To inspect the premises and holding facilities where operations are being carried on;

(2) To inspect finfish; and

(3) To inspect records.

(f) In addition to any other penalty provided by the provisions of this title, any person convicted of violating any provision of this subtitle shall be fined $5 for each specimen of finfish or any part of them mounted or possessed for mounting.

§4–212.

(a) Notwithstanding any other provision of this title, the Secretary may grant certificates to any properly accredited person of known scientific attainment, permitting him to collect fish, fish eggs, crustaceans, or mollusks for scientific purposes or educational purposes only. To obtain a certificate the applicant shall submit proof of necessity and pay a $25 fee to the Department. The fee shall be deposited to the credit of the State Fisheries Management and Protection Fund. The certificate expires December 31 of the issuing year. On proof that the holder of the certificate has captured or killed any fish, fish eggs, crustaceans, or mollusks for other than scientific or educational purposes, the certificate is void.

(b) The Secretary may adopt regulations governing the issuance, revocation, terms, and conditions of the certificate.

(c) Nothing contained within this subtitle shall preempt, restrict or supersede the authority of the Secretary of Health and Mental Hygiene as provided by law.

§4–213.

(a) In this section, "submerged aquatic vegetation" means a vascular or nonvascular hydrophyte, which is rooted or unrooted, that lies entirely beneath the surface of the water, except for flowering parts in some species.

(b) This section does not apply to activities involved in:

(1) The harvesting of fish, shellfish, or crabs; or

(2) The construction, operation, and maintenance of agricultural drainage channels.

(c) Except as provided in this section, before a person may harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation from any land under the tidal waters of the State below the mean high tide, the person shall submit to the Department for approval a description of:

(1) Why the removal of submerged aquatic vegetation is necessary;

(2) The proposed method of removal;

(3) A plan showing the site at which the activity is proposed; and

(4) The extent of submerged aquatic vegetation to be removed.

(d) (1) (i) To allow ample access to their property from a navigable channel, a person who owns or rents a pier, dock, or ramp on the Chesapeake Bay or its tributaries may harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation in a strip up to 60 feet wide extending from the pier, dock, or ramp to the navigable channel without the approval of the Department.

(ii) A person who owns or rents any marina on the Chesapeake Bay or its tributaries or the agent of the person may harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation in a strip up to 60 feet wide extending from each individual boat slip to the common points of ingress and egress of the navigable channels servicing the marina without the approval of the Department.

(iii) A public utility company or telecommunications carrier may harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation in a strip up to 60 feet wide in order to maintain utility crossings in the waters of the State without the approval of the Department. However, there is no limitation to a 60 foot wide strip for a utility company or telecommunications carrier when:

1. Performing an emergency investigation; or

2. Performing repair work.

(2) Before a person harvests, cuts, or otherwise removes or eradicates submerged aquatic vegetation under this subsection, the person is encouraged:

(i) To contact the Department for information on best harvesting methods; and

(ii) To use best harvesting methods.

(3) (i) This paragraph does not apply to:

1. Any person who has a national pollution discharge elimination system permit; or

2. Any publicly or privately owned sewage treatment plant.

(ii) A person may not use any chemical to harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation under this subsection.

(e) (1) Except as provided in subsection (d) of this section, the Department

may authorize or prohibit the removal or eradication of any species of submerged aquatic vegetation or combination thereof for any purpose, including facilitation of boating access.

(2) If a plan is approved, the Department may prescribe the time, method, and extent of the removal or eradication:

(i) To control the effect of the removal or eradication on water quality; or

(ii) To protect the growth and proliferation of fish and aquatic grasses.

(f) The Secretary may adopt regulations to administer this section. As part of the regulations, the Secretary may authorize specific categories of removal of submerged aquatic vegetation.

(g) (1) Except as otherwise provided in this section, a person may harvest, cut, or otherwise remove or eradicate submerged aquatic vegetation from any land under the tidal waters of the State below mean high tide only in accordance with a plan approved by the Department.

(2) The plan under this subsection shall include the following requirements:

(i) The name, address, and telephone number of the person making the request;

(ii) A written description by the person making the request of the reasons why it is necessary to remove the submerged aquatic vegetation;

(iii) The proposed method to remove the submerged aquatic vegetation; and

(iv) A diagram showing the location and extent of the submerged aquatic vegetation that is proposed to be removed.

(h) The authorization required by this section is in addition to any other permit or license required by law.

§4–214.

(a) By regulation, the Secretary may establish up to 3 free fishing days each calendar year when a person may catch finfish in the tidal and nontidal waters of the State for recreational purposes without an angler's license or Chesapeake Bay and coastal sport fishing license.

(b) By regulation, the Secretary may establish free fishing areas where a person

may catch finfish for recreational purposes in:

(1) Tidal waters of the State without a Chesapeake Bay and coastal sport fishing license, provided the person is registered with the Department under § 4–745 of this title; and

(2) Nontidal waters of the State without an angler's license or a trout stamp.

§4–215.

(a) (1) In this section the following words have the meanings indicated.

(2) "Conservation and management measures" means 1 or more techniques through which the objectives of a fishery management plan are achieved.

(3) "Fishery" or "fishery resource" means:

(i) One or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographic, scientific, technical, recreational, and economic characteristics; or

(ii) The group or industry harvesting those stocks.

(4) "Fishery management" means the system used to conserve and allocate the fishery resource, including research and data collection, determination of objectives and management measures, and establishment, enforcement, and periodic evaluation of regulations.

(5) "Fishery management plan" means a document or report that contains a systematic description of a given fishery and the objectives and conservation and management measures for the fishery.

(b) The Department shall prepare fishery management plans for the following species:

(1) Striped bass or rockfish;

(2) White perch;

(3) Yellow perch;

(4) American shad;

(5) Hickory shad;

(6) Oysters;

(7) Blue crabs;

(8) Bluefish;

(9) Herring;

(10) Weakfish;

(11) Croaker;

(12) Spot;

(13) Summer flounder;

(14) American eel;

(15) Red drum;

(16) Black drum;

(17) Spotted sea trout;

(18) Horseshoe crabs;

(19) Menhaden;

(20) Tautog;

(21) Black sea bass;

(22) Scup;

(23) Hard shell clams; and

(24) Catfish.

(c) The Department may prepare fishery management plans for any species of fish if, after consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, the Department determines that the plans are necessary based on:

(1) The population of the species;

(2) The distribution of the species;

(3) The habitat needs of the species; or

(4) Other biological, ecological, or socioeconomic factors concerning the species.

(d) (1) Conservation and management measures adopted under a fishery

management plan, to the extent possible:

(i) Shall prevent overfishing while attempting to achieve the best and most efficient utilization of the State's fishery resources;

(ii) Shall be based on the best information available;

(iii) May not discriminate unfairly among groups of fishermen or have economic allocation as its sole purpose;

(iv) Shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and

(v) Shall avoid duplication of regulatory efforts and unnecessary costs to the State and to any other person.

(2) If it becomes necessary to allocate or assign fishing privileges among various groups of individuals under paragraph (1)(iii) of this subsection, or under any fishery management plan, that allocation shall be:

(i) Fair and equitable to all individuals;

(ii) Reasonably calculated to promote conservation; and

(iii) Carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(e) (1) Except as provided in paragraph (2) of this subsection, a fishery management plan may apply separately or jointly to the waters of the Chesapeake Bay and its tidal tributaries, the coastal bays and their tributaries, and the Maryland waters of the Atlantic Ocean and shall include:

(i) The best available estimates of sustainable harvest rates;

(ii) Indicators that would trigger any tightening or loosening of harvest restrictions;

(iii) A description of the fishery, including:

1. The history of the fishery, and its current condition relative to historic populations;

2. The numbers of potential commercial and recreational fishermen projected to participate in the fishery;

3. The type and quantity of fishing gear used commercially;

4. Where practicable, the cost likely to be incurred in the management of the fishery; and

5. The actual and potential revenues from the recreational and commercial fishery;

(iv) If the Department determines that a fishery has been, or is currently, overfished:

1. A species–specific time period for:

A. Ending or appropriately addressing overfishing; and

B. Rebuilding the stock of the species to a sustainable level; and

2. A description of:

A. Management strategies that have a high probability of reducing fishing to a target level within a target time period, as determined by the Department; and

B. The appropriate assignment or allocation of fishing privileges in accordance with subsection (d)(2) of this section; and

(v) Other pertinent data that will assist the Secretary in determining conservation and management measures reasonably necessary to ensure that the fishery resources will be sustained.

(2) The Department may waive the requirements in paragraph (1)(iv) of this subsection for a species of fish if the Department determines that meeting the requirements is not practicable or biologically appropriate based on:

(i) The specific biology of the species;

(ii) The management of the species under a federal or multi–state fishery management plan;

(iii) The designation of the species as a nuisance;

(iv) Environmental conditions; or

(v) Other ecological factors.

(f) A fishery management plan may include:

(1) Proposed limitations on the catch of fish, based on area, species, size, number, weight, sex, incidental catch, total biomass, or other factors, which are necessary and appropriate for conservation and management of a fishery;

(2) Incorporation of relevant fishery conservation and management measures proposed or adopted by interstate bodies of which Maryland is a member;

and

(3) Other proposed measures, requirements, or conditions and restrictions which are necessary and appropriate for fishery management.

(g) The Department shall present the management plans under this section in the form of an annual report, subject to § 2–1246 of the State Government Article, to:

(1) The Legislative Policy Committee;

(2) The Education, Health, and Environmental Affairs Committee; and

(3) The Environmental Matters Committee.

(h) (1) (i) The Secretary shall adopt the proposed management plans and any proposed conservation and management measures by regulation.

(ii) The Secretary may adopt conservation and management measures in separate proceedings and by separate regulations. Conservation and management measures adopted separately may include changes to those proposed or adopted in a fishery management plan and any additional measures necessary to carry out the adopted plan.

(iii) The Secretary may not prohibit the use of pound net sites in the coastal bays that are registered with the Department as of January 1, 2000.

(2) The regulations of the Department to implement a fisheries management plan for the coastal bays may not become effective under this section until the Department first holds public hearings in Worcester County.

(3) All notices of public hearings required for the adoption of regulations under this section shall be printed in the Maryland Register and further publicized so as to provide reasonable notice to the affected communities of fishermen and the public.

(i) Notwithstanding any other provision of this title, except § 4–1002 of this title, once a fishery management plan has been adopted by regulation, the State's fishery resources shall be harvested in accordance with the conservation and management measures in the fishery management plan and any regulations implementing or amending that plan.

(j) The provisions of this section do not apply to aquaculture activities in nontidal ponds, lakes, or impoundments in the State.

§4–215.1.

(a) The provisions of this section do not apply if:

(1) The Department of the Environment has determined that it is

necessary to close an area of State waters to finfishing for the protection of the public health and safety;

(2) An abatement or a summary abatement of a state of nuisance is necessary under § 4-205.1 of this subtitle; or

(3) The Department closes an area of State waters:

(i) For the stocking of coldwater trout; or

(ii) In order to provide a security zone adjacent to a production hatchery.

(b) The Department may completely close an area of State waters to all finfishing if the Department:

(1) In a written report made available to the general public:

(i) Makes a finding that the closure is necessary, after due consideration of:

1. The scientific basis for the closure;

2. The purpose of the closure;

3. The rationale for the selection of the specific area to be closed;

4. The sufficiency of the area closed to generate the benefits projected; and

5. The likelihood that the same objective could be effectively accomplished through the use of alternative management measures; and

(ii) Develops protocols and a reporting timeline to monitor and evaluate the effectiveness of the closure; and

(2) Holds at least one public hearing in accordance with the requirements under subsection (d) of this section.

(c) The reporting timeline required under subsection (b)(1)(ii) of this section shall provide for a written report as often as appropriate under the circumstances but at least as often as every 3 years from the date of closure.

(d) (1) For 2 successive weeks in advance of a public hearing required under subsection (b)(2) of this section, the Department shall:

(i) Post a notice of the date, time, place, and purpose of the hearing in a prominent position on the Department's official Internet website; and

(ii) Advertise the date, time, place, and purpose of the hearing in at least:

1. One newspaper of general daily circulation in the State; and

2. One newspaper circulated in the affected region of each county in which waters may be directly affected by the proposed closure.

(2) At least 15 days before the public hearing, the Department shall make available to the general public the report required under subsection (b)(1) of this section.

(e) Following a closure of State waters under this section, in a written report made available to the general public and in accordance with the reporting timeline established under subsection (b)(1)(ii) of this section, the Department shall:

(1) Based on the protocols adopted under subsection (b)(1)(ii) of this section, evaluate the effectiveness of the closure in accomplishing its overall management objectives; and

(2) Determine what, if any, management modifications would be appropriate, including the reopening of the closed area.

§4–215.2.

(a) On or before January 1, 2008, the Department shall adopt regulations that:

(1) Provide a management strategy for yellow perch that enables yellow perch to migrate to historical spawning rivers and streams before spawning; and

(2) Equitably allocate harvests of yellow perch between recreational and commercial harvesters.

(b) The management strategy adopted under subsection (a) of this section shall be based on objectives and management measures that are developed in consultation with stakeholder organizations and the advisory commissions established under § 4–204 of this subtitle.

(c) The Department shall incorporate the objectives and management measures developed under subsection (b) of this section into the fishery management plan for yellow perch established under § 4–215 of this subtitle.

§4–215.3.

(a) The General Assembly finds that robust fishing resources are critical to the economy of the State and vital to a treasured heritage and way of life.

(b) The General Assembly intends that the Department shall manage the

fisheries under § 4–215 of this subtitle to optimize the yield of fishery resources for the benefit of all citizens of the State.

§4–216.

(a) The Department shall establish a resident consolidated senior sport fishing license, to be issued to residents of Maryland beginning in the calendar year in which they attain the age of 65.

(b) The resident consolidated senior sport fishing license may be obtained from the Department or from any authorized agent of the Department. The annual fee for the license is $5. As compensation, an agent shall retain 50 cents for each license issued.

(c) A resident consolidated senior sport fishing license shall be valid for not more than 1 year and shall expire on December 31.

(d) A holder of a resident consolidated senior sport fishing license may:

(1) Engage in angling on the nontidal waters of the State without holding an angler's license under § 4–604 of this title;

(2) Engage in angling for trout on the nontidal waters of the State without holding a trout stamp under § 4–614 of this title; and

(3) Fish for finfish in the Chesapeake Bay and its tributaries or in the State waters of the Atlantic Ocean and the Atlantic coastal bays and their tributaries without holding a Chesapeake Bay and coastal sport fishing license under § 4–745 of this title.

§4–217.

(a) (1) The Department may issue a 1–day license exemption to a nonprofit organization to take individuals with physical or mental disabilities fishing from shore in the tidal or nontidal waters of the State.

(2) The primary caregiver or representative of the organization attending to the disabled individuals is included in the license exemption under this subsection.

(3) Application for a license exemption for an organization attending to disabled individuals shall state the location, time, and day of the event and the number of individuals covered by the exemption.

(b) (1) The Department may issue an annual license exemption to a governmental entity or a nonprofit organization to take individuals with physical or mental disabilities who are serving or have served in the armed forces fishing in the tidal or nontidal waters of the State.

(2) The primary caregiver or representative of the governmental entity or

a nonprofit organization attending to a disabled individual under this subsection is included in the license exemption.

(3) An application for a license exemption for a governmental entity or a nonprofit organization attending to a disabled individual under this subsection shall be made on a form provided by the Department.

(4) A governmental entity or a nonprofit organization with an exemption under this subsection shall submit a report to the Department by January 1 of the year following the exemption period that states:

(i) The locations fished under the exemption;

(ii) The dates the exemption was used; and

(iii) The number of individuals who were covered by the exemption.

(c) The primary caregiver or representative of the governmental entity or nonprofit organization exempted under subsections (a) or (b) of this section shall have in possession the letter of exemption from the Director of the Fisheries Service while the organization is engaged in fishing activity.

(d) An individual covered under a license exemption under subsection (a) or (b) of this section may:

(1) Engage in angling on the nontidal waters of the State without holding an angler's license under § 4–604 of this title;

(2) Engage in angling for trout on the nontidal waters of the State without holding a trout stamp under § 4–614 of this title; and

(3) Fish for finfish in the Chesapeake Bay and its tributaries or in the State waters of the Atlantic Ocean and the Atlantic coastal bays and their tributaries without holding a Chesapeake Bay and coastal sport fishing license under § 4–745 of this title.

(e) An angler's license is not required of the following:

(1) A patient who is under treatment by a State–approved mental health facility and an individual who attends or resides in a State–approved retardation facility; or

(2) A caregiver, family member, or designee of a mental health care facility or private group home of a patient who is under treatment by a State–approved mental health facility, if:

(i) The administrator of the mental health care facility, or treating physician or psychologist provides the Department with a letter stating that the

caregiver or family member is the primary caretaker of the patient; or

(ii) The individual accompanying the patient carries a copy of the letter described under item (i) of this paragraph, or a professional license or certificate of a health care professional involved in the care of the patient.

§4–218.

The Secretary may adopt rules and regulations to restrict, permit, or prohibit the catching, possessing, purchasing, transporting, or exporting of snapping turtles.

§4–219.

The Department shall adopt regulations defining which species may be harvested, imported, transported, sold, or used as bait in the State.

§4–220.

(a) In addition to any other penalty provided by the provisions of this title, the Secretary may revoke or suspend any recreational license issued to any person under this title.

(b) The Secretary may adopt regulations that list the criteria for a suspension of a person's entitlement to engage in an activity or activities that are licensed or permitted under this title.

(c) (1) During a period of suspension imposed by the Department, the person whose entitlement to engage in an activity or activities has been suspended may not engage in an activity for which the suspension was imposed.

(2) The following are grounds for an immediate suspension of a license issued under this title:

(i) Knowingly making a false statement in an application;

(ii) Three convictions for violations occurring on separate days within any 3–year period of provisions under this title;

(iii) Failure to submit a report required under this title or by regulation; or

(iv) Failure of a nonresident of the State to appear in court in accordance with a citation issued by a Natural Resources police officer, or to any other process issued by any court of Maryland, for violation of this title.

(3) A penalty imposed in accordance with this section is in addition to any other penalty authorized under § 4–1201 of this title regarding striped bass.

(4) The Department shall initiate any proceeding to suspend a license

under this section not later than 6 months after the time for filing an appeal of the third conviction under paragraph (2)(ii) of this subsection has passed.

(5) (i) Before the suspension of a license under this section, the Department shall notify the licensee in writing of the licensee's right to a hearing on request.

(ii) If a licensee submits a written request for a hearing to the Department within 30 days after the date that the notice required under this paragraph is mailed, the Department shall:

1. Hold a hearing after providing at least 10 days' notice to the licensee; and

2. Conduct the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(iii) The Department may suspend a recreational license issued under this title without a hearing if:

1. The licensee does not submit a written request for a hearing; or

2. The licensee fails to appear for a scheduled hearing for which the Department provided notice.

§4–221.

(a) The authority provided by this section is in addition to any other authority of the Secretary provided by law.

(b) (1) Subject to paragraph (2) of this subsection, the Secretary, after consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, may adopt regulations to define and govern the use of:

(i) Recreational fishing gear; and

(ii) The following types of commercial fishing gear:

1. Fish pots;

2. Bank traps;

3. Fyke nets; and

4. Hoop nets.

(2) The Department shall consider relevant biological, ecological, and socioeconomic factors before adopting regulations under this subsection.

§4–2A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) "Conserve" means to use all methods and procedures for the purpose of increasing the number of individuals within species or populations up to the optimum carrying capacity of their habitat and maintaining these levels. These methods and procedures include all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, including the periodic or total protection of species or populations as well as regulated taking. With respect to endangered and threatened species, the term means to use all methods and procedures including those described above which are necessary to bring any endangered or threatened species to the point at which the measures provided for these species pursuant to this subtitle are no longer necessary except that regulated taking as a method and procedure shall be limited to the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved.

(c) "Ecosystem" means a system of living organisms and their environment, each influencing the existence of the other and necessary for the maintenance of life.

(d) "Endangered species" means any species whose continued existence as a viable component of the State's fish resources is determined to be in jeopardy including any species of fish determined to be an "endangered species" pursuant to the Endangered Species Act.

(e) "Endangered Species Act" means the Endangered Species Act of 1973, 87 Stat. 884.

(f) "Optimum carrying capacity" means that point at which a given habitat can support healthy populations of fish species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

(g) (1) "Species" includes any subspecies of fish and any other group of fish of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(2) "Species" does not include fish which are bred or raised in authorized aquaculture operations in nontidal ponds, lakes, or impoundments.

(h) "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(i) "Threatened species" means any species of fish which appears likely, within the foreseeable future, to become endangered, including any species of fish determined to be a "threatened species" pursuant to the Endangered Species Act.

§4–2A–02.

The General Assembly finds that: (1) It is the policy of this State to conserve species of fish for human enjoyment, for scientific purposes, and to insure their perpetuation as viable components of their ecosystems; (2) Species of fish normally occurring within the State which may be found to be threatened or endangered within the State should be accorded the protection necessary to maintain and enhance their numbers; (3) The State should assist in the protection of species of fish which are determined to be "threatened" or "endangered" elsewhere pursuant to the Endangered Species Act of 1973, 87 Stat. 884, by prohibiting the taking, possession, transportation, exportation, processing, sale, offer for sale, or shipment within this State of endangered species and by carefully regulating these activities with regard to the threatened species. Exceptions to these prohibitions, for the purpose of enhancing the conservation of these species, may be permitted as set forth in this subtitle.

§4–2A–03.

(a) The Secretary shall conduct investigations of the fish resources of the State in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine conservation measures necessary for their continued ability to sustain themselves successfully. On the basis of these determinations the Secretary shall issue proposed rules and regulations not later than July 1, 1976 and develop conservation programs designed to insure the continued ability of fish deemed in need of conservation to perpetuate themselves successfully. The Secretary shall conduct ongoing investigations of the fish resources of the State and may amend these rules and regulations.

(b) The Secretary, by rules and regulations, shall adopt limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment necessary to conserve fish.

(c) Except as provided in rules and regulations adopted by the Secretary, no person may take, possess, transport, export, process, sell, offer for sale, or ship any fish deemed by the Department to be in need of conservation pursuant to this section, nor may any common or contract carrier knowingly transport or receive for shipment any fish deemed by the Secretary to be in need of conservation pursuant to this section.

§4–2A–04.

(a) Any species of fish determined to be an endangered species pursuant to the Endangered Species Act shall be deemed to be an endangered species under the provisions of this subtitle and any species of fish determined to be a threatened species pursuant to the Endangered Species Act shall be deemed to be a threatened species under the provisions of this subtitle. The Secretary may determine, in accordance with this section, that any threatened species is an endangered species throughout all or any portion of the range of the species within the State.

(b) In addition to the species deemed to be endangered or threatened pursuant to the Endangered Species Act, the Secretary, by rule or regulation, shall determine whether any species of fish normally occurring within the State is an endangered or threatened species due to any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, educational, or other purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence within the State.

(c) The Secretary shall make determinations required by subsection (b) of this section on the basis of the best scientific, commercial, and other data available and after consultation, as appropriate, with federal agencies, other interested State agencies, other states having a common interest in the species, and interested persons and organizations. In determining whether any species of fish is an endangered species or a threatened species, the Secretary shall take into consideration any actions being carried out or about to be carried out by the federal government, other states, other agencies of this State, or political subdivisions, or by any other person, which may affect the species under consideration.

(d) Except with respect to species of fish determined to be endangered or threatened species under the provisions of subsection (a) of this section, the Secretary may not add a species to nor remove a species from any list published unless he first:

(1) Publishes a public notice of the proposed action;

(2) Furnishes notice of the proposed action to the Governor of any state sharing a common border with this State and in which the subject species is known to exist; and

(3) Allows at least 30 days following publication for comment from the public and other interested parties.

(e) Notwithstanding the provisions of subsection (d) of this section, if the Department determines that an emergency situation exists involving the continued existence of the species as a viable component of the State's fish population it may add the species to the lists if it publishes a public notice that an emergency situation exists together with a summary of facts which support this determination.

(f) The Secretary shall adopt rules and regulations containing a list of all

species of fish normally occurring within the State determined to be endangered species and a list of all species determined to be threatened species. Each list shall refer to the species by scientific and common names and shall specify with respect to each species over what portion of its range it is endangered or threatened.

(g) (1) For any species of fish that the Secretary has determined to be endangered or threatened under subsection (b) of this section and on which the Secretary has declared a moratorium on catching, sale, or possession, the Secretary shall make an annual status report on or before December 1 to the General Assembly, as provided in § 2–1246 of the State Government Article, and to the Governor.

(2) The Secretary's report shall contain:

(i) Field studies on spawning stock size;

(ii) Measurement of egg deposition on spawning grounds;

(iii) Measurements of mortality rates of fish eggs, larvae, and juveniles on spawning grounds, nursery areas and spawning rivers;

(iv) Bioassays on eggs and larvae collected from spawning fish;

(v) Measurements of heavy metals, PCBs, acid rain leachates, sediments, and other distresses to the habitat;

(vi) Studies on acid rain;

(vii) Studies on the role of fish diseases;

(viii) Trend analyses and recommendations for future management actions; and

(ix) A recommendation to continue for 1 year or to discontinue the moratorium on the catching, sale, or possession of the fish.

§4–2A–05.

(a) Except with respect to species of fish determined to be endangered or threatened pursuant to the Endangered Species Act, the Secretary, upon the petition of an interested person, shall conduct a review of any listed or unlisted species proposed to be removed from or added to the lists published pursuant to § 4–2A–04(f) of this subtitle, if he makes and publishes a public notice that the person has presented substantial evidence which warrants a review.

(b) When any species of fish is listed as a threatened species pursuant to § 4–2A–04(f) of this subtitle, the Secretary shall adopt regulations necessary and advisable to provide for the conservation of the species. The Secretary, by regulation, shall prohibit with respect to any threatened species of fish any act prohibited under

subsection (c).

(c) Except as provided in subsection (f) of this section, with respect to any endangered species of fish, no person may:

(1) Export the species from the State;

(2) Take the species within the State;

(3) Possess, process, sell, or offer for sale, deliver, carry, transport, or ship the species by any means; or

(4) Violate any regulation pertaining to the conservation of the species or to any threatened species of wildlife listed pursuant to this subsection and adopted by the Secretary pursuant to authority provided by this section.

(d) Except as provided in subsection (f) of this section, with respect to any endangered species of fish, no person may:

(1) Export the species from the State;

(2) Possess, process, sell, offer for sale, deliver, carry, transport, or ship the species by any means; or

(3) Violate any regulation pertaining to the species or to any threatened species of fish listed pursuant to § 4–2A–04(f) of this subtitle and adopted by the Secretary.

(e) If any endangered species of fish which enters the State from another state or from a point outside the territorial limits of the United States and which is being transported to a point within or beyond the State may be so entered and transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(f) (1) Subject to paragraph (2) of this subsection, the Secretary may issue a permit, under the terms and conditions he prescribes, to allow any act otherwise prohibited by subsections (c) and (d) of this section for scientific purposes, to enhance the propagation or survival of the affected species, and on or after January 1, 1990, for aquaculture involving the affected species in nontidal ponds, lakes, or impoundments.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, on or after June 1, 1989, the Secretary may issue a permit to allow the purchase of striped bass or striped bass hybrid from out–of–state sources for possession and raising in aquaculture operations in nontidal ponds, lakes, or impoundments in the State.

§4–2A–05.1.

When the Secretary removes the moratoriums on the taking, possession, sale, and

transporting of striped bass or rockfish, the Secretary:

(1) Shall allow sport fishermen and commercial fishermen to take, possess, sell, and transport striped bass or rockfish; but

(2) May not remove the moratoriums for sport fishermen or commercial fishermen without removing the same moratoriums for the other group of fishermen.

§4–2A–06.

(a) The Secretary shall establish programs, including acquisition of land or aquatic habitat or interests therein, necessary for the conservation of threatened or endangered species of fish. The Secretary shall use all vested authority to carry out the provisions of this subsection.

(b) In carrying out programs authorized by this section, the Secretary shall consult with other states having a common interest in particular species of endangered or threatened species of fish and may enter into agreements with federal agencies, other states, political subdivisions of this State, or with individuals with respect to programs designed to conserve endangered or threatened species of fish including agreements for administration and management of any that are established under this section or utilized for conservation of endangered or threatened species of fish.

(c) The Governor shall review other programs administered by him and utilize these programs in furtherance of the purposes of this subtitle. All State departments and agencies, in consultation with and with the assistance of the Secretary, shall utilize their authorities in furtherance of the purposes of this subtitle by carrying out programs for the conservation of endangered species and threatened species listed pursuant to § 4–2A–04(f) of this subtitle and by taking any action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of the endangered species or threatened species or result in the destruction or modification of habitat of the species which is deemed by the Secretary to be critical.

(d) The Secretary shall adopt rules and regulations necessary to implement this section.

§4–2A–07.

(a) Any person who violates the provisions of § 4–2A–05 of this subtitle, or fails to procure any permit required by § 4–2A–05 of this subtitle, or who violates the terms of any permit shall be fined not more than $1,000 or be imprisoned not more than one year, or both.

(b) Any Natural Resources police officer or any law enforcement officer may conduct searches as provided by law, and execute a warrant to search for and seize any equipment, business records, merchandise, fish taken, used or possessed in connection with a violation of any subsection. Any Natural Resources police officer or law enforcement officer, without a warrant, may arrest any person who the officer has

probable cause to believe is violating, in his presence or view, this subtitle, any rule or regulation, or permit provided for by this subtitle. Any Natural Resources police officer or law enforcement officer who has made an arrest of a person in connection with any violation may search the person, premises, or business records at the time of arrest and may seize any fish, records, or property taken, or used in connection with any violation.

(c) Equipment, merchandise, fish or records seized under the provisions of subsection (b) of this section shall be held by any Natural Resources police officer or law enforcement officer pending disposition of court proceedings, and thereafter shall be forfeited to the State for destruction or disposition as the Secretary may deem appropriate. Prior to forfeiture the Secretary may direct the transfer of fish so seized to a qualified zoological, educational, or scientific institution for safekeeping, costs to be assessable to the defendant. The Secretary may issue rules and regulations to implement this section.

§4–2A–08.

(a) Except as provided in subsection (b) of this section, the provisions of this subtitle do not prohibit:

(1) Importation into the State of fish which may be lawfully imported into the United States or lawfully taken and removed from another state;

(2) Entry into this State or the possession, transportation, exportation, processing, sale, offer for sale, or shipment of any fish which is designated an endangered or threatened species in this State but not in the state where originally taken, if the person engaging in the activity demonstrates by substantial evidence that the fish was lawfully taken and lawfully removed from the state of origin; or

(3) Entry into this State or the possession, transportation, exportation, processing, sale, offer for sale, or shipment of fish which are lawfully purchased for, or which are products of, authorized aquaculture operations in nontidal ponds, lakes, or impoundments, provided the fish are identified as such in accordance with regulations adopted under § 4-11A-02 of this title.

(b) (1) (i) This paragraph does not apply to striped bass or rockfish, including hybrids, which are lawfully purchased for, or which are products of authorized aquaculture operations in nontidal ponds, lakes, or impoundments, provided the fish are identified as such in accordance with regulations adopted under § 4-11A-02 of this title.

(ii) If the species of fish known as striped bass or rockfish, including hybrids thereof, is listed as threatened or endangered pursuant to the provisions of this subtitle, all prohibitions of this subtitle shall apply to any striped bass or hybrid located within the State whether or not the fish may have been taken lawfully in another state, except as authorized in this subsection.

(2) A person may possess striped bass or hybrids from another state while transporting them through this State for sale in another state if the person can demonstrate by substantial evidence that the fish were lawfully taken and removed from the state of origin.

(3) A person who possesses a valid license to deal in finfish under § 4-702 of this title may possess, store, and process striped bass or hybrids of striped bass lawfully taken in another state or in waters within the jurisdiction of the Potomac River Fisheries Commission, in conjunction with transporting them through this State for sale in another state.

(c) This section does not permit the possession, transportation, exportation, processing, sale, offer for sale or shipment within this State of species of fish determined, pursuant to the Endangered Species Act, to be an endangered or threatened species except as permitted by § 4-2A-05 of this subtitle.

§4–2A–08.1.

The Department shall adopt regulations allowing the catching of hybrids of striped bass under certain conditions in freshwater impoundments in the State as long as, during the time any moratorium on the taking and sale of striped bass is in effect under the Endangered Species of Fish Conservation Act, the regulations also prohibit the sale in the State for any purpose of the hybrids of striped bass that are caught under the authority of the regulations.

§4–2A–09.

The subtitle may be cited as the Endangered Species of Fish Conservation Act.

§4–301. IN EFFECT

The Governor is hereby authorized and directed to execute a compact on behalf of the State of Maryland with any one or more of the states of Maine, New Hampshire, Connecticut, Rhode Island, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, Georgia, Massachusetts and Florida and with such other states as may enter into the compact, legally joining in the form substantially as follows:

Atlantic States Marine Fisheries Compact

The contracting states solemnly agree:

Article I

The purpose of this compact is to promote the better utilization of the fisheries, marine, shell and anadromous, of the Atlantic seaboard by the development of a joint program for the promotion and protection of the fishing industry, and by the prevention of the physical waste of the fisheries from any cause.

Article II

This agreement shall become effective as to those states ratifying it whenever any two of the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida have ratified it and Congress has given its consent. Any state contiguous with any of the aforementioned states and riparian upon waters frequented by anadromous fish, flowing into waters under the jurisdiction of any of the aforementioned states, may become a party hereto as hereinafter provided.

Article III

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Atlantic States Marine Fisheries Commission. One shall be the executive officer of the administrative agency of such state charged with the conservation of the fisheries resources to which this compact pertains, or, if there be more than one officer or agency, the official of that state named by the governor thereof. The second shall be a member of the legislature of such state designated by the Commission or committee on interstate cooperation of such state, or if there be none, by the governor thereof. The third shall be a citizen who shall have a knowledge of and interest in the marine fisheries problem to be appointed by the governor. This Commission shall be a body corporate with the powers and duties set forth herein.

Article IV

The duty of the said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous, of the Atlantic seaboard. The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the aforementioned states.

To that end the Commission shall draft and, after consultation with the advisory committee, recommend to the governors and legislatures of the various signatory states legislation dealing with the conservation of the marine and anadromous fisheries of the Atlantic seaboard. The Commission shall, more than one month prior to any regular meeting of the legislature in any signatory state, present to the governor of the state its recommendations relating to enactments to be made by the legislature of that state in furthering the intents and purposes of this compact.

The Commission shall consult with and advise the pertinent administrative agencies in the states parties hereto with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable.

The Commission shall have power to recommend to the states party hereto the stocking of the waters of such states with fish and fish eggs or joint stocking by some or all of the states party hereto and when two or more of the states shall jointly stock

waters the Commission shall act as the coordinating agency for such stocking.

Article V

The Commission shall elect from its number a chairman and a vice–chairman and shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. Said Commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place but must meet at least once a year.

Article VI

No action shall be taken by the Commission in regard to its general affairs except by the affirmative vote of a majority of the whole number of compacting states present at any meeting. No recommendation shall be made by the Commission in regard to any species of fish except by the affirmative vote of a majority of the compacting states which have an interest in that species. The Commission shall define what shall be an interest.

Article VII

The Fish and Wild Life Service of the Department of the Interior of the government of the United States shall act as the primary research agency of the Atlantic States Marine Fisheries Commission cooperating with the research agencies in each state for that purpose. Representatives of the said Fish and Wild Life Service shall attend the meetings of the Commission.

An advisory committee to be representative of the commercial fishermen and the salt water anglers and the other such interests of each state as the Commission deems advisable shall be established by the Commission as soon as practicable for the purpose of advising the Commission upon such recommendations as it may desire to make.

Article VIII

When any state other than those named specifically in Article II of this compact shall become a party thereto for the purpose of conserving anadromous fish in accordance with the provisions of Article II, the participation of such state in the action of the Commission shall be limited to species of anadromous fish.

Article IX

Nothing in this compact shall be construed to limit the powers of any signatory state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory state imposing additional conditions and restrictions to conserve its fisheries.

Article X

Continued absence of representation or of any representative in the Commission from any state party hereto shall be brought to the attention of the governor thereof.

Article XI

The states party hereto agree to appropriate to the support of the Commission in proportion to the primary market value of the products of their fisheries, exclusive of cod and haddock, as recorded in the most recent published reports of the Fish and Wild Life Service of the United States Department of the Interior, provided no state shall contribute less than two hundred dollars and the contribution of each state above the minimum shall be figured to the nearest one hundred dollars.

The compacting states agree to appropriate initially the amounts scheduled below, which amounts are calculated in the manner set forth herein, on the basis of the catch record of 1938. Subsequent budgets shall be recommended by majority of the Commission and submitted to the compacting states.

Schedule of initial state contributions:

Maine	$ 700
New Hampshire	200
Massachusetts	2300
Rhode Island	300
Connecticut	400
New York	1300
New Jersey	800
Delaware	200
Maryland	700
Virginia	1300
North Carolina	600
South Carolina	200
Georgia	200
Florida	1500

Article XII

This compact shall continue in force and remain binding upon each ratifying state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other states party hereto.

4–301. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 123 OF 1978 **

The Governor is hereby authorized and directed to execute a compact on behalf of the State of Maryland with any one or more of the states of Maine, New Hampshire, Connecticut, Rhode Island, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, Georgia, Massachusetts and Florida and with such other states as may enter into the compact, legally joining in the form substantially as follows:

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Article IV

The duty of the said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous, of the Atlantic seaboard. The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries

resources of the aforementioned states.

To that end the Commission shall draft and, after consultation with the advisory committee, recommend to the governors and legislatures of the various signatory states legislation dealing with the conservation of the marine and anadromous fisheries of the Atlantic seaboard. The Commission shall, more than one month prior to any regular meeting of the legislature in any signatory state, present to the governor of the state its recommendations relating to enactments to be made by the legislature of that state in furthering the intents and purposes of this compact.

The Commission shall consult with and advise the pertinent administrative agencies in the states parties hereto with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable.

The Commission shall have power to recommend to the states party hereto the stocking of the waters of such states with fish and fish eggs or joint stocking by some or all of the states party hereto and when two or more of the states shall jointly stock waters the Commission shall act as the coordinating agency for such stocking.

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The compacting states agree to appropriate initially the amounts scheduled below, which amounts are calculated in the manner set forth herein, on the basis of the catch record of 1938. Subsequent budgets shall be recommended by majority of the Commission and submitted to the compacting states.

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Rhode Island	300
Connecticut	400
New York	1300
New Jersey	800
Delaware	200

Maryland 700

Virginia 1300

North Carolina 600

South Carolina 200

Georgia 200

Florida 1500

Article XII

This compact shall continue in force and remain binding upon each ratifying state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other states party hereto.

Amendment I

The states consenting to this amendment agree that any two or more of them may designate the Atlantic States Marine Fisheries Commission as a joint regulatory agency with such powers as they may jointly confer from time to time for the regulation of the fishing operations of the citizens and vessels of such designating states with respect to specific fisheries in which such states have a common interest. The representatives of such states on the Atlantic States Marine Fisheries Commission shall constitute a separate section of such commission for the exercise of the additional powers so granted provided that the states so acting shall appropriate additional funds for this purpose. The creation of such section as a joint regulatory agency shall not deprive the states participating therein of any of their privileges or powers or responsibilities in the Atlantic States Marine Fisheries Commission under the general compact (consented to by Public Law 721, 81st Congress, 2nd Session, approved August 19, 1950).

§4–302.

(a) Pursuant to Article III of the Atlantic States Marine Fisheries Compact, 3 commissioners of the Atlantic States Marine Fisheries Commission shall be from the State. One commissioner shall be the Secretary whose term of office shall be concurrent with his tenure as Secretary. One commissioner shall be a legislator who is chosen jointly by the President and Speaker. The third commissioner shall be appointed by the Governor with the advice and consent of the Senate. The third commissioner shall be a resident of the State having knowledge of and interest in marine fisheries problems. His tenure shall be three years or until a successor is appointed and qualified.

(b) The Secretary may delegate to any subordinate in his Department the power to be present and participate, including voting as his representative at any meeting of the Commission.

(c) Upon charges, the Governor may remove from office any commissioner, after the commissioner is afforded a hearing.

§4–303.

(a) The Commission and the commissioners have every power provided for in the Compact and necessary or incidental to carrying out the Compact. It is the policy of the State to carry out the provisions of the Compact to accomplish its purposes. Every State officer shall perform everything within his authority necessary or incidental to effectuate this policy. Every officer, unit, and persons in State government shall furnish the Commission with information and data upon request and aid it by loaning personnel or by other means within their authority.

(b) Any power granted to the Commission is intended to aid and supplement and not limit any power vested in it by other laws of the State, the laws of the member states, by Congress, or the terms of the Compact.

§4–304.

(a) The Commission shall keep an accurate account of all of its receipts and reimbursements. It shall report annually to the Governor by January 10 setting forth in detail every Commission transaction which was conducted during the preceding year, and make any recommendation for legislative action deemed advisable, including amendments to the laws of the State which may be necessary to carry out the intent and purposes of the Compact among the signatory states.

(b) The State Comptroller may examine the Commission's accounts and books, including its receipts, disbursements, and any other items concerning its financial standing as the Comptroller deems proper. The Comptroller shall report the results of his examination to the Governor.

§4–305.

Pursuant to Article XI of the Atlantic States Marine Fisheries Compact, funds shall be appropriated from the State Treasury for expenses of the Commission. The appropriation shall be paid out of the State Treasury on the audit and warrant of the Comptroller upon vouchers certified by the chairman of the Commission in the manner prescribed by law.

§4–306. IN EFFECT

Preamble

Whereas, Maryland and Virginia are both vitally interested in conserving and improving the valuable fishery resources of the tidewater portion of the Potomac River, and

Whereas, certain provisions of the Compact of 1785 between Maryland and

Virginia having become obsolete, Maryland and Virginia each recognizing that Maryland is the owner of the Potomac River bed and waters to the low watermark of the southern shore thereof; as laid out on the Matthews–Nelson Survey of 1927, and that Virginia is the owner of the Potomac River bed and waters southerly from said low watermark as laid out, and that the citizens of Virginia have certain riparian rights along the southern shore of the river, as shown on said Matthews–Nelson Survey, and, in common with the citizens of Maryland, the right of fishing in said river, Maryland and Virginia have agreed that the necessary conservation and improvement of the tidewater portion of the Potomac fishery resources can be best achieved by a commission comprised of representatives of both Maryland and Virginia, charged with the establishment and maintenance of a program to conserve and improve these resources, and

Whereas, at a meeting of the commissioners appointed by the Governors of the State of Maryland and the Commonwealth of Virginia, to wit: Carlyle Barton, M. William Adelson, Stephen R. Collins, Edward S. Delaplaine and William J. McWilliams, Esquires, on the part of the State of Maryland, and Mills E. Godwin, Jr., Howard H. Adams, Robert Y. Button, John Warren Cooke and Edward E. Lane, Esquires, on the part of the Commonwealth of Virginia, at Mount Vernon, in Virginia, on the twentieth day of December, in the year one thousand nine hundred and fifty–eight, the following Potomac River Compact of 1958 between the Commonwealth of Virginia, and the State of Maryland was mutually agreed to by the said commissioners:

Now, therefore, be it resolved by the commissioners appointed by the Governors of the State of Maryland and the Commonwealth of Virginia, meeting in joint session, that they do unanimously recommend to the said respective governors that there be a new compact, to be designated as the "Potomac River Compact of 1958", and that the said new compact be referred as promptly as possible to the legislatures of the State of Maryland and the Commonwealth of Virginia for appropriate action, and to the end that after ratification and adoption by said legislatures the same be submitted to the Congress of the United States for approval.

Article I.

Commission — Membership and Organization

Section 1. The Potomac River Fisheries Commission, hereinafter designated as "commission", is hereby created.

Section 2. The commission shall consist of eight members, four from Maryland and four from Virginia. The Maryland members shall be the Secretary of the Department of Natural Resources of Maryland or its successor agency, or the Secretary's designee, and three members at large to be appointed by the Governor of Maryland with the advice and consent of the Senate of Maryland. The Virginia members shall be three members of the Virginia Marine Resources Commission or its successor agency, and one member at large, to be appointed by the Governor of Virginia. If the membership of the Virginia Marine Fisheries Commission exceeds three, then the three commission members from Virginia Marine Fisheries Commission shall be selected by the Governor

of Virginia; and if the membership of the Virginia Marine Resources Commission is less than three, the four commission members from Virginia shall be the member or members of the Virginia Marine Fisheries Commission, and such additional person or persons who shall be appointed by the Governor as may be necessary to constitute a total of four commissioners.

Section 3. The term of commissioners who are members of the Virginia Marine Resources Commission shall be coterminous with their term on the Virginia Marine Resources Commission. The Secretary of the Department of Natural Resources of Maryland or the Secretary's designee shall serve ex officio. The term of all other commissioners shall be four years. Vacancies on the commission shall be filled by appointment of the governor of the state entitled to fill the vacancy, except that if the Virginia Marine Resources Commission has three members, the person filling a vacancy on the Virginia Marine Resources Commission shall ex officio become a member of the commission.

Section 4. The chairman of the commission shall alternate from year to year between representatives of Maryland and Virginia. Subject to such alternation, the chairman shall be elected by the commissioners for a term of one year.

Section 5. Commissioners shall be entitled to receive from the general fund of the commission compensation of twenty–five dollars ($25.00) for each day or portion thereof spent in the performance of their duties, and reimbursement for reasonable expenses incident to the performance of their duties.

Section 6. Commission meetings shall be held at least once each quarter, and at such other times as the commission may determine. In order to constitute a quorum for the transaction of any business at least two of the four members from each state must be present and must vote on the business being transacted.

Section 7. The commission shall establish and maintain an office at such locations as it may select, and may employ an executive secretary who shall serve at the pleasure of the commission, and such other administrative, clerical, scientific, and legal personnel as it deems necessary. The powers, duties and compensation of all employees shall be as prescribed by the commission, and the employees shall not be subject to the provisions of Division I of the State Personnel and Pensions Article of the Annotated Code of Maryland that govern the Maryland State Personnel Management System nor to the provisions of the Virginia Personnel Act, as the same may be from time to time in effect. The commission may extend to any employee or employees membership in the Virginia Supplemental Retirement System or the Maryland Employees' Retirement System, whichever is applicable, subject to the laws relating to each such retirement system. Employees of the commission shall also be eligible for the health and related insurance for State employees in § 2.1–20.1 of the Code of Virginia or Title 2, Subtitle 5 of the State Personnel and Pensions Article of the Annotated Code of Maryland, whichever is applicable.

Article II.

Jurisdictional Boundaries

The territory in which the Potomac River Fisheries Commission shall have jurisdiction shall be those waters of the Potomac River enclosed within the following described area:

Beginning at the intersection of mean low watermark at Point Lookout and an established line running from Smith's Point to Point Lookout, marking Chesapeake Bay waters; thence following the mean low waterline of the shore northwesterly across the respective mouths of all creeks to Gray Point at the westerly entrance into Rowley Bay; thence in a straight line northwesterly to the southerly extremity of Kitts Point; thence along the mean low waterline to the southwesterly point of St. Inigoes Neck; thence in a straight line westerly to the most easterly point of St. Georges Island; thence following the mean low waterline in a general northwesterly direction, across the respective mouths of all creeks and inlets to the southwesterly point of Huggins Point; thence in a straight line southwesterly to the eastern extremity of the sandbar known as Heron Island; thence northwesterly following the ridge of Heron Island bar to its westerly extremity; thence southwesterly in a straight line to the most southerly point of Blackiston Island; thence in a straight line northwesterly to the southern extremity of Colton's Point; thence following the mean low waterline, westerly, excluding all creeks and inlets, to the point marking the southeasterly entrance into St. Catherine Sound; thence westerly in a straight line to the southern extremity of St. Catherine Island sandbar; thence northwesterly, along the westerly edge of said sandbar continuing along the mean low waterline of the southwesterly side of St. Catherine Island to the northwesterly point of said island; thence westerly in a straight line to Cobb Point Bar Lighthouse; thence northwesterly along the ridge of Cobb Point sandbar to the southerly extremity of Cobb Point; thence following the mean low waterline in general northwesterly and northerly directions across the respective mouths of all creeks and inlets to a point at the easterly entrance into Port Tobacco River, due east of Windmill Point; thence in a straight line westerly to Windmill Point; thence southwesterly following the mean low waterline across the respective mouths of all creeks and inlets to Upper Cedar Point; thence southwesterly in a straight line across the mouth of Nanjemoy Creek to a point on shore at the Village of Riverside; thence following the mean low waterline, southwesterly, northwesterly and northerly, across the respective mouths of all creeks and inlets to Smith Point; thence northerly in a straight line to Liverpool Point; thence northerly in a straight line to Sandy Point; thence following the mean low waterline northerly, across the respective mouths of all creeks and inlets to Moss Point; thence northerly in a straight line across Chicamuxen Creek to the southernmost point of Stump Neck; thence following the mean low waterline northeasterly, across the respective mouths of all creeks and inlets, to a point at the southerly entrance into Mattawoman Creek; thence in a straight line northeasterly across the mouth of Mattawoman Creek to the southwesterly point of Cornwallis Neck; thence following the mean low waterline northeasterly across the respective mouths of all creeks and inlets, to Chapman Point; thence in a straight line northeasterly to Pomonkey or Hollis Point; thence following the mean low waterline in a northerly direction across the respective mouths of all creeks and inlets, to a point on Marshall Hall Shore, due south of Ferry Point; thence northeasterly in a straight line to Bryan Point; thence northeasterly in a straight line

to the northwest extremity of Mockley Point; thence northeasterly in a straight line to Hatton Point; thence northerly in a straight line to the southwesternmost point of Indian Queen Bluff; thence following the mean low waterline northerly across the respective mouths of all creeks and inlets, to Rosier Bluff Point; thence in a straight line northerly to the intersection with the District of Columbia line at Fox Ferry Point, thence following the boundary line of the District of Columbia southwesterly to a point on the lower or southern shore of the Potomac River, said point being the intersection of the boundary line of the Commonwealth of Virginia with the boundary line of the District of Columbia; thence following the mean low waterline of the Potomac River on the southern, or Virginia shore, as defined in the Black–Jenkins Award of 1877 and as laid out in the Matthews–Nelson Survey of 1927, beginning at the intersection of the Potomac River and the District of Columbia line at Jones Point and running to Smiths Point; and thence in a straight line across the mouth of the Potomac River on the established line from Smiths Point to Point Lookout, to the mean low watermark at Point Lookout, the place of beginning.

Article III.
Commission Powers and Duties

Section 1. The commission shall make a survey of the oyster bars within its jurisdiction and may reseed and replant said oyster bars as may from time to time be necessary.

Section 2. The commission may by regulation prescribe the type, size and description of all species of finfish, crabs, oysters, clams and other shellfish which may be taken or caught within its jurisdiction, the places where they may be taken or caught, and the manner of taking or catching.

Section 3. The commission shall maintain a program of research relating to the conservation and repletion of the fishery resources within its jurisdiction, and to that end may cooperate and contract with scientists and public and private scientific agencies engaged in similar work, and may purchase, construct, lease, borrow or otherwise acquire by any lawful method such property, structures, facilities, or equipment as it deems necessary.

Section 4. (a) The commission shall issue such licenses as it may prescribe which shall thereupon be required for the taking of finfish, crabs, oysters, clams, or other shellfish from the waters within the jurisdiction of the commission, and for boats, vessels and equipment used for such taking. Recognizing that the right of fishing in the territory over which the commission shall have jurisdiction is and shall be common to and equally enjoyed by the citizens of Virginia and Maryland, the commission shall make no distinction between the citizens of Virginia or Maryland in any rule, regulation or the granting of any licenses, privileges, or rights under this compact.

(b) Licenses for the taking of oysters and clams and the commercial taking of finfish and crabs within the jurisdiction of the commission shall be granted only to citizens of Maryland or Virginia who have resided in either or both states for at least twelve months immediately preceding the application for the license. Within

six months after the effective date of this compact, the commission shall adopt a schedule of licenses, the privileges granted thereby, and the fees therefor, which may be modified from time to time in the discretion of the commission.

(c) The licenses hereby authorized may be issued at such places, by such persons, and in accordance with such procedures as the commission may determine.

Section 5. The commission is authorized to expend funds for the purposes of general administration, repletion of the fish and shellfish in the Potomac River, and the conservation and research programs authorized under this compact, subject to the limitations provided in this compact.

Section 6. The commission is authorized to receive and accept (or to refuse) from any and all public and private sources such grants, contributions, appropriations, donations, and gifts as may be given to it, which shall be paid into and become part of the general fund of the commission, except where the donor instructs that it shall be used for a specific project, study, purpose, or program, in which event it shall be placed in a special account, which shall be administered under the same procedure as that prescribed for the general fund.

Section 7. The commission may call upon the resources and assistance of the Virginia Institute of Marine Science, the University System of Maryland, and all other agencies, institutions, and departments of Maryland and Virginia which shall cooperate fully with the commission upon such request.

Section 8. The commission shall have the power to make, adopt and publish such rules and regulations as may be necessary or desirable for the conduct of its meetings, such hearings as it may from time to time hold, and for the administration of its affairs.

Section 9. The commission may impose an inspection tax, in an amount as fixed from time to time by the commission, upon all oysters caught within the limits of the Potomac River, which inspection tax may not exceed $2.00 per bushel. The tax shall be paid by the buyer at the place in Maryland or Virginia where the oysters are unloaded from vessels and are to be shipped no further in bulk in vessel, to an agent of the commission, or to such officer or employee of the Virginia Marine Resources Commission or of the Maryland Department of Natural Resources, as may be designated by the commission, and by him paid over to the commission. The commission shall use the proceeds of the oyster inspection tax solely for planting seed or shell oyster on working bottom.

Section 10. The Potomac River Fisheries Commission shall have the power to make, adopt and publish such rules and regulations as may be necessary or desirable for authorizing and regulating the dredging of soft shell clams in areas within its geographical jurisdiction and may levy license fee for such dredging in amounts to be set in its discretion.

Article IV.
Commission Regulations — Procedure and Review

Section 1. No regulation shall be adopted by the commission unless: (a) a public hearing is held thereon, (b) prior to the hearing the commission has given notice of the proposed regulation by publication thereof at least once a week for three successive weeks in at least one newspaper published, or having a general circulation in each county of Maryland and Virginia contiguous to the waters within the commission's jurisdiction. The first such publication to be at least thirty days but not more than 45 days prior to the date of the hearing; (c) a copy of the proposed regulation is mailed at least 30 days but not more than 45 days prior to the hearing, to the clerk of the court of each county of Maryland and Virginia contiguous to the waters within the commission's jurisdiction, who shall post the same in a conspicuous place at or in the courthouse; and (d) the regulation is approved by at least six members of the commission.

Section 2. (a) Regulations of the commission shall be exempt from the provisions of Chapter 1.1 of Title 9 of the Code of Virginia (1950 Edition, as amended from time to time), and of §§ 10–106 and 10–107 of the State Government Article of the Annotated Code of Maryland (1957 Edition, as amended from time to time). Copies of commission regulations shall be kept on public file and available for public reference in the offices of the commission, the office of the clerk of court in each county of Maryland and Virginia contiguous to the waters within the commission's jurisdiction, the office of the Virginia division of statutory research and drafting, the office of the Maryland Department of Legislative Reference, the office of the Virginia Marine Resources Commission, and the office of the Maryland Department of Natural Resources.

(b) No regulation of the commission shall become effective until thirty (30) days after the date of its adoption, or such later date as may be fixed by the commission.

(c) Leasing, dredging or patent tonging shall be authorized by the commission only if such authorization is granted by joint action of the legislatures of Maryland and Virginia.

Section 3. Any person aggrieved by any regulation or order of the commission may at any time file a petition for declaratory judgment with respect to the validity or construction thereof, in the circuit court of any county in Maryland or Virginia contiguous to the waters within the commission's jurisdiction. A review of the final judgment of the circuit court may be appealed to the court of highest appellate jurisdiction of the state in accordance with the rules or laws of procedure in such state.

Section 4. Regulations of the commission may be amended, modified, or rescinded by joint enactment of the General Assembly of Maryland and the General Assembly of Virginia.

Section 5. At any time subsequent to the adoption of this compact the governor or legislature of either Maryland or Virginia may call for the appointment of a commission to make further study and recommendations concerning revision and amendments to this compact, at which time the governors of the respective states shall act forthwith in compliance with the request for the appointment of said commission.

Article V.

Enforcement of Laws and Regulations: Penalties

Section 1. The regulations and orders of the commission shall be enforced by the joint effort of the law enforcement agencies and officers of Maryland and Virginia.

Section 2. The violation of any regulation of the commission shall be a misdemeanor. Unless a lesser punishment is provided by the commission, such violation shall be punishable by a fine not to exceed three thousand dollars ($3,000) or confinement in a penal institution for not more than one (1) year, or both, in the discretion of the court, and any vessel, boat, or equipment used in the taking of finfish, crabs, oysters, clams, or other shellfish from the Potomac River in violation of any regulation of the commission or of applicable laws may be confiscated by the court, upon the abandonment thereof or the conviction of the owner or operator thereof.

Section 3. The officer making an arrest or preferring a charge for violation of a regulation of the commission or an applicable state law respecting the waters within the commission's jurisdiction shall take the alleged offender to a court of competent jurisdiction in either state, in a county adjacent to the portion of the Potomac River where the alleged offense occurred, which shall thereupon have jurisdiction over the offense.

Section 4. All fines imposed for violation of regulations of the commission or applicable state laws respecting the waters within the commission's jurisdiction shall be paid into the court in which the case is prosecuted, and accounted for under the laws applicable to that court. Any property confiscated under the provisions of this compact shall be turned over to the commission, which may retain, use or dispose of as it deems best.

Article VI.
Commission Finances

Section 1. The commission shall approve and adopt a proposed annual budget showing estimated income, revenues, appropriations, and grants from all sources, and estimated necessary expenditures and shall send a copy thereof to the governors of Maryland and Virginia.

Section 2. The said governors shall place in the proposed budget of their respective states for each year the sum of not less than fifty thousand dollars ($50,000.00) for the expenses and the other purposes of the commission for that year, except that none of the sum so appropriated shall be used for law enforcement purposes; and the general assembly of each of the two states agrees to appropriate annually not less than this sum to the commission.

Section 3. (a) The general fund shall consist of: (1) all income and revenue received from the issuance of licenses under this compact; (2) the proceeds of the disposition of property confiscated pursuant to the provisions of this compact; (3) the proceeds of

the inspection tax upon oysters imposed pursuant to this compact; and (4) the funds appropriated to the commission by the two states.

(b) The general fund of the commission shall be kept in such bank or depository as the commission shall from time to time select. The general fund shall be audited annually by the Auditor of Public Accounts of Virginia and the State Auditor of Maryland acting jointly, and at such other times as the commission may request.

Article VII.

Effect on Existing Laws and Prior Compact

Section 1. The rights, including the privilege of erecting and maintaining wharves and other improvements, of the citizens of each state along the shores of the Potomac River adjoining their lands shall be neither diminished, restricted, enlarged, increased nor otherwise altered by this compact, and the decisions of the courts construing that portion of Article VII of the Compact of 1785 relating to the rights of riparian owners shall be given full force and effect.

Section 2. The laws of the State of Maryland relating to finfish, crabs, oysters, and clams in the Potomac River, as set forth in former Article 66C of the Annotated Code of Maryland and as in effect on December 1, 1958, shall be and remain applicable in the Potomac River except to the extent changed, amended, or modified by regulations of the commission adopted in accordance with this compact.

Section 3. The rights and privileges of licensees to take and catch finfish, crabs, oysters, clams, and other shellfish in the Potomac River, which are in effect at the time this compact becomes effective, shall continue in force for a period of six months at which time every such license and every such right and privilege shall be abrogated.

Article VIII.

Effect of Ratification

These articles shall be laid before the legislatures of Virginia and Maryland, and their approbation being obtained, shall be confirmed and ratified by a law of each state, never to be repealed or altered by either, without the consent of the other.

Article IX.

Effective Date

This compact, which takes the place of the Compact of 1785 between Maryland and Virginia, shall take effect at the expiration of 60 days after the completion of the last act legally necessary to make it operative, and thereupon the said Compact of 1785 shall no longer have any force or effect.

In testimony whereof, the commissioners, on the part of the State of Maryland and the Commonwealth of Virginia, evidence their agreement to the provisions of this compact by becoming parties signatory this, the twentieth day of December, in the year one thousand, nine hundred and fifty–eight, at Mount Vernon, in Virginia; and now

witnesseth:

Commissioners on the Part of Maryland	Commissioners on the Part of Virginia
(s) Carlyle Barton	(s) Mills E. Godwin, Jr.
(s) William J. McWilliams	(s) Howard H. Adams
(s) M. William Adelson	(s) Edward E. Lane
(s) Stephen R. Collins	(s) Robert Button
(s) Edward S. Delaplaine	(s) John Warren Cooke

4–306. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 144 OF 2007 **

Preamble

Whereas, Maryland and Virginia are both vitally interested in conserving and improving the valuable fishery resources of the tidewater portion of the Potomac River, and

Whereas, certain provisions of the Compact of 1785 between Maryland and Virginia having become obsolete, Maryland and Virginia each recognizing that Maryland is the owner of the Potomac River bed and waters to the low watermark of the southern shore thereof; as laid out on the Matthews–Nelson Survey of 1927, and that Virginia is the owner of the Potomac River bed and waters southerly from said low watermark as laid out, and that the citizens of Virginia have certain riparian rights along the southern shore of the river, as shown on said Matthews–Nelson Survey, and, in common with the citizens of Maryland, the right of fishing in said river, Maryland and Virginia have agreed that the necessary conservation and improvement of the tidewater portion of the Potomac fishery resources can be best achieved by a commission comprised of representatives of both Maryland and Virginia, charged with the establishment and maintenance of a program to conserve and improve these resources, and

Whereas, at a meeting of the commissioners appointed by the Governors of the State of Maryland and the Commonwealth of Virginia, to wit: Carlyle Barton, M. William Adelson, Stephen R. Collins, Edward S. Delaplaine and William J. McWilliams, Esquires, on the part of the State of Maryland, and Mills E. Godwin, Jr., Howard H. Adams, Robert Y. Button, John Warren Cooke and Edward E. Lane, Esquires, on the part of the Commonwealth of Virginia, at Mount Vernon, in Virginia, on the twentieth day of December, in the year one thousand nine hundred and fifty–eight, the following Potomac River Compact of 1958 between the Commonwealth of Virginia, and the State of Maryland was mutually agreed to by the said commissioners:

Now, therefore, be it resolved by the commissioners appointed by the Governors of the State of Maryland and the Commonwealth of Virginia, meeting in joint session, that they do unanimously recommend to the said respective governors that there be a

new compact, to be designated as the "Potomac River Compact of 1958", and that the said new compact be referred as promptly as possible to the legislatures of the State of Maryland and the Commonwealth of Virginia for appropriate action, and to the end that after ratification and adoption by said legislatures the same be submitted to the Congress of the United States for approval.

Article I.

Commission — Membership and Organization

Section 1. The Potomac River Fisheries Commission, hereinafter designated as "commission", is hereby created.

Section 2. The commission shall consist of eight members, four from Maryland and four from Virginia. The Maryland members shall be the Secretary of the Department of Natural Resources of Maryland or its successor agency, or the Secretary's designee, and three members at large to be appointed by the Governor of Maryland with the advice and consent of the Senate of Maryland. The Virginia members shall be three members of the Virginia Marine Resources Commission or its successor agency, and one member at large, to be appointed by the Governor of Virginia. If the membership of the Virginia Marine Fisheries Commission exceeds three, then the three commission members from Virginia Marine Fisheries Commission shall be selected by the Governor of Virginia; and if the membership of the Virginia Marine Resources Commission is less than three, the four commission members from Virginia shall be the member or members of the Virginia Marine Fisheries Commission, and such additional person or persons who shall be appointed by the Governor as may be necessary to constitute a total of four commissioners.

Section 3. The term of commissioners who are members of the Virginia Marine Resources Commission shall be coterminous with their term on the Virginia Marine Resources Commission. The Secretary of the Department of Natural Resources of Maryland or the Secretary's designee shall serve ex officio. The term of all other commissioners shall be four years. Vacancies on the commission shall be filled by appointment of the governor of the state entitled to fill the vacancy, except that if the Virginia Marine Resources Commission has three members, the person filling a vacancy on the Virginia Marine Resources Commission shall ex officio become a member of the commission.

Section 4. The chairman of the commission shall alternate from year to year between representatives of Maryland and Virginia. Subject to such alternation, the chairman shall be elected by the commissioners for a term of one year.

Section 5. Commissioners shall be entitled to receive from the general fund of the commission compensation not to exceed two hundred and fifty dollars ($250.00) for each day or portion thereof spent in the performance of their duties, but in no event to exceed one thousand five hundred dollars ($1,500.00) in any year, and reimbursement for reasonable expenses incident to the performance of their duties.

Section 6. Commission meetings shall be held at least once each quarter, and at

such other times as the commission may determine. In order to constitute a quorum for the transaction of any business at least two of the four members from each state must be present and must vote on the business being transacted.

Section 7. The commission shall establish and maintain an office at such locations as it may select, and may employ an executive secretary who shall serve at the pleasure of the commission, and such other administrative, clerical, scientific, and legal personnel as it deems necessary. The powers, duties and compensation of all employees shall be as prescribed by the commission, and the employees shall not be subject to the provisions of Division I of the State Personnel and Pensions Article of the Annotated Code of Maryland that govern the Maryland State Personnel Management System nor to the provisions of the Virginia Personnel Act, as the same may be from time to time in effect. The commission may extend to any employee or employees membership in the Virginia Supplemental Retirement System or the Maryland Employees' Retirement System, whichever is applicable, subject to the laws relating to each such retirement system. Employees of the commission shall also be eligible for the health and related insurance for State employees in § 2.1–20.1 of the Code of Virginia or Title 2, Subtitle 5 of the State Personnel and Pensions Article of the Annotated Code of Maryland, whichever is applicable.

Article II.

Jurisdictional Boundaries

The territory in which the Potomac River Fisheries Commission shall have jurisdiction shall be those waters of the Potomac River enclosed within the following described area:

Beginning at the intersection of mean low watermark at Point Lookout and an established line running from Smith's Point to Point Lookout, marking Chesapeake Bay waters; thence following the mean low waterline of the shore northwesterly across the respective mouths of all creeks to Gray Point at the westerly entrance into Rowley Bay; thence in a straight line northwesterly to the southerly extremity of Kitts Point; thence along the mean low waterline to the southwesterly point of St. Inigoes Neck; thence in a straight line westerly to the most easterly point of St. Georges Island; thence following the mean low waterline in a general northwesterly direction, across the respective mouths of all creeks and inlets to the southwesterly point of Huggins Point; thence in a straight line southwesterly to the eastern extremity of the sandbar known as Heron Island; thence northwesterly following the ridge of Heron Island bar to its westerly extremity; thence southwesterly in a straight line to the most southerly point of Blackiston Island; thence in a straight line northwesterly to the southern extremity of Colton's Point; thence following the mean low waterline, westerly, excluding all creeks and inlets, to the point marking the southeasterly entrance into St. Catherine Sound; thence westerly in a straight line to the southern extremity of St. Catherine Island sandbar; thence northwesterly, along the westerly edge of said sandbar continuing along the mean low waterline of the southwesterly side of St. Catherine Island to the northwesterly point of said island; thence westerly in a straight line to Cobb Point Bar Lighthouse; thence northwesterly along the ridge of Cobb Point sandbar to the southerly extremity of Cobb Point; thence following

the mean low waterline in general northwesterly and northerly directions across the respective mouths of all creeks and inlets to a point at the easterly entrance into Port Tobacco River, due east of Windmill Point; thence in a straight line westerly to Windmill Point; thence southwesterly following the mean low waterline across the respective mouths of all creeks and inlets to Upper Cedar Point; thence southwesterly in a straight line across the mouth of Nanjemoy Creek to a point on shore at the Village of Riverside; thence following the mean low waterline, southwesterly, northwesterly and northerly, across the respective mouths of all creeks and inlets to Smith Point; thence northerly in a straight line to Liverpool Point; thence northerly in a straight line to Sandy Point; thence following the mean low waterline northerly, across the respective mouths of all creeks and inlets to Moss Point; thence northerly in a straight line across Chicamuxen Creek to the southernmost point of Stump Neck; thence following the mean low waterline northeasterly, across the respective mouths of all creeks and inlets, to a point at the southerly entrance into Mattawoman Creek; thence in a straight line northeasterly across the mouth of Mattawoman Creek to the southwesterly point of Cornwallis Neck; thence following the mean low waterline northeasterly across the respective mouths of all creeks and inlets, to Chapman Point; thence in a straight line northeasterly to Pomonkey or Hollis Point; thence following the mean low waterline in a northerly direction across the respective mouths of all creeks and inlets, to a point on Marshall Hall Shore, due south of Ferry Point; thence northeasterly in a straight line to Bryan Point; thence northeasterly in a straight line to the northwest extremity of Mockley Point; thence northeasterly in a straight line to Hatton Point; thence northerly in a straight line to the southwesternmost point of Indian Queen Bluff; thence following the mean low waterline northerly across the respective mouths of all creeks and inlets, to Rosier Bluff Point; thence in a straight line northerly to the intersection with the District of Columbia line at Fox Ferry Point, thence following the boundary line of the District of Columbia southwesterly to a point on the lower or southern shore of the Potomac River, said point being the intersection of the boundary line of the Commonwealth of Virginia with the boundary line of the District of Columbia; thence following the mean low waterline of the Potomac River on the southern, or Virginia shore, as defined in the Black–Jenkins Award of 1877 and as laid out in the Matthews–Nelson Survey of 1927, beginning at the intersection of the Potomac River and the District of Columbia line at Jones Point and running to Smiths Point; and thence in a straight line across the mouth of the Potomac River on the established line from Smiths Point to Point Lookout, to the mean low watermark at Point Lookout, the place of beginning.

Article III.
Commission Powers and Duties

Section 1. The commission shall make a survey of the oyster bars within its jurisdiction and may reseed and replant said oyster bars as may from time to time be necessary.

Section 2. The commission may by regulation prescribe the type, size and description of all species of finfish, crabs, oysters, clams and other shellfish which may be taken or caught within its jurisdiction, the places where they may be taken or caught, and the manner of taking or catching.

Section 3. The commission shall maintain a program of research relating to the conservation and repletion of the fishery resources within its jurisdiction, and to that end may cooperate and contract with scientists and public and private scientific agencies engaged in similar work, and may purchase, construct, lease, borrow or otherwise acquire by any lawful method such property, structures, facilities, or equipment as it deems necessary.

Section 4. (a) The commission shall issue such licenses as it may prescribe which shall thereupon be required for the taking of finfish, crabs, oysters, clams, or other shellfish from the waters within the jurisdiction of the commission, and for boats, vessels and equipment used for such taking. Recognizing that the right of fishing in the territory over which the commission shall have jurisdiction is and shall be common to and equally enjoyed by the citizens of Virginia and Maryland, the commission shall make no distinction between the citizens of Virginia or Maryland in any rule, regulation or the granting of any licenses, privileges, or rights under this compact.

(b) Licenses for the taking of oysters and clams and the commercial taking of finfish and crabs within the jurisdiction of the commission shall be granted only to citizens of Maryland or Virginia who have resided in either or both states for at least twelve months immediately preceding the application for the license. Within six months after the effective date of this compact, the commission shall adopt a schedule of licenses, the privileges granted thereby, and the fees therefor, which may be modified from time to time in the discretion of the commission.

(c) The licenses hereby authorized may be issued at such places, by such persons, and in accordance with such procedures as the commission may determine.

Section 5. The commission is authorized to expend funds for the purposes of general administration, repletion of the fish and shellfish in the Potomac River, and the conservation and research programs authorized under this compact, subject to the limitations provided in this compact.

Section 6. The commission is authorized to receive and accept (or to refuse) from any and all public and private sources such grants, contributions, appropriations, donations, and gifts as may be given to it, which shall be paid into and become part of the general fund of the commission, except where the donor instructs that it shall be used for a specific project, study, purpose, or program, in which event it shall be placed in a special account, which shall be administered under the same procedure as that prescribed for the general fund.

Section 7. The commission may call upon the resources and assistance of the Virginia Institute of Marine Science, the University System of Maryland, and all other agencies, institutions, and departments of Maryland and Virginia which shall cooperate fully with the commission upon such request.

Section 8. The commission shall have the power to make, adopt and publish such rules and regulations as may be necessary or desirable for the conduct of its meetings,

such hearings as it may from time to time hold, and for the administration of its affairs.

Section 9. The commission may impose an inspection tax, in an amount as fixed from time to time by the commission, upon all oysters caught within the limits of the Potomac River, which inspection tax may not exceed $2.00 per bushel. The tax shall be paid by the buyer at the place in Maryland or Virginia where the oysters are unloaded from vessels and are to be shipped no further in bulk in vessel, to an agent of the commission, or to such officer or employee of the Virginia Marine Resources Commission or of the Maryland Department of Natural Resources, as may be designated by the commission, and by him paid over to the commission. The commission shall use the proceeds of the oyster inspection tax solely for planting seed or shell oyster on working bottom.

Section 10. The Potomac River Fisheries Commission shall have the power to make, adopt and publish such rules and regulations as may be necessary or desirable for authorizing and regulating the dredging of soft shell clams in areas within its geographical jurisdiction and may levy license fee for such dredging in amounts to be set in its discretion.

Article IV.
Commission Regulations — Procedure and Review

Section 1. No regulation shall be adopted by the commission unless: (a) a public hearing is held thereon, (b) prior to the hearing the commission has given notice of the proposed regulation by publication thereof at least once a week for three successive weeks in at least one newspaper published, or having a general circulation in each county of Maryland and Virginia contiguous to the waters within the commission's jurisdiction. The first such publication to be at least thirty days but not more than 45 days prior to the date of the hearing; (c) a copy of the proposed regulation is mailed at least 30 days but not more than 45 days prior to the hearing, to the clerk of the court of each county of Maryland and Virginia contiguous to the waters within the commission's jurisdiction, who shall post the same in a conspicuous place at or in the courthouse; and (d) the regulation is approved by at least six members of the commission.

Section 2. (a) Regulations of the commission shall be exempt from the provisions of Chapter 1.1 of Title 9 of the Code of Virginia (1950 Edition, as amended from time to time), and of §§ 10–106 and 10–107 of the State Government Article of the Annotated Code of Maryland (1957 Edition, as amended from time to time). Copies of commission regulations shall be kept on public file and available for public reference in the offices of the commission, the office of the clerk of court in each county of Maryland and Virginia contiguous to the waters within the commission's jurisdiction, the office of the Virginia division of statutory research and drafting, the office of the Maryland Department of Legislative Reference, the office of the Virginia Marine Resources Commission, and the office of the Maryland Department of Natural Resources.

(b) No regulation of the commission shall become effective until thirty (30) days after the date of its adoption, or such later date as may be fixed by the commission.

(c) Leasing, dredging or patent tonging shall be authorized by the commission only if such authorization is granted by joint action of the legislatures of Maryland and Virginia.

Section 3. Any person aggrieved by any regulation or order of the commission may at any time file a petition for declaratory judgment with respect to the validity or construction thereof, in the circuit court of any county in Maryland or Virginia contiguous to the waters within the commission's jurisdiction. A review of the final judgment of the circuit court may be appealed to the court of highest appellate jurisdiction of the state in accordance with the rules or laws of procedure in such state.

Section 4. Regulations of the commission may be amended, modified, or rescinded by joint enactment of the General Assembly of Maryland and the General Assembly of Virginia.

Section 5. At any time subsequent to the adoption of this compact the governor or legislature of either Maryland or Virginia may call for the appointment of a commission to make further study and recommendations concerning revision and amendments to this compact, at which time the governors of the respective states shall act forthwith in compliance with the request for the appointment of said commission.

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Enforcement of Laws and Regulations: Penalties

Section 1. The regulations and orders of the commission shall be enforced by the joint effort of the law enforcement agencies and officers of Maryland and Virginia.

Section 2. The violation of any regulation of the commission shall be a misdemeanor. Unless a lesser punishment is provided by the commission, such violation shall be punishable by a fine not to exceed three thousand dollars ($3,000) or confinement in a penal institution for not more than one (1) year, or both, in the discretion of the court, and any vessel, boat, or equipment used in the taking of finfish, crabs, oysters, clams, or other shellfish from the Potomac River in violation of any regulation of the commission or of applicable laws may be confiscated by the court, upon the abandonment thereof or the conviction of the owner or operator thereof.

Section 3. The officer making an arrest or preferring a charge for violation of a regulation of the commission or an applicable state law respecting the waters within the commission's jurisdiction shall take the alleged offender to a court of competent jurisdiction in either state, in a county adjacent to the portion of the Potomac River where the alleged offense occurred, which shall thereupon have jurisdiction over the offense.

Section 4. All fines imposed for violation of regulations of the commission or applicable state laws respecting the waters within the commission's jurisdiction shall be paid into the court in which the case is prosecuted, and accounted for under the

laws applicable to that court. Any property confiscated under the provisions of this compact shall be turned over to the commission, which may retain, use or dispose of as it deems best.

Article VI.
Commission Finances

Section 1. The commission shall approve and adopt a proposed annual budget showing estimated income, revenues, appropriations, and grants from all sources, and estimated necessary expenditures and shall send a copy thereof to the governors of Maryland and Virginia.

Section 2. The said governors shall place in the proposed budget of their respective states for each year the sum of not less than fifty thousand dollars ($50,000.00) for the expenses and the other purposes of the commission for that year, except that none of the sum so appropriated shall be used for law enforcement purposes; and the general assembly of each of the two states agrees to appropriate annually not less than this sum to the commission.

Section 3. (a) The general fund shall consist of: (1) all income and revenue received from the issuance of licenses under this compact; (2) the proceeds of the disposition of property confiscated pursuant to the provisions of this compact; (3) the proceeds of the inspection tax upon oysters imposed pursuant to this compact; and (4) the funds appropriated to the commission by the two states.

(b) The general fund of the commission shall be kept in such bank or depository as the commission shall from time to time select. The general fund shall be audited annually by the Auditor of Public Accounts of Virginia and the State Auditor of Maryland acting jointly, and at such other times as the commission may request.

Article VII.

Effect on Existing Laws and Prior Compact

Section 1. The rights, including the privilege of erecting and maintaining wharves and other improvements, of the citizens of each state along the shores of the Potomac River adjoining their lands shall be neither diminished, restricted, enlarged, increased nor otherwise altered by this compact, and the decisions of the courts construing that portion of Article VII of the Compact of 1785 relating to the rights of riparian owners shall be given full force and effect.

Section 2. The laws of the State of Maryland relating to finfish, crabs, oysters, and clams in the Potomac River, as set forth in former Article 66C of the Annotated Code of Maryland and as in effect on December 1, 1958, shall be and remain applicable in the Potomac River except to the extent changed, amended, or modified by regulations of the commission adopted in accordance with this compact.

Section 3. The rights and privileges of licensees to take and catch finfish, crabs,

oysters, clams, and other shellfish in the Potomac River, which are in effect at the time this compact becomes effective, shall continue in force for a period of six months at which time every such license and every such right and privilege shall be abrogated.

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Effect of Ratification

These articles shall be laid before the legislatures of Virginia and Maryland, and their approbation being obtained, shall be confirmed and ratified by a law of each state, never to be repealed or altered by either, without the consent of the other.

Article IX.

Effective Date

This compact, which takes the place of the Compact of 1785 between Maryland and Virginia, shall take effect at the expiration of 60 days after the completion of the last act legally necessary to make it operative, and thereupon the said Compact of 1785 shall no longer have any force or effect.

In testimony whereof, the commissioners, on the part of the State of Maryland and the Commonwealth of Virginia, evidence their agreement to the provisions of this compact by becoming parties signatory this, the twentieth day of December, in the year one thousand, nine hundred and fifty–eight, at Mount Vernon, in Virginia; and now witnesseth:

Commissioners on the Part of Maryland	Commissioners on the Part of Virginia
(s) Carlyle Barton	(s) Mills E. Godwin, Jr.
(s) William J. McWilliams	(s) Howard H. Adams
(s) M. William Adelson	(s) Edward E. Lane
(s) Stephen R. Collins	(s) Robert Button
(s) Edward S. Delaplaine	(s) John Warren Cooke

§4–307.

The Potomac River Fisheries Commission shall have the power to make, adopt, and publish such rules and regulations as may be necessary or desirable for authorizing and regulating the dredging of oysters in areas of the Potomac River within its geographical jurisdiction and may levy license and repletion fees for same.

§4–401.

The Department may acquire, by purchase, lease, condemnation, or gift, title or control of any area of water or land in the State suitable to protect, propagate, or manage fish. The area of water or land shall be known as a State fish refuge. Any area of water or land in Garrett County or Allegany County greater than 100 acres may be acquired only with the approval of that county. This requirement does not apply to any areas which have previously been authorized for acquisition by the General Assembly.

The Department may purchase or erect any structure necessary for fish management, and may purchase or lease any area of water or land, excluding the ownership of and the right to drill any mineral, oil, or gas.

§4–402.

The title to any area of water or land acquired by purchase, gift, or condemnation shall be taken in the name of the State for the Department's use. The entire control of the area of water or land shall be under the State's direction. The Secretary may expend from the State Fisheries Management and Protection Fund any amount necessary to purchase or condemn an area of water or land.

§4–403.

(a) If the Department considers it in the State's best interest and the Governor consents, it may exchange any area of water or land or part it owns, together with any improvement on it, for any privately owned area of water or land equal to or greater in value than the area of water or land the Department exchanges and adapts for fish refuge and management. Also, the Department may sell any area of water or land or part it owns to the person who offers the highest price.

(b) The Department may use the acquired area of water or land as a State park.

(c) The Attorney General shall prepare any deed necessary to complete the exchange or sale of the area of water or land. The Secretary shall execute the deed. The proceeds of any sale shall be deposited with the State Comptroller and placed to the credit of the State Fisheries Management and Protection Fund.

§4–404.

An acquired area of water or land may be used to create and maintain State fish refuges, or for fish management. The Department may grant a right-of-way on or across any acquired area of water or land if the grant does not adversely affect the protection and management of fish. The Department may appoint a caretaker of the area of water or land and make an agreement with the caretaker for proper care and management of the fish refuge.

§4–405.

The Department may establish and maintain any State fish refuge to protect and propagate fish throughout the State. The Department may locate, with the consent of the Governor and of the superintendent in charge of any federally or State–owned area of water or land, any State fish refuge on State–owned or federally–owned water or land. The boundaries of each fish refuge shall be clearly marked. At each refuge boundary, a notice shall be posted in a conspicuous place informing the public the area of water or land is a "State fish refuge – fishing is unlawful", and any other information or rules and regulations the Department considers advisable.

§4–406.

(a) If a person who owns or controls any suitable area of water or land desires to have it set aside as a fish refuge, he may apply to the Department, giving a description of the area of water or land, including a specific location, map, or sketch showing an outline of the area of water or land and the location of any structure or improvement, and the nature of the area of land or water, such as woodland, abandoned farmland, or cultivated land, or lake, pond, marsh, or impounded stream.

(b) The Department may examine the area of water or land to determine if it is suitable for fish protection and management. If the area of water or land is acceptable as a fish refuge, the Department shall notify the owner of this fact. The owner shall sign a lease vesting the State with every fishing right in the area without charge. The lease also shall provide that neither the owner, his family, agents, tenants, nor any other person may fish in the area of water or land and that, he will make every effort to protect the fish refuge from forest fires, fishing, or any violation of any State conservation law. The lease or agreement shall continue in force for an uninterrupted period of at least 5 years.

(c) If the person who owns or controls the area of water or land named in any lease on which there is no charge sells the area of water or land, the area is released from the operation of the lease unless the purchaser agrees to allow it to remain under the lease. Either the Department or the owner of the area of water or land may rescind any lease for which there is no charge made pursuant to this section after giving 90 days written notice of intent to terminate the lease to the other party.

§4–407.

The Department may adopt and promulgate, and post, rules and regulations for the proper use and administration of any State fish refuge it controls or owns.

§4–408.

The Department may erect and maintain any suitable fish hatchery, nursery, pond, or rearing station to propagate fish in order to manage the waters of the State. Hatcheries, nurseries, ponds, and rearing stations shall be maintained by Department funds.

§4–409.

The Department may catch any game and freshwater fish from the waters of the State, including any pond, lake, or canal, publicly or privately owned, in order to propagate in captivity and distribute into public waters brood stock, fry, or fingerlings to manage the fish.

§4–410.

(a) This section is intended to protect the State in its objective to propagate and

manage fish on fish refuges, lands, and waters controlled by the Department.

(b) An unauthorized person may not enter or trespass on or destroy, deface, or damage any fish refuge or lands acquired for fish ponds or hatcheries without the consent of the Department. A person may not allow any dog, domestic stock, or poultry to enter on any State fish refuge.

§4–501.

An obstruction may not be placed at the mouth of any creek, cove, or inlet, or across any stream, so as to impound any fish and prevent its free passage to and from the water or its free access up and down the stream. However, a dam may be erected if fish ladders are maintained in accordance with the provisions of this subtitle.

§4–502.

(a) Every owner of a dam on waters of the State shall construct on the dam and keep repaired at least one fish ladder if the Department deems it necessary for ascending and descending of fish. Every fish ladder shall be constructed to allow anadromous fish free course up and down the waters at all times.

(b) Any person intending to construct a dam on waters of the State shall file an application with the Department. Each application shall contain sufficient information to enable the Department to determine the necessity for constructing a fish ladder. The Department shall advise the applicant of its determination.

(c) The Department and any other unit having jurisdiction shall approve the construction plan before the dam is constructed.

(d) If the owner, operator, or lessee of a dam entered into an agreement prior to July 1, 1955, to pay the State an annual periodic sum of money instead of being required to erect a fish ladder or instead of being required to construct and maintain any fish way or fish ladder pursuant to the provisions contained in any charter previously granted to any corporation by any special or general State law, the provisions of the charter or agreement remain in effect. The amount of money paid to the State during each year may not be less than four and one-half percent of the estimated cost to erect the fish ladder, but not to exceed $4,000 annually. Any money paid to the Department shall be used to manage, rear, and distribute the fish actually placed in the water and to acquire any necessary facility for these purposes. One half of the funds received on behalf of the Conowingo Dam across the Susquehanna River shall be credited to the State Fisheries Management and Protection Fund.

(e) The provisions of this section do not change any term, condition, or obligation imposed by a contract in force prior to July 1, 1955, between the owner of any dam and the State.

(f) On application of the Department, verified by oath or affirmation, the circuit court for any county, sitting in equity, may enforce by injunction compliance with, or

restraint from violating or attempting to violate, any provision of this section.

(g) The Department shall investigate every violation of this section. If any person obstructs a stream by failing to make or keep in repair any fish ladder on the dam, the Department shall serve notice in writing on him requiring that he make or keep in repair the necessary fish ladder. The notice shall specify the penalty for the failure to act within its time limit. Any person who violates the notice is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding $300, or imprisonment not exceeding three years, or both, with costs imposed in the discretion of the court. A separate offense exists on each day the person violates the notice. If the fine is imposed by the circuit court for any county, the fine when collected shall be remitted to the Department.

§4–503.

A person may not place, throw, or make use of any dynamite or other explosive substance in any water in the State, except for engineering, milling, or mining purposes. Any person who violates this section is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding $300 or imprisonment not exceeding three years, or both, with costs imposed in the discretion of the court.

§4–504.

A person may not whip or beat any waters of the State with a pole, stick, or any other thing in order to drive fish into any device for catching fish. In Kent County and Queen Anne's County, this section applies only to waters of the Sassafras River and its tributaries.

§4–505.

A person may not molest, disturb, destroy, or catch and carry away fish belonging to another person from any boat, live box, crab pot, trot line, or the pocket or crib of any pound net or enclosed or gilled in any fish net of any kind, or take or carry away any net or gear belonging to another person used in catching fish. This section does not apply directly or indirectly to seine haulers actually engaged in laying and taking up nets when making a haul.

§4–506.

A person may not fasten, tie, or anchor any boat to or in any other way interfere with any other person's fishing nets, stakes, or other personal property in or close to the waters of the State.

§4–506.1.

(a) While on private or public land, or Maryland waters, a person may not for the purpose of disrupting a lawful fishing activity:

(1) Interfere intentionally with the lawful taking of fish or other marine life by another person;

(2) Intentionally harass, drive, or disturb any fish for the purpose of disrupting a lawful fishing activity;

(3) Intentionally block, impede, harass, or disturb a person engaged in a lawful fishing activity;

(4) Intentionally deny passage by creating or erecting barriers on public property or on private property without the landowner's prior permission to areas where a lawful fishing activity is permitted; or

(5) Intentionally hinder a lawful fishing activity by placing obstacles or objects in waters of the State.

(b) The conduct declared unlawful in this section does not include any incidental interference arising from lawful activity by private land users or users of land managed by the Department, including farmers, miners, or persons engaged in recreation.

(c) A Natural Resources police officer or other police officer of the State who has probable cause to believe that a person has violated this section may:

(1) Order the person to desist or to leave the area; or

(2) Arrest the person who refuses to desist or to leave the area.

§4–507.

A person may not sink any obstruction in the berth or haul of any fishery, or deliberately interfere with the operation of a haul seine after it has been set and is being hauled.

§4–508.

A skipper, captain or other person commanding a vessel, float, or boat may not pass knowingly, wantonly, maliciously, or as a result of gross negligence, through any net lawfully placed and marked. Any person who violates this section is guilty of a misdemeanor and upon conviction is subject to a fine equal to the damages suffered by the owner or occupier of the fishery, and court costs.

§4–509.

A person may not use or attempt to use any electronic device on any boat in the waters of the State or on any aircraft within the State, or use or attempt to use any aircraft, to detect the presence of finfish for any purpose. However, fishermen may use depth finders from boats to detect the presence of finfish. A person also may not use or attempt to use any device that may lure finfish by electrical impulses. This section

does not prohibit the Department from using any electronic or electrical device for scientific research, law enforcement or other purpose, nor prohibit use of a fathometer or depth recorder for navigational purposes. Any person who violates this section is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding one year, or both, with costs imposed in the discretion of the court.

§4–510.

A person may fish with a speargun and spear in the waters of the State only under the rules and regulations, and control of the Department. A speargun as used in this section means any type of device used for propelling a spear underwater by any means other than manual in order to catch fish.

§4–511.

A person other than a duly authorized officer of the Department may not move, destroy, or deface any State buoy, marker, or monument placed in the waters of the State, or fasten, tie, or anchor any boat to it.

§4–512.

During the open season for migratory waterfowl, a person may not fish by any means within 500 yards of any stationary blind or blind site which is occupied and is being used for hunting migratory waterfowl.

§4–513.

Consistent with the requirements of any license issued by the federal Energy Regulatory Commission, a person who owns or operates a dam or obstruction on the waters of the State used for the generation of electric power and the Secretary shall cooperate to assure the release of a sufficient flow of impounded water to maintain both water quality and aquatic habitat below the dam or obstruction.

§4–514.

Except during an emergency, a person may not fasten, tie, or anchor a boat to another person's commercial fishing equipment or device including the hedging, stakes, buoys, or anchors of the equipment or device.

§4–601.

"Angling" means catching or attempting to catch fish by hook and line, with the line held in hand, attached to a pole or rod held in hand, or attended in a manner that the fish voluntarily takes bait or lure in its mouth.

§4–602.

With due regard for distribution, abundance, economic value, and breeding habits of fish in nontidal waters, the Secretary may adopt rules and regulations to extend, restrict, or prohibit catching, possessing, purchasing, transporting, or exporting fish from nontidal waters.

§4–603.

Pursuant to § 4–602 of this subtitle, the Department shall establish open seasons for catching species of game and freshwater fish in nontidal waters.

§4–604.

(a) This section provides a fund to pay the expense of protecting and managing game and freshwater fish and preventing unauthorized persons from fishing or attempting to fish for any game and freshwater fish without first procuring an angler's license.

(b) Any person 16 years old or older shall secure an angler's license to fish in the nontidal waters of the State. An angler's license entitles the holder to fish in the nontidal waters of the State only during the open season.

(c) An angler's license is not required of the following:

(1) The owner or tenant of land bordering on nontidal water, his spouse and children, or the spouse of any child who resides on the land with the owner or tenant when he fishes in nontidal water adjoining his land;

(2) Any resident serving in the armed forces of the United States, while on leave in the State, during his leave period, if, while angling, he possesses a copy of his official leave orders;

(3) A person who fishes in nontidal waters of the State on free fishing days designated by the Secretary;

(4) A person holding a current resident consolidated senior sport fishing license issued under § 4–216 of this title;

(5) A person fishing in a free fishing area established under § 4–214(b)(2) of this title; or

(6) A person authorized by a disability exemption issued under § 4–217 of this title.

(d) (1) A person may apply for an angler's license to any person designated by the Department.

(2) The application shall be on a form the Department prepares and supplies.

(3) The applicant shall fill out, sign and submit the application to the person designated to issue an angler's license.

(4) A person may apply by mail.

(e) (1) An applicant for a license issued under this section shall provide all the information requested by the Department on forms issued by the Department.

(2) The Department shall require an applicant for a license under this section to provide the last four digits of the applicant's Social Security number, if the applicant has a Social Security number.

(f) (1) The following annual license fees shall apply:

(i) Resident $20.50

(ii) Subject to paragraph (2)(ii) of this subsection, short–term license valid for 7 consecutive days from date of issuance..... $7.50

(iii) Resident and nonresident blind persons .....No fee

(iv) Complimentary license .....No fee

(2) For a nonresident:

(i) The fee for an annual angler's license is the greater of:

1. $30.50; or

2. A fee equal to the fee charged a Maryland resident by the nonresident's home state for a similar license; and

(ii) The fee for a short–term license valid for 7 consecutive days from the date of issuance is the greater of:

1. $7.50; or

2. A fee equal to the fee charged a Maryland resident by the nonresident's home state for a license that permits an equal number of days of fishing or the next higher number of days as permitted by the Maryland license.

(iii) The fee for a short–term license valid for 3 consecutive days from the date of issuance is the greater of:

1. $5; or

2. A fee equal to the fee charged a Maryland resident by the nonresident's home state for a license that permits an equal number of days of fishing or the next higher number of days as permitted by the Maryland license.

(3) (i) All fees collected by the Department under this section may only be used in accordance with § 4–208 of this title.

(ii) The Department shall publicly report annually the amounts collected and the expenditures under this section.

(g) A person designated to sell an angler's license shall issue the license and collect the fee prescribed in subsection (f) of this section. The Department shall furnish the licenses to the designated persons. An angler's license shall bear the Secretary's facsimile signature and the countersignature of the issuing person. The person who issues the license shall enter the name and address of the licensee. The collected money shall be transmitted to the Department as prescribed by the Department. As compensation, the agent shall retain $1 for each license issued.

(h) (1) Every angler's license shall expire on December 31 of each year following the date of issuance.

(2) The licensee shall sign his name in ink on the license at the time of purchase.

(3) The license may not be transferred to another person, nor used or presented by any person other than the person to whom it was issued.

§4–606.

(a) (1) A resident of Virginia possessing a valid Virginia fishing license issued in that resident's name may fish in nontidal waters of the Potomac River opposite the shore of Virginia without obtaining a Maryland angler's license.

(2) This subsection is only effective if Virginia enters into and maintains a reciprocal agreement with the Department, approved by the Secretary, which allows a person possessing a valid Maryland angler's license issued in that person's name to fish from the Virginia banks of the Potomac River opposite the shore of Maryland without acquiring a Virginia fishing license.

(b) (1) A resident of West Virginia possessing a valid West Virginia fishing license issued in that resident's name may fish in nontidal waters of the Potomac River opposite the shore of West Virginia, including the North Branch of the Potomac River and the Jennings Randolph Reservoir, without obtaining a Maryland angler's license.

(2) This subsection is only effective if West Virginia enters into and maintains a reciprocal agreement with the Department, approved by the Secretary, which allows a person possessing a valid Maryland angler's license issued in that person's name to fish from the West Virginia banks of the Potomac River opposite the

shore of Maryland, including the North Branch of the Potomac River and the Jennings Randolph Reservoir, without acquiring a West Virginia fishing license.

(c) (1) A resident of Pennsylvania possessing a valid Pennsylvania fishing license issued in that resident's name may fish in the waters of the Conowingo and Youghiogheny Reservoirs without obtaining a Maryland angler's license.

(2) This subsection is effective only if Pennsylvania first enters into and maintains a reciprocal agreement with the Department, approved by the Secretary, which allows a person possessing a valid Maryland angler's license issued in that person's name to fish on the portion of the Conowingo and Youghiogheny Reservoirs lying within the boundaries of Pennsylvania without acquiring a Pennsylvania fishing license.

(d) (1) The reciprocal fishing privileges granted by this section to a Pennsylvania resident holding a valid fishing license from Pennsylvania are valid only for the Conowingo and Youghiogheny Reservoirs.

(2) The reciprocal fishing privileges granted by this section to a West Virginia resident holding a valid fishing license from West Virginia are valid only for the main stem of the Potomac River, the North Branch of the Potomac River, and the Jennings Randolph Reservoir opposite the shore of West Virginia.

(3) The reciprocal fishing privileges granted by this section to a Virginia resident holding a valid fishing license from Virginia are valid only for the main stem of the Potomac River opposite the shore of Virginia.

(e) If a state fails to maintain the reciprocal fishing privileges in accordance with an approved agreement, the Secretary may revoke the reciprocal fishing privileges accorded to those holding licenses issued by that state by publishing a notice of revocation in the Maryland Register and notifying the head of the appropriate licensing agency for that state.

§4–607.

(a) (1) The Department may issue annually a complimentary angler's license to the President of the United States, the governor of any state, and any official of the game and fish department of any other state.

(2) The Department may issue a lifetime complimentary angler's license to any Maryland resident who certifies that the resident is a former prisoner of war or 100% service connected disabled American veteran.

(b) Not more than 20 complimentary licenses for each state other than Maryland shall be outstanding at any time.

(c) A complimentary license is not transferable and shall be issued without a fee on forms the Department designates.

(d) For the purposes of this section, "former prisoner of war" means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

§4–608.

Any money the Department receives for angler's licenses shall be accounted for by the Department to the State Treasurer. The amount the Treasurer receives shall be placed to the credit of angler's licenses in the State Fisheries Management and Protection Fund, and the Treasurer shall pay out of it on warrant of the Comptroller upon requisition of the Department.

§4–609.

The Department or any authorized agent of the Department may issue a duplicate angler's license for a fee not exceeding $1 if a person indicates that the angler's license is lost and is on record for previously purchasing an angler's license.

§4–610.

A person shall possess his angler's license while angling in nontidal waters and, upon demand, shall exhibit the license to any Natural Resources police officer, law enforcement officer, or landowner or his representative.

§4–611.

(a) Any person engaged in a retail business who desires to sell angler's licenses as an agent under the Department's control and supervision shall apply to the Department on forms prepared and prescribed by the Department. The Department may furnish angler's licenses on consignment to any agent who provides a bond or other security deemed sufficient and adequate by the Department to insure payment for the licenses.

(b) The agent shall fill out every license and duplicate stub in a legible and proper manner and submit any necessary report of sales together with the duplicate stubs after the first day of each month as long as he sells these licenses in accordance with § 4-604 of this subtitle. The report and stubs shall reach the Department by the seventh day of each succeeding month. The Department shall reimburse any agent who does not dispose of every angler's license purchased from the Department and who presents the unused licenses intact in their original books to the Department for a refund before March 31 of each year, for the amount of licenses returned and after they are checked and found correct. Every angler's license not returned by March 31 shall be deemed sold and is not reimbursable, unless accompanied by a notarized statement stating why the license is returned late. The Department, after review, may reimburse the agent.

(c) An agent may not make any false statement concerning any date of

issuance or other license data. Every license book or stub shall be available for any law enforcement officer to inspect at any time during the regular business day. An agent may not issue any license without receiving the license fees required by law. A receipt may not be issued in lieu of an angler's license.

(d) In addition to any other penalty provided for in this title, any agent convicted of violating the provisions of this section shall have his angler's license-issuing privilege rescinded.

§4–612.

If any person, convicted of violating § 4-610 of this subtitle under any penalty provided in this title, presents his angler's license to the court within five days after his conviction, the court, if it determines the person held the license prior to his arrest and violation was due to inadvertence, may reduce by half any penalty originally imposed.

§4–613.

(a) A Natural Resources police officer or law enforcement officer may confiscate a person's angler's license if it is transferred to another person or used or presented by a person other than the person to whom it was issued.

(b) In addition to any penalty provided in this title, if any person is convicted of fishing without a proper angler's license in his possession, or using another person's angler's license, the angler's license shall be confiscated. The person upon whom the angler's license is found and the licensee, may not procure an angler's license the following calendar year. However, the provisions of this section do not apply to a licensee who does not knowingly give his license to another.

§4–614.

(a) (1) Except as provided in paragraph (2) of this subsection, a person may not fish in a special catch–and–return trout management area or possess trout while fishing in nontidal waters unless the person first obtains a trout stamp in addition to an angler's license.

(2) A trout stamp is not required of the following:

(i) A holder of a current resident consolidated senior sport fishing license issued under § 4–216 of this title;

(ii) A holder of a lifetime complimentary angler's license for service disabled veterans or former prisoners of war issued under § 4–607(a)(2) of this subtitle;

(iii) A person authorized by a disability exemption issued under § 4–217 of this title;

(iv) A resident serving in the armed forces of the United States while

on leave if the resident possesses a copy of the resident's official leave order while fishing; or

(v) A person under 16 years of age.

(3) The stamp may be obtained from the Department or an authorized agent of the Department.

(b) A person is not required to have a trout stamp to possess trout taken from:

(1) Any privately owned lake or pond that is stocked with trout artificially propagated by commercial hatcheries or purchased from persons licensed to sell fish; or

(2) Any fee fishing lake or pond operated under § 4–11A–20 of this title.

(c) The following annual trout stamp fees shall apply:

(1) Resident $5

(2) Nonresident $10

(d) The Department or any authorized agent of the Department may issue a duplicate trout stamp for a fee not exceeding $1 if a person indicates that the trout stamp is lost and is on record for previously purchasing a trout stamp.

§4–616.

The Department shall set annually by rule or regulation the daily creel, possession, and size limits, for game and freshwater fish. The Department shall publish the rule or regulation by October 25 for the ensuing year.

§4–617.

(a) A slat basket, commonly known as the Chesapeake Bay eel pot, may not be used to catch eels.

(b) A State resident who has secured a resident angler's license may fish by use of a dip net only from January 1 through April 15 only in the following nontidal waters:

(1) The Susquehanna River in Cecil and Harford counties;

(2) In Allegany and Washington counties; and

(3) The Monocacy and Potomac rivers in Carroll and Frederick counties. However, dip nets may not be used within 50 yards of the mouth of any tributary or the breast of any dam of these rivers. A dip net may not be used in any of the waters of the State which are stocked with trout.

(c) (1) Only a person with a resident angler's license may use a bush–bob or bank pole;

(2) Bush–bobs or bank poles not exceeding a total of 25 in all and not exceeding one hook to a pole or bob may be used only in the waters of the Potomac or Monocacy River within Carroll, Washington, and Frederick counties.

(3) Bush–bobs or bank poles may not be used on any streams stocked with trout.

(4) A bush–bob or bank pole which has been baited with scale bait or live bait may not be used to catch suckers, catfish, carp, eels, gudgeons and every species of sunfish, including bluegills and rock bass, commonly known as redeye.

(5) A bush–bob or bank pole may not be used except between sunset and sunrise.

(d) The Department may regulate, supervise, and control ice–fishing.

(e) White shad, hickory shad, and herring may be caught or taken only by angling, unless otherwise provided.

(f) A person may catch large or small mouth black bass from nontidal waters of the State only by angling. An artificial lure is legal.

§4–618.

A nonresident may not fish in the nontidal waters of the State with nets of any description.

§4–625.

(a) A person may not build, construct, have constructed, or place any wharf, pier, dock, float, or any projection along or running into or over the waters of Deep Creek Lake without first obtaining a written permit from the Department and the lessors of the area.

(b) The Department, for proper fish management, may close as many as three tributaries to the lake for their length, at any one time, or prohibit fishing during the period between one hour after sunset and half an hour before sunrise if necessary to police the area properly.

§4–627.

A person may not catch or possess any game and freshwater fish except during the period and in the manner provided in this subtitle, unless changed by rule or regulation the Department promulgates.

§4–701.

(a) This section applies to any person who is required under Subtitle 2, 7, 8, 9, or 10 of this title to be licensed to guide fishing parties or to catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters.

(b) (1) The Department shall utilize a single, commercial license, to be known and designated as a tidal fish license.

(2) A tidal fish license authorizes a licensee:

(i) To engage in each activity indicated on the license; and

(ii) For catching crabs, to utilize the number of crew members authorized under § 4–814 of this title.

(3) Except for a person receiving a license as a beneficiary of a deceased licensee under subsection (j)(4)(i) of this section, the Department may not issue a tidal fish license to an individual who is younger than 14 years of age.

(4) A person may not guide fishing parties or catch, sell, buy, process, transport, export, or otherwise deal in fish caught in tidal waters unless licensed under this section.

(c) (1) The license year for every tidal fish license shall be 12 months from September 1 through August 31 of the following year.

(2) A licensee and crew members may engage only in those activities for which the annual fees for that license year have been paid.

(d) (1) The Department may issue no more than one authorization to a person to engage in each activity under paragraph (2)(ii)1 and 2 of this subsection during a license year.

(2) (i) On a tidal fish license, the Department may issue an authorization for any of the following activities for which the indicated fee has been paid.

(ii) The following annual fees for an authorization shall apply regardless of when the license is issued or an activity is authorized:

1. To provide services as:

A. A fishing guide in the tidal waters of Maryland – $100 for a resident and $200 for a nonresident; and

B. A master fishing guide, in addition to the fee under item A of this item – $100 per vessel

2. To catch for sale fish with equipment which is legal under this title:

A. Finfish:

I. Hook and line only, anywhere: $100

II. All other equipment: $150

B. Crabs:

I. Up to 50 pots, trotlines, nets, dip nets, traps, pounds, and scrapes: $100

II. Over 50 pots, plus any other gear listed in item I of this sub–sub–subparagraph: $150

C. Clams – $100

D. Oysters – $250 for a dredge boat and $100 for other than a dredge boat

E. Conch, turtles, and lobster – $100

F. For all activities in item 1A of this subparagraph and in items A through E of this item, unlimited tidal fish – $300

3. For one or two crew members employed under § 4–814 of this title to enable a licensee to catch crabs under subparagraph (ii)2BII and F of this paragraph with more than 300 pots, the licensee shall pay an additional:

A. $100 for up to 600 pots total per vessel; or

B. $150 for up to 900 pots total per vessel.

4. For a person to buy, process, pack, resell, market or otherwise deal in fish caught in the tidal waters of Maryland, seafood dealer:

A. $50 for a person licensed under item 2 of this subparagraph; or

B. $250 for a person not licensed under item 2 of this subparagraph.

5. For a person who is not licensed under this section to land fish caught in out–of–state tidal waters, seafood landing –$350

(e) (1) Before catching fish for sale under an authorization issued under subsection (d)(2)(ii)2 of this section, a tidal fish licensee shall obtain a harvester

registration from the Department.

(2) The annual fee for a harvester registration is $215.

(3) A harvester registration is nontransferable.

(f) For a tidal fish license, the Department may issue a permit for any of the following activities for which the indicated annual fee has been paid:

(1) To catch for sale:

(i) Striped bass:

1. $200 for a licensee authorized under subsection (d)(2)(ii)2A of this section; or

2. $150 for a licensee authorized under subsection (d)(2)(ii)2F of this section;

(ii) Yellow perch: $25;

(iii) Horseshoe crab: $25;

(iv) Black sea bass: $25;

(v) Summer flounder: $25; or

(vi) Snapping turtle: $25.

(2) The Department may establish by regulation a permit and an annual permit fee not exceeding $25 for any species not subject to a permit under this subsection.

(g) (1) (i) A person may not catch oysters for sale without:

1. Possessing a valid license under this section;

2. Paying an annual surcharge of $300; and

3. Certifying to the Department that the person received the publications required under § 4–1006.2 of this title.

(ii) The Department shall use the surcharges collected under this paragraph only for oyster repletion activities.

(2) In addition to the normal license fees imposed under subsection (d)(2)(ii)2 and 4 of this section, a licensee shall pay to the Department an annual surcharge in the following amounts to be credited to the Seafood Marketing Office of the Department to fund seafood marketing programs which have been approved by

the Department:

(i) $20 for a licensee authorized under subsection (d)(2)(ii)1, 2, 3, or 5 of this section, if the licensee is not also authorized under subsection (d)(2)(ii)4 of this section; or

(ii) $50 for a licensee authorized under subsection (d)(2)(ii)4 of this section, regardless of whether the licensee is also authorized under subsection (d)(2)(ii)1, 2, 3, or 5 of this section.

(3) (i) 1. In this paragraph, "fishing activities" means those activities that are directly related to catching fish.

2. "Fishing activities" does not include the activities of buying, selling, processing, transporting, exporting, or similarly dealing in fish.

(ii) For every nonresident license issued under Subtitles 7, 8, and 9 of this title, except under subsection (d)(2)(ii)1A of this section, the Department shall assess an annual surcharge in addition to the normal license fees imposed by this subsection, which shall be the greater of:

1. An amount equal to the difference between the total fees charged to a Maryland resident engaged in like fishing activities in the state of residence of the nonresident applicant and the total of normal license fees for fishing activities in Maryland; or

2. $450.

(h) The Department may assess annually on every person licensed under subsection (d)(2)(ii)2 of this section a surcharge for the costs incurred by the Department for:

(1) Fish tags issued to the licensee; and

(2) The use by a licensee of a hailing system.

(i) (1) The Department shall accept applications for new authorizations to participate in fishing activities under subsection (d)(2)(ii)1 or 2 of this section from qualified persons and maintain a waiting list of candidates for each fishing activity in order of the date and time that applications are received.

(2) An applicant for a license to provide services as a commercial fishing guide in tidal waters of the State shall supply as part of the application verifiable references to any federal license that is issued by the U.S. Coast Guard to operate a vessel carrying passengers for hire in the applicant's name, as a condition precedent to engaging as a commercial fishing guide in tidal waters.

(j) (1) The Department may set by regulation targets for the number of tidal

fish license authorizations under subsection (d)(2)(ii) of this section to be the number issued between September 1, 1998 and March 31, 1999. The Department may modify by regulation the target number of authorizations based on:

(i) Recommendations of the Tidal Fisheries Advisory Commission;

(ii) Recommendations of fishery management plans adopted by the Department, the Chesapeake Bay Program, the Atlantic States Marine Fisheries Commission, the Mid–Atlantic Fisheries Management Council, or any other appropriate management body;

(iii) The number of people historically participating;

(iv) Target species, size, number, weight, incidental catch, total biomass, annual harvest, mortality rates, and other factors which are necessary and appropriate; and

(v) The number of authorizations relinquished to the Department under subsection (l) of this section.

(2) (i) The Department shall by regulation limit the total number of commercial authorizations to fish for striped bass not to exceed 1,231 participants in the commercial fishery and 499 participants in the charter boat fishery.

(ii) The Department shall provide in its regulations for reallocation of any authorizations that may be revoked or voluntarily relinquished to the Department.

(iii) The Department shall provide in its regulations for the allocation of any available quota on a monthly basis to assure that all areas of the State have ample opportunity to attain an equitable portion of the available quota.

(k) (1) A license or authorization may be transferred only under the provisions of this subsection.

(2) A person who desires to obtain a license or authorization by transfer under this subsection shall, for each license or authorization applied for:

(i) Pay a $50 application fee; and

(ii) Submit a completed application to the Department.

(3) The Department shall review and may approve the permanent transfer of a license or an authorization to a person who is the licensee's spouse, daughter, son, stepchild, grandchild, stepgrandchild, parent, sister, brother, grandparent, aunt, uncle, niece, nephew, father–in–law, mother–in–law, son–in–law, daughter–in–law, sister–in–law, or brother–in–law.

(4) (i) On the death of a licensee, the Department shall review and may

approve the permanent transfer of a license or authorization to the person indicated on the beneficiary form submitted by the deceased licensee at the time of issuance on the license.

(ii) The personal representative of the estate of the deceased licensee may retain the license or authorization for 2 years from the date of appointment as personal representative if:

1. The deceased licensee did not indicate a license beneficiary;

2. The Department determines that the license beneficiary is not qualified to receive the license or authorization; or

3. The license beneficiary does not accept the license or authorization.

(iii) On appointment, the personal representative shall notify the Department of the appointment and the intent to retain the license or authorization.

(iv) A license or authorization retained under this paragraph may be renewed annually as required by this title.

(v) Before the end of the 2–year period, the personal representative may submit a completed transfer application to transfer the license or authorization to a qualified individual.

(vi) If a license or authorization is not transferred under subparagraph (i) of this paragraph, and a transfer application is not submitted under subparagraph (ii) of this paragraph, the license or authorization is void.

(vii) A person may not operate under the license or authorization of the deceased licensee without approval of the application by the Department.

(5) (i) Twice per license year, the Department may approve a temporary transfer of a license or authorization for not more than the remainder of the license year.

(ii) A temporary transferee who is convicted or receives an accepted plea of nolo contendere for a violation of federal or State fisheries law that results in a license suspension or revocation may not engage in that fishing activity or receive a transfer of a tidal fish license during the period of suspension or revocation.

(6) The Department may approve the permanent transfer of a license or authorization under this subsection from a person who has held a valid tidal fish license for at least 2 years to a person who provides a notarized bill of sale for the license or authorization being transferred.

(7) (i) Except for a fishing guide licensee or a master fishing guide

licensee, a licensee may allow one individual to use the licensee's commercial fishing vessel to engage in activities authorized under the license if:

1. The licensee's commercial fishing vessel number is registered on the license; and

2. The licensee has identified the assigned individual to the Department on a form provided by the Department.

(ii) A licensee may change the assignment once per license year.

(iii) If a licensee allows an individual to utilize a vessel under this paragraph, the individual and the licensee shall be held responsible for any violations committed by the individual using the vessel.

(l) (1) Notwithstanding the qualification criteria for a license and authorization to engage in an activity under this section, licensees may renew a harvester registration and any valid existing authorizations on their licenses annually.

(2) (i) Application to renew a tidal fish license shall be made not later than August 31, or the next business day in the instance that the Department is not open, for the following license year.

(ii) The Department may not accept application for renewal after that date, as stated in subparagraph (i) of this paragraph unless:

1. Application is made by March 31, or the next business day in the instance that the Department is not open, of the following license year;

2. The applicant shows good cause why application was not made by August 31 of the previous license year; and

3. A late fee of $50 is paid by the applicant in addition to the license fee.

(m) (1) (i) A licensee who possesses an unlimited tidal fish license under subsection (d)(2)(ii)2F of this section may relinquish the unlimited tidal fish license and receive one or more authorizations under subsection (d)(2)(ii)1A through E of this section.

(ii) If the fee for an unlimited tidal fish license is less than the total of the fees for authorizations received by a licensee under subparagraph (i) of this paragraph, the licensee shall pay to the Department an amount equal to the difference between the fee for the unlimited tidal fish license and the total of the fees for the authorizations received.

(2) The Department shall adjust the number of authorizations under

subsection (d)(2)(ii) of this section to reflect the number of license conversions under paragraph (1) of this subsection.

(n) (1) In addition to any other penalty provided in this title, the Department may suspend or revoke a person's entitlement to engage in a particular activity or activities under a tidal fish license.

(2) During a period of suspension or revocation imposed by the Department, the person penalized is not and shall not be authorized under any existing, renewed, transferred, or new tidal fish license to engage in the particular activity or activities for which the suspension is imposed.

(3) The following are grounds for suspension or revocation of a tidal fish license:

(i) Making any false statement in an application for a tidal fish license;

(ii) A serious violation of a State or federal commercial fisheries law that results in a conviction or an accepted plea of nolo contendere;

(iii) Failure to submit reports required by the provisions of this title or by the Department pursuant to provisions of this title; or

(iv) Failure for a nonresident of the State to appear in court pursuant to a citation issued by a Natural Resources police officer, or to any other process issued by any court of Maryland, for violation of this title.

(4) A penalty imposed in accordance with this subtitle shall be in addition to any other penalty authorized under § 4–1201 of this title regarding striped bass.

(5) The Department, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, shall adopt regulations relating to the suspension and revocation of licenses and authorizations issued under this title, including:

(i) A schedule of points assigned to various offenses under this title;

(ii) A schedule of the maximum number of days that a license may be suspended according to the number of points accumulated;

(iii) Suspension or revocation of a license or authorization for a serious violation of a State or federal commercial fisheries law that results in an individual receiving a conviction or an accepted plea of nolo contendere;

(iv) Enhanced penalties for repeated violations of this title; and

(v) Enhanced penalties for violations of provisions of this title that

regulate species deemed by the Department to be in need of special protection, including striped bass, crabs, oysters, and menhaden.

(6) (i) Before the suspension or revocation of a tidal fish license under this section, the Department shall notify the licensee in writing of the licensee's right to a hearing on request.

(ii) If a licensee submits a written request for a hearing to the Department within 30 days after the date that the notice required under this paragraph is mailed, the Department shall:

1. Hold a hearing after providing at least 10 days' notice to the licensee; and

2. Conduct the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(iii) The Department may suspend a commercial license issued under this title without a hearing if:

1. The licensee does not submit a written request for a hearing; or

2. The licensee fails to appear for a scheduled hearing for which the Department provided notice.

(o) (1) If a person is engaged in an activity for which a license or authorization is required under this section, the person shall possess:

(i) Any required license, authorization, registration, or permit; and

(ii) For a person to whom a license or authorization has been temporarily transferred, documentation indicating the Department's approval of the temporary transfer application.

(2) (i) This paragraph does not limit the Department's authority to inspect books, statements, and accounts under § 4–206(b) of this title.

(ii) The licensee or any person to whom a licensee has transferred a license under subsection (k) of this section shall allow any police officer, at reasonable times, including when the licensee or person is engaged in an activity that requires a license under this section, to inspect:

1. The license, authorization, or permit;

2. Any applicable application to transfer the commercial tidal fish license approved by the Department for a temporary transfer;

3. Commercial fishing vessels;

4. Vehicles used to transport fish for commercial purposes; and

5. Fish businesses owned or operated by a person licensed under this section.

(iii) Inspections of vessels, vehicles, and businesses authorized under this paragraph shall be restricted to inspections of fishing gear and places where fish may be stored.

(iv) Inspections of businesses authorized under this paragraph may be conducted in any building other than a dwelling house.

(3) (i) An inspector may seize fishing gear or fish found during an inspection under this subsection that is used or possessed in connection with a violation of this title or a regulation adopted under this title.

(ii) Fishing gear seized under this paragraph shall be held by the Department pending disposition of court proceedings, and on conviction the property seized or proceeds from the seizure shall be forfeited to the State for destruction or disposition as the Department may deem appropriate.

(iii) The Department may dispose of fish seized under this paragraph at its discretion.

(p) The Department shall assign a permanent identification number to each licensee. A licensee shall display the identification number on every vessel, vehicle, gear, or place of business, as the Department may require by regulation.

(q) The Department shall:

(1) Deposit to the credit of the Fisheries Research and Development Fund all fees received for tidal fish licenses, authorizations, and permits under this section; and

(2) Use the funds received from the sale of striped bass surcharges for striped bass management and enforcement purposes.

(r) (1) This subsection applies only to a person who, on April 1, 1997:

(i) Held a valid fishing guide license; and

(ii) Either:

1. Owned two or more vessels used to carry passengers for fishing;

2. Owned or operated a federally licensed vessel of 50 tons or more that was used to carry passengers for fishing; or

3. Owned or operated a marina from which 10 or more vessels operate to carry passengers for fishing.

(2) A person who meets the requirements of paragraph (1) of this subsection may obtain an annual master fishing guide license by:

(i) Filing an application on a form provided by the Department;

(ii) Supplying with the application proofs of ownership of the required vessels; and

(iii) Paying the master fishing guide license fee set forth in subsection (d)(2)(ii)1 of this section.

(3) A person holding a master fishing guide license may:

(i) Employ other persons to guide fishing parties on vessels owned by the master fishing guide; and

(ii) Allow a person who holds a valid Coast Guard license to operate a vessel to carry passengers for fishing from the marina owned or operated by the master guide license holder authorized under paragraph (1)(ii)3 of this subsection as follows:

1. One person for 10 vessels;

2. Two persons for 11 to 20 vessels;

3. Three persons for 21 to 30 vessels;

4. Four persons for 31 to 40 vessels;

5. Five persons for 41 to 50 vessels; and

6. Six persons for 51 or more vessels.

(4) (i) The Department shall issue a number of copies of the master fishing guide license corresponding to the number of vessels owned or operated by the master fishing guide, with each copy bearing the registration number of one of the vessels.

(ii) The master fishing guide shall ensure that when a vessel is operated, the appropriate copy of the license is on board.

(5) If a master fishing guide employs another person to operate a vessel to carry passengers for fishing, for purposes of the license suspension criteria in subsection (m) of this section, the master fishing guide shall be held responsible for any violations

committed by the person employed to operate the vessel.

§4–702.

(a) Except as provided in subsection (b) of this section, a person may not buy for resale finfish, crabs, or shellfish from waters of the State unless the person is licensed and authorized as a seafood dealer under § 4–701 of this subtitle.

(b) The following persons are not required to obtain a seafood dealer authorization under this section:

(1) A person who buys finfish, crabs, or shellfish for personal use or consumption;

(2) A person who buys for resale finfish or shellfish species defined as bait under subsection (c) of this section; and

(3) A person who buys finfish, crabs, or shellfish from a person with a seafood dealer authorization under § 4–701 of this subtitle.

(c) (1) Any person not otherwise licensed under § 4–701(d)(2)(ii)2 of this subtitle that harvests and sells finfish or shellfish species defined as bait under paragraph (3) of this subsection shall obtain a bait harvester permit from the Department.

(2) The annual fee for a bait harvester permit is $25.

(3) The Department shall adopt regulations defining which species of finfish and shellfish may be caught and sold as bait in accordance with a bait harvester permit issued under this subsection.

(d) The Department shall adopt regulations to define the species that are included as shellfish under this section.

§4–704.

(a) An applicant for a license to catch finfish shall furnish information the Department requires.

(b) The Department may not grant a license to any person, under the provisions of this subtitle, to set a pound net on the location occupied by any other pound net or within 4,500 feet in the Chesapeake Bay or 1,500 feet in a tributary of the Chesapeake Bay measured at right angles to the line of stakes, unless the other licensee failed to apply for renewal of his license by the expiration date of the year for which it was granted.

§4–704.1.

A person may not catch striped bass for sale unless the person has purchased a valid license to catch striped bass from the Department under § 4-701 of this subtitle.

§4–705.

A license does not lapse if the licensee fails to renew or make bona fide use of his license because of induction or enlistment into the armed forces or employment in essential war industries, and the licensee applies to the Department for the renewal of his license within one year of the termination of hostilities or from the date of his release from the armed forces. If a licensee cannot fish every net for which he was licensed at any time during a war emergency because of some condition arising out of a war, he may not be deprived of his right to a license for these nets thereafter.

§4–708.

(a) A person may not:

(1) Commit a separate violation of this title related to the suspended or revoked license or authorization while the person's license or authorization to fish or deal in fish under § 4–701 of this subtitle is suspended or revoked; or

(2) Engage in an activity for which a license or an authorization is required under § 4–701 of this subtitle without holding that license or authorization.

(b) A person may not set any net during the time his commercial net fishing license is suspended or revoked.

§4–710.

(a) A person may not catch finfish for any purpose in the tidal waters of the State by use of any gig, gig iron, purse net, beam trawl, otter trawl, trammel net, troll net, or drag net. Any person who violates this section by catching fish with any of the equipment or devices referred to in this subsection, with the exception of a gig or gig iron, is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding one year, or both, with costs imposed in the discretion of the court. Any person who illegally catches fish with a gig or gig iron is subject to the penalties provided by this title.

(b) An appropriately licensed person may fish in the waters of the Atlantic Ocean with an otter trawl or beam trawl, subject to Department rules and regulations, if the person is at least one mile from the shoreline. The Department rules and regulations shall include:

(1) Setting seasons when otter trawl or beam trawl fishing is permitted; and

(2) Enumerating the species of fish which may be taken.

(c) (1) A person may not fish with any net whose size of stretched mesh, allowing a reasonable tolerance for shrinkage, is less than the following: pound net, 1 1/2 inches; haul seine, 1 1/2 inches; gill net, 2 1/2 inches; fyke or hoop net, 1 1/2 inches.

(2) Any hedging or lead attached to a fish trap, fyke net, or pound net shall be constructed of materials which have meshes having a twine size of #12 or larger.

(3) In the Chesapeake Bay and its tributaries, a person may not set or fish any gill net whose size of stretched mesh is more than 6 inches.

(4) This subsection does not apply to catching eels with a net.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not install, set, operate, or maintain in any tidal water of the Chesapeake Bay or its tributaries any monofilament gill net webbing of any description to catch fish.

(2) A person may use a monofilament cast net or a monofilament throw net to catch baitfish in any tidal water of the Chesapeake Bay or its tributaries.

(3) In casting a monofilament net as provided under paragraph (2) of this subsection, a person:

(i) May not use a cast net that has a radius greater than 10 feet; and

(ii) May cast a cast net only by hand.

(e) A person may not set any anchored gill net or fyke or hoop net or any line of these nets which has a length more than one third the distance across the waters of the bay, sound, river, creek, cove, or inlet where it is set, or is set so that it impedes or obstructs navigation on or blocks in any way the main channel of the bay, sound, river, creek, cove, or inlet. The outer end of the submerged gear of any nets referred to in this subsection shall be marked by means of a paddle, a board, or a buoy or other floating device which shows the name and license number of the net owner.

(f) A person may not haul any seine or net more than one third of the distance across the body of water, bay, sound, river, creek, cove, or inlet.

(g) A person may not catch or attempt to catch finfish by the use of any stationary fishing gear, or set an anchor or mooring buoy, or in any way obstruct the normal taking of finfish by drift net from December 1 through April 1.

This subsection applies only to waters more than 50 feet in depth in the Chesapeake Bay south of the William Preston Lane, Jr., Memorial Bridge and is not applicable to any Chesapeake Bay tributaries. This provision does not apply to any designated anchorage in existence on July 1, 1975. The Department has the authority

to permit exceptions to this section by regulations when it can be shown that the obstruction will not interfere with a useable fishing reach.

(h) (1) Except in State waters in the Atlantic Ocean, a tidal fish licensee may not use more than 2 hooks or 2 sets of hooks for each rod or line.

(2) For the purposes of this subsection, artificial lures or plugs with multiple or gang hooks are considered 1 set of hooks.

§4–711.

(a) A person may not set any pound net or any line of these nets that is greater in length than one third the distance across the waters of the bay, sound, river, creek, cove, or inlet where it is set, or is set so that it impedes or obstructs navigation on or blocks in any way the main channel of the bay, sound, river, creek, cove, or inlet. The length limit provided here shall not be construed to apply to any line of nets running parallel to the bank or shore of any bay, sound, river, creek, cove, or inlet, but no net may be set across the mouth on any tributary, harbor, or navigation channel.

(b) A person may not set at any time a pound net within 4500 feet of another pound net in the Chesapeake Bay and within 1500 feet in a tributary of the Chesapeake Bay, measured at right angles to the line of stakes. Every pound net set licensed in the Chesapeake Bay or one of its tributaries may retain the locations it lawfully occupied on June 1, 1949. Except as otherwise provided by this title, a person may not set at any time a fyke net within 300 feet of a pound net, measured at right angles to the line of stakes. A person may set any fyke net closer to any pound net than the distance provided in this subsection if the owner of the pound net location gives written permission.

(c) Clear and unobstructed intervals of at least 200 feet shall be maintained between successive pound nets in the same row.

(d) A person may not set a pound net in or upon the waters covering leased oyster ground without the permission of the lessee.

(e) The outer end of each line of pound or net stakes shall be marked plainly by a brush or other suitable day marker, readily discernible to indicate the opening between nets. The name of the owner and the license number of each pound or stake net shall be displayed in black letters, at least 2 inches high, on a white background on a stake at the outer end of the pound or line, at a height and in a position as to be seen readily from adjacent navigable channels. The Secretary, after a public hearing, shall promulgate rules and regulations governing the lighting of pound nets.

(f) A single line of stakes, including the pound or head and the leader or hedging, may not have a length greater than the following:

(1) In Chesapeake Bay, south of a line from Sandy Point to Love Point and in the Choptank River from the mouth of the Choptank River to a line drawn from the center of house with white roof in vicinity of Drum Point to the easterly of two silos in

the vicinity of Kate Point -- 1500 feet.

(2) In Chesapeake Bay, north of a line from Sandy Point to Love Point and south of line from the northernmost point of Poole's Island to Worton's Point -- 1200 feet.

(3) In Chesapeake Bay, north of a line from the northernmost point of Poole's Island to Worton's Point -- 1000 feet.

(4) In the tributaries of the Chesapeake Bay except as provided, and in the Potomac River -- 1200 feet.

(5) In Chincoteague, Sinepuxent, Isle of Wight, and Assawoman Bays, and their tributaries, and in the Atlantic Ocean within 3 miles of the Maryland shore -- 1500 feet.

(6) In Honga River, south of a line drawn from Hickory Point on Middle Hoopers Island to Windmill Point on Aisquith Island -- 1500 feet.

(7) In Hoopers Straits -- 1500 feet.

(8) In Fishing Bay, south of a line from Point No Point to Department Triangulation Station Cler at southerly side of Gray's Island -- 1650 feet.

(9) In the Nanticoke River, south of a line from the southeasterly most point of entrance into Jack's Creek in Dorchester County to Triangulation Station Earle in Wicomico County -- 1650 feet.

(g) A person may not drive, maintain, or permit any stake to remain, in any line of stakes or otherwise, unless it projects above the surface of the water at least 3 feet at high tide.

(h) (1) Every licensee shall:

(i) Maintain the licensee's stakes in good condition; and

(ii) Promptly remove and renew any stake that may be unsound, broken, or liable to go adrift.

(2) A licensee may not permit or allow to remain in the water:

(i) Any pound net stake for a period greater than 30 days following the removal of the net from each stake;

(ii) Any pound net or stake for a period greater than 30 days following the discontinuance of fishing of the net; or

(iii) Any pound net or stake between January 1 and January 31 of any year unless the owner of the pound net or stake notifies the Department by certified

mail, return receipt requested, that the net is being actively fished.

(3) A licensee who fails to comply with the provisions of this subsection is guilty of a misdemeanor and upon conviction is subject to a fine of at least $200 and not exceeding $1,000 with costs imposed in the discretion of the court.

(4) For a licensee who is convicted twice within 2 years of violating paragraph (1) of this subsection, the Department may suspend the licensee's striped bass authorization in the following year.

(i) Before setting a pound net in accordance with this section and the regulations adopted under subsection (j) of this section, a licensee shall ensure that, at least 7 days before the setting of the net, the Department receives:

(1) Notice from the licensee that the pound net will be set and actively fished; and

(2) A pound net activity registration fee of $20.

(j) (1) The Department may adopt regulations on the placement of pound or stake nets, including a limit on the number of locations of pound nets that may be assigned to a licensee.

(2) In the regulations adopted under paragraph (1) of this subsection, the Department may impose a limit of up to eight locations of pound nets that may be assigned to a licensee.

§4–712.

(a) The owner, tenant, or lessee of any property bordering on tidal waters of the tributaries of the Chesapeake Bay, except the waters of the Great Choptank River, lying in the State, by virtue of his ownership or occupancy, may make first choice of the set or position to place nets or establish a haul seine fishery to catch fish for commercial use in front of the property for which he possesses riparian rights. The section does not permit any riparian owner or anyone acquiring the right of a riparian owner to fish with nets or seine in any manner prohibited by this subtitle.

(b) In any year, any other person may set any net or haul seine in front of the property of a riparian property owner if the owner, tenant, or lessee of the riparian rights does not exercise the privilege of locating the position where he desires to set his nets or haul seine within 20 days after receiving notice from the other person who desires to locate his nets or fishery in front of the riparian owner's property.

(c) The notice required by this section shall be mailed to the owner, tenant, or lessee of the shore property. If the name and address are unknown, then notice shall be posted for 20 days on a board fastened to a stake driven in the water directly in front of the property and within 300 feet of the shore.

(d) This section does not grant by reason of the notice any right to any fisherman to fish without the permission of the shore owner in water within 1500 feet of any shore used as a resort so as to interfere with bathing or boating.

(e) (1) The notice provisions of this section do not apply in the waters of Baltimore, Caroline, Charles, Dorchester, Prince George's, St. Mary's, and Talbot counties where the permission of the shore owner always shall be necessary.

(2) The provisions of this section do not apply to Anne Arundel, Calvert, Queen Anne's, Kent, and Somerset counties.

§4–713.

(a) A person who fishes with haul seine equipment shall carry a tidal fish license to catch finfish.

(b) A Natural Resources police officer shall inspect every haul seine prior to its use in any portion of the waters of the Chesapeake Bay or its tributaries. If the Natural Resources police officer determines that the seine complies with the provisions of this section, he shall affix a seal and number certifying that the haul seine is inspected and in compliance with provisions of this section. Any haul seine without a State seal or with a broken seal is an illegal one, and a person may not operate it.

(c) Haul seines shall be limited to a depth or width of 15 feet graduating to a width of 22 feet at the bunt or back. A haul seine may not have a length of its bunt or back greater than 100 feet, which is a "hung" measure.

(d) A person may not use a seine exceeding 50 feet in length and 5 feet in width to catch minnows in the tidal waters of the State.

(e) If the haul seine is used in the Chesapeake Bay, the length of brail line used on either end of the haul seine may not exceed 1500 feet. If the haul seine is used in the rivers and tributaries of the Chesapeake Bay, the maximum length of brail line may not exceed 750 feet.

(f) A person may not drag or haul any seine with two or more vessels or boats propelled by power, or use any haul seine more than 1800 feet in length. A power winch anchored in a vessel or boat, not propelled by power, may be used if the winch boat is anchored in 4 feet depth of water or less.

(g) A person may not empty a seine on the shore or beach, or in any water less than 12 inches deep so as to leave the small fish to perish. A person always shall empty the seine in waters of sufficient depth to enable the small fish to return to the waters for growth.

(h) A person may not haul any seine in waters covering leased oyster ground unless the permission of the lessee is obtained.

(i) (1) Except as provided in paragraph (2) of this subsection, a person may not fish with a haul seine during the period from Friday midnight until sunrise on Monday in the tidal waters of the State.

(2) (i) In Baltimore County and Harford County, on prior notification to the Department a person may catch carp during the period from Friday midnight until sunrise on Monday, except in areas where it is prohibited by the Department.

(ii) Except in areas where it is prohibited by the Department, a person may set a licensed haul seine at a distance greater than one–third the distance across a river, creek, cove, or inlet in any of the tributary waters of Baltimore County or Harford County only to catch carp and catfish, notwithstanding any other provision of this subtitle regarding the distance across which a haul seine may be set. A person may not set the licensed haul seine to impede or obstruct navigation or block in any way the main channel of the river, creek, cove, or inlet. Any person who catches fish of a variety other than carp or catfish in any licensed haul seine shall return them immediately to the water unharmed. A person always shall attend a licensed haul seine for catching carp or catfish. Any person whose licensed haul seine is found more than one–third the distance across the waters where it is set without a person in attendance is guilty of violating this subsection.

(iii) The Department, by regulation:

1. Shall establish procedures for the prior notification required under subparagraph (i) of this paragraph; and

2. May prohibit fishing for carp and catfish in certain areas as provided in subparagraph (ii) of this paragraph.

§4–714.

(a) A person may only fish with a rod, or hook, and line in the waters of Coxes' Creek, Furnace Branch Creek, or Marley Creek above the B. and O. Bridge.

(b) (1) A person may not catch fish by any means in the headwaters of the Magothy River beginning at the base of Lake Waterford Dam and extending for a distance of 3300 feet downstream during February, March, and April.

(2) A person may fish only with rod, or hook, and line, in the waters of the Little Magothy River and its tributaries and in the Magothy River and its tributaries lying westerly of the mouth of the Magothy River and inside a line drawn 214 degrees true from extreme end of Mountain Point to Persimmon Point, referring to the last edition of the Coast and Geodetic Survey Chart No. 566.

(3) A person may fish only with rod, or hook and line, in the waters of Bodkin Creek and tributaries lying westerly and inside of a line drawn 340 degrees true from extreme end of Cedar Point to Old Landen Point, referring to the latest edition of the Coast and Geodetic Survey Chart No. 549.

(4) In the waters of the Magothy, Little Magothy Rivers, and Bodkin Creek and their tributaries, a person may use an eel pot or minnow trap which does not exceed 30 inches in length, 11 inches in width and 11 inches in height. During February, March, and April, a person may use a "D" bow frame net with handle attached which does not exceed 36 inches in width or 36 inches in height in the waters of the Magothy and Little Magothy Rivers and Bodkin Creek. However, a person may not use a "D" bow frame net as a stationary or set net in the bodies of water named in this subsection.

(c) (1) During February, March, and April, a person may not catch fish by any means in the waters of the Severn River or Severn Run from the dividing line between tidal and nontidal waters to a point 2400 feet downstream.

(2) A person may fish only with rod, or hook and line in the waters of the Severn River or any creek, cove, tributary, or inlet of the Severn River. A line drawn from the extreme projection of Greenberry Point into the Chesapeake Bay to the extreme point of Horn Point, marks the mouth of the Severn River for the purpose of the title.

(d) (1) A person may not set a pound net or other similar device at any time in the waters of South River, or any creek, cove, or inlet of the South River above Saunders Point on the south side and Marsh Point on the north.

(2) A person may not set any net at any time except a gill net or a haul seine in any creek, cove, tributary, or inlet of the South River.

(3) A person may not set any net or equipment during February, March, and April in the headwaters of South River from a line drawn from Howards Point on the west side of the river to Brier Bottom on the east side, and in the headwaters of Beards Creek and in the headwaters of any of the creeks of South River for a distance of 1200 feet from its headwaters.

(e) (1) A person may not set a haul seine exceeding 50 feet in length in the following waters:

(i) Herring Bay from a line drawn from the extreme projection of Parker's Island Point into the Chesapeake Bay to the extreme point of Holland Point;

(ii) South River, Rhode River, and West River;

(iii) From a line drawn from the extreme projection from Thomas Point into the Chesapeake Bay to the extreme point of Curtis Point;

(iv) Within the headlands of Whitehall Creek; and

(v) Within the headlands of Meridith Creek and Lake Ogleton.

(2) Any person who violates this subsection is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding $2,500 with costs imposed in the

discretion of the court.

§4–715.

(a) A person may not fish with rod or hook and line from any kind of boat or float, or fish with nets of any kind within 1500 feet of any occupied duck blind for the period beginning two days prior to the open season, as promulgated by the Department of Interior of the United States for hunting wild waterfowl, and ending the day following the closing of the season in the following waters:

(1) Back River, except in the portion lying west of a line drawn from Stansbury's Point on the south shore to Walnut Point on the north shore;

(2) Bird River and its tributaries lying within Baltimore County;

(3) Dark Head Creek, except in the portion lying north of a line drawn from Clark Point on the west shore directly across the creek to Sharp Point on Bull Neck Shore;

(4) Frog Mortar Creek, except in the portion lying northerly of a line drawn from Strawberry Point on the west shore to Weiskettle's Landing on the east shore;

(5) Gunpowder River and its tributaries lying within Baltimore County;

(6) Hogpen Creek, except in the portion lying southwest of natural headlands marking entrance into the creek;

(7) Middle River, except in the portion lying west of a line drawn from Clark Point, also known as Maryland Yacht Club Point, on the north shore to the point of shore directly south of Clark Point;

(8) Norman Creek, except in the portion lying west of a line drawn from Cape May Beach on the south shore to Barren Point on the north shore;

(9) Seneca Creek, except in the portion lying northwest of a line drawn from Gun Point on the north shore directly south to Blackberry or Flying Point on the south shore;

(10) Seneca River; Saltpeter Creek; Dundee Creek and in the waters of their tributaries;

(11) Stansbury's Creek, except in the portion lying northwest of a line drawn from Wilson Point on south shore to Strawberry Point on north shore; and

(12) Sue Creek, except in the portion lying west of a line drawn from the northeasternmost point of Sue's Island to extremity of Rockaway Beach Road at the southern tip of Turkey Point.

(b) A person may not set a pound net or any similar device in the waters of Back River and its tributaries.

(c) A person may not fish with rod, hook and line or a net in the waters of Bird River between November 1 and January 31, both dates inclusive. A person shall remove every net or stake used for taking fish before midnight on October 31.

(d) A person may not fish with a net of any kind in the waters of Dundee Creek west of a line drawn from Levering's Point on the north to Marshy Point on the south.

(e) (1) Except as provided in paragraph (2) of this subsection, a person may not fish in the waters of Gunpowder River lying in Baltimore County, with nets, from May 15 to September 15, both dates inclusive.

(2) (i) Except in areas where it is prohibited by the Department, in the waters of the Gunpowder River lying in Baltimore County or Harford County, on prior notification to the Department a person may catch carp 6 weeks before and during Passover in each year and 4 weeks before and during Rosh Hashanah through Yom Kippur in each year. If a person catches any fish variety other than carp under this paragraph, the person shall return them immediately to the water unharmed.

(ii) The Department, by regulation:

1. Shall establish procedures for the prior notification required under subparagraph (2)(i) of this subsection; and

2. May prohibit fishing for carp and catfish in certain areas as provided in subparagraph (2)(i) of this subsection.

(f) A person may not fish with nets or seines of any kind in the waters of Middle River and its tributaries, defined as those waters northeast of a line drawn from Bowley Point southwesterly to the navigation light at the western end of Sue Island, between March 1 and June 1, both dates inclusive.

(g) A person may not fish with seines or nets of any kind in the waters of Sue's Creek west of a line drawn from the northeasternmost point of Sue's Island to extremity of Rockaway Beach Road at the southern tip of Turkey Point.

§4–716.

A person may not haul a seine of any description to catch fish in the waters of the Choptank River and its tributaries in Caroline County from May 21 to July 31, both dates inclusive.

§4–717.

(a) A person may not set a pound net or stake net in the waters of the Susquehanna River in Cecil County.

(b) Unless the written consent of the owner is first obtained, a person may not set any pound net opposite the shore of any owner of land bordering on the waters of the Elk, Bohemia or Sassafras rivers and their tributaries, and on the water of the North East River from Turkey Point to the River's Head, or any part of it within the limits of Cecil County. A person, unless he is the owner of the fishing shore, may not set a pound net so that it obstructs the hauling of any seine on an established fishing shore on these waters.

(c) A person may not catch fish by means of hook and line in the tidal waters of the following tributaries of the Chesapeake Bay in Cecil County, Mill Creek, Furnace Bay, North East River, Elk River, or Bohemia River two days prior to and extending until the closing day of the regular ducking season as promulgated by the Department of Interior of the United States. This subsection does not prohibit ice fishing at any time nor catching fish by means of hook and line from the shore line, docks, or wharves, or fishing by any means on Sundays during the regular ducking season.

(d) A person may not set any net within 200 yards of the beach on the Turkey Point section of Elk Neck State Park. The area that is restricted by this subsection shall be set off with buoys by the Department.

§4–718.

(a) A person may not use a haul seine greater than 960 feet in length in the tributaries of the Potomac River, and not greater than 1800 feet in length in the St. Mary's County waters of the Wicomico River and its tributaries. Any person who possesses a seine greater than these lengths while actively engaging in seining in these waters is guilty of violating this subsection.

(b) A person may set a licensed haul seine and gill net at a distance greater than one third the distance across a river, creek, cove, or inlet in any of the tributary waters of Charles County only to catch carp and catfish, notwithstanding any other section of this subtitle. A person may not set the net to impede or obstruct navigation or block in any way the main channel of the river, creek, cove, or inlet. Any person who catches fish of a variety other than carp or catfish in any net shall return them immediately to the water unharmed. A person always shall attend a net for catching carp or catfish. Any person whose net is found more than one third the distance across the waters where it is set without a person in attendance is guilty of violating this subsection. The provisions of this subsection do not apply from March 1 through April 30 and September 1 through November 30 in each year.

(c) A person may not set a net of any description to catch fish in the Wicomico River proper above Woodland Point House in Charles County.

§4–719.

(a) A person may not set a haul seine or seine of any description, or what is commonly called a put net, to catch fish in the following waters of Dorchester County:

Transquaking River and Chicamacomico River and their tributaries, Big and Little Blackwater Rivers, White Hall Creek, Hurst's Creek, Shoal Creek, and Jenkins Creek.

(b) A person may not set a patent twine weir, or any other twine weir, a pound net and hauling seine of a length greater than 350 feet in Blackwater River and its tributaries except Little Blackwater River. A person also may not fasten or stick a stake in the part of Blackwater River lying between a line drawn from Grog Point to the opposite side of the river and a line drawn from Berg's Ditch to the opposite side of the river, except in the bends of the river where stake weirs now exist.

(c) A person may not set a gill net in the waters of Fishing Bay or Transquaking River north of a line drawn from Blackwater Point to Irish Creek, up the Transquaking River to Destroys Creek, or set any net whose farther end extends more than 1200 feet from shore or more than one third the breadth of the water at the place where the net is fished, or closer than 600 feet of another net in the Transquaking or Chicamacomico River. A person may not set any net whose farther end extends more than one half the breadth of the water at the place where the net is fished or closer than 600 feet of another net in the waters of the Transquaking River above Decourcey Bridge or placed in or across the channels of these rivers. In the waters of Fishing Bay south of a line drawn from Blackwater Point to Irish Creek and north of a line drawn from Roasting Ear Point to the northwesterly most point of the entrance to Duck Island Cove, a person may not set any weir more than 1200 feet from shore, or set any gill net or weir closer to each other than 1200 feet, or set any row of gill nets more than 1200 feet in length. A person may not set any weir beyond a depth of 18 feet in the waters of Fishing Bay south of the line from Roasting Ear Point to the northwesterly most point of the entrance to Duck Island Cove.

(d) A person may not place pound nets, weirs, or hedges less than one third of a mile apart in the northwest branch of the Nanticoke River, from Walnut Landing to the place known as Chimney Landing, on the west branch of this stream.

(e) A person may fish only with hook and line, eel pot, or gill net with at least a three-inch mesh in the following waters:

(1) Cabin Creek above a line drawn from the residence of Joseph Era in a northeasterly direction to the residence on the opposite side on what is known as the Travers Farm;

(2) Warwick River above a line drawn from the east end of a sand bar extending from the Hughlett Farm in a northerly direction across the river to the nearest point of marsh on Warwick Manor; and

(3) Goose Creek and Indian Creek.

§4–720.

A person may not use a haul seine in the water area west of a line from Locust Point to the pumping station at Perry Point. This section does not prohibit catching

fish for conservation or scientific purposes under the supervision of the Department, or prohibit catching carp. If 25 or more rockfish are found in a seine or net, there is a violation of this section, and the exception stated does not apply. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction is subject to a fine of at least $100 and not more than $1,000 with costs imposed in the discretion of the court.

§4–721.

(a) A person may not fish with a hauling seine or stake net in the waters of Swan Creek from July 15 to September 15, both dates inclusive, and in the waters of the Gunpowder River lying in Harford County from May 15 to September 15, both dates inclusive.

(b) A person may not fish at any time with a haul seine in the waters of Bush River or any of its tributaries in Harford County.

(c) (1) A person may not fish a pound net in any part of the Gunpowder and Bush rivers lying in Harford County further than 1,500 feet from the shoreline of the Gunpowder River below Maxwell Point at mean low water tide and 750 feet from the shoreline of the Bush River at mean low water tide.

(2) (i) Except within the boundaries of the Aberdeen Proving Grounds, a person may not set a fyke net in the Bush River within 300 feet of another fyke net or 750 feet of a pound net, measured at right angles to existing nets or line of nets for enforcement purposes.

(ii) An owner, tenant, or lessee of the riparian rights of any property bordering the Bush River may maintain a single fyke net that is closer than 300 feet to another fyke net or pound net set in front of an adjacent property.

(d) A person may not use a pound net or stake net in the waters of the Susquehanna River.

(e) (1) A person may not set or maintain a commercial drift gill net, stake gill net, or anchor gill net so that any portion of the net is closer than 500 feet from any portion of any other commercial drift gill net, stake gill net, or anchor gill net in the designated striped bass spawning area of the Susquehanna River north of Concord Point and Stump Point.

(2) South of the line outlined, in paragraph (1) of this subsection, to Bears Point and Turkey Point, a person may set a commercial drift gill net only as provided in paragraph (1) of this subsection and may set and maintain a stake gill net or anchor gill net only as provided in paragraph (1) of this subsection.

§4–722.

A person may set a pound net in the waters of Sassafras River and its tributaries

lying in Kent County from Luke's Point to the head of this river from August 1 to May 31 following, both dates inclusive. A pound net may not be set so as to obstruct the haul of any seine on any established fishing shore on these waters, unless set by the owners of the fishing shore.

§4–723.

(a) A person may not fish with any kind of seine or net in the waters of Chaptico Bay and the Wicomico River within the limits of St. Mary's County, within 1500 feet of any established duck blind during the open season for shooting ducks or other wild fowl.

(b) A person may not set a fish trap, net, or haul seine in the waters of St. Catherine's Sound in St. Mary's County. However, a gill net not exceeding a length of 90 yards is permitted.

§4–724.

A person may not drag or set any haul seine to catch fish in the waters of Monie Bay and its tributaries easterly of a straight line drawn from Long Point to Wingate Point in Somerset County.

§4–725.

In the waters of Talbot County, a person may set only the following types of nets in the areas and during the times prescribed:

(1) Any net at any time in the waters of the Chesapeake Bay bordering Talbot County;

(2) Any net at any time in the waters of the Choptank River southeast of a straight line drawn from Benoni's Point to Chlora's Point;

(3) Gill nets and fyke nets at any time in any of the waters of Talbot County; and

(4) Haul seines in Harris Creek southerly and downstream from a straight line drawn between Station Hawk on the west side and Indian Point on the east side if the mesh in all seines is in bar not less than one and one-half inches.

§4–727.

(a) A person may not fish with a stationary net extended completely across the middle third of the waters measured in a straight line from the east to west shoreline of Sinepuxent Bay north of South Point, Isle of Wight Bay, Assawoman Bay and St. Martin's River.

(b) A person may not haul or fish with any haul or set seine, or leave or permit

to remain setting, any set seine in the waters of Sinepuxent Bay and its tributaries north of South Point, during the period between 6 o'clock p.m. Saturday, and 6 o'clock a.m., of the following Monday.

(c) A person may only fish with a rod, or hook and line in the waters of Herring Creek which lie south of the State Road Bridge.

(d) A person may not fish in the waters of Sinepuxent Bay or its tributaries within the limits of Worcester County with any seine or net of any description having meshes less than one and one-half inches square. However, during the months of July, August, September, and October, a person may fish for fat backs and croakers with any seine or net of this description.

§4–728.

(a) (1) In this subsection, "connected line of nets" means a series of connected nets set in single file.

(2) Except as otherwise provided in this title, a person may not set:

(i) A fish pot, fyke net, or connected line of fyke nets within 500 feet in any direction of any other net or connected line of nets;

(ii) A fyke net or connected line of fyke nets that exceeds 1,500 feet in length, including the net's leaders, hedges, or wings; or

(iii) A fish pot, fyke net, or connected line of fyke nets at a distance greater than one–fourth the distance across the bay, measured from the low water mark.

(3) In the waters in the part of the Chesapeake Bay which lies between a straight line drawn from Drum Point Lighthouse in Calvert County to Hog Point in St. Mary's County, and a straight line drawn from Cove Point Lighthouse in Calvert County to Cedar Point Lighthouse in St. Mary's County, a person may not set any kind of net:

(i) Nearer than 500 yards in every direction from any other net;

(ii) Of a total length of more than 550 yards including the net's leaders, hedges, or wings; or

(iii) At a greater distance than one–fourth the distance across these waters measured from the low water mark on either side.

(b) A person may not set any pound net or stake net in the headwaters of the Chesapeake Bay, except those areas within 2,400 feet from the natural shoreline in Cecil County, the bay shore of Kent County up to Howell Point, and those areas within 2,400 feet from the shore on the west side of the bay from Pooles Island north to one-half

mile north of Spesutie Island. For the purpose of this subsection the headwaters of the Chesapeake Bay are defined as the waters embraced in the area marked by the following line:

Beginning at Concord Point and running in a northeasterly direction, crossing Susquehanna River to Stump Point, then to Carpenter's Point, then to Turkey Point, then to Grove Point, all in Cecil County, then to Howell Point, Kent County, continuing in a straight line from Howell Point in a southwesterly direction across the bay to Abbey Point, the northernmost point at the entrance of Bush River, then northerly by a line following the bay shore of Harford County to Mulberry Point, then to Bear Point, Sandy Point, and to Locust Point on Spesutie Island, then to the southernmost point at the entrance of Swan Creek, and then crossing Swan Creek and continuing in a northerly direction following the bay shore to Concord Point, the place of beginning.

(c) (1) A person may not set an anchored gill net in the area of Chesapeake Bay bounded on the north by a line drawn from Turkey Point on the eastern shore to Sandy Point in Harford County, and on the south by a line drawn from Abbey Point to channel buoy Number 29, following the channel northward to buoy Number 1, off Grove Point, thence to Grove Point. This paragraph does not apply to the commercial fishing area within the Aberdeen Proving Grounds as specified by the Proving Ground.

(2) A person may not set or fish with any gill net within 1,200 feet of any pier that supports either span of the William Preston Lane, Jr. Memorial Bridge between May 1 and October 31, inclusive.

(3) A person may not set or fish with any gill net in the Chesapeake Bay, excluding its tributaries, south of a line drawn from Howell Point to Taylor Island Point in the upper bay to a line drawn from Kent Point to Curtis Point in the mouth of West River between June 1 and October 31, inclusive.

§4–729.

A person may not set a haul seine of any description in the waters of the Choptank River and its tributaries from May 21 to July 31, both dates inclusive.

§4–730.

(a) A person may not set, nor construct any kind or description of net in the Patuxent River from Queen Anne Bridge to the mouth of the river, within 1,500 feet in every direction from any other net, without the permission of the owner of the other net. In addition, a person may not set, nor construct, any net more than 425 feet in length, including the net's leaders, hedges, or wings, below a straight line from Holland's Cliffs across the river to a point on the shore directly opposite Holland's Cliffs, or more than 150 feet in length including the net's leaders, hedges, or wings, above the straight line from Holland's Cliffs. The provisions of this subsection do not apply to floating gill nets or seines.

(b) A person may not set or haul any seine or gill net in any creek, cove or

tributary of the Patuxent River if the mouth of the creek or tributary is less than 200 feet wide.

(c) A person may not set or haul any drifting gill net in the Patuxent River south of the Patuxent River Bridge or in any creek, cove, or tributary of the river south of the Patuxent River Bridge at any time.

§4–731.

(a) (1) Except as provided in paragraph (2) of this subsection, a person may not sell, offer for sale, or transport across a boundary of the State any striped bass, commonly known as rockfish, caught from the State waters of the Chesapeake Bay and its tributaries unless the person has in his possession one of the following:

(i) A valid commercial fishing license issued in his name;

(ii) A dated bill of sale signed by the licensed commercial fisherman who caught the fish; or

(iii) A dated bill of sale signed by a dealer or wholesaler from whom the fish were purchased.

(2) However, a nonresident of the State who has caught striped bass from State waters by hook and line may transport across a boundary of the State not more than 100 pounds of striped bass on any day for any purpose other than sale.

(b) A person may not knowingly buy any striped bass caught from the State waters of the Chesapeake Bay and its tributaries from any person except the licensed commercial fisherman who caught the fish, or a wholesaler or retailer of fish.

(c) Any person who buys striped bass caught from State waters of the Chesapeake Bay and its tributaries for the purpose of resale shall maintain records showing every purchase made during the preceding 90 day period, the date and place of each purchase, the quantity purchased, and the name of the person from whom the fish were purchased.

(d) Any person who violates any provision of this section is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding $1,000, or imprisonment not exceeding six months, or both, with costs imposed in the discretion of the court.

§4–732.

The Department may restrict or prohibit by rule or regulation catching fish in areas where striped bass spawn during the spawning season of striped bass.

§4–733.

A person may not possess aboard any boat on the tidal waters of the State more than 15 pounds of any fish for which a size or weight limit is prescribed by law, or rule or regulation in a condition that the size or weight of the fish cannot be determined.

§4–734.

(a) A person may not sell, offer to buy or sell, or possess any of the following fish:

(1) Bass, largemouth or smallmouth less than 15 inches from March 1 through June 15, and less than 12 inches from June 16 through the end of February;

(2) Pike less than 14 inches; and

(3) Taylor less than 8 inches.

(b) Measurement for each fish mentioned above shall be from the tip of the nose to the end of the tail.

(c) The Department may set the size limits for white perch. However, the Department may not prohibit catching white perch more than 8 inches.

§4–735.

(a) During the open season, a person may not catch by means of rod, or hook and line, more than ten chain pickerel in any one day.

(b) A person may not catch chain pickerel in the tidal waters of the State during the period from March 15 to April 30. A person may not sell, offer to sell, purchase, offer to purchase, or possess any chain pickerel during this period caught in tidal waters of the State.

(c) A person may not catch chain pickerel in any manner in the tidal waters of the State except with rod, or hook and line using natural or artificial baits. A person shall return uninjured immediately to the water any chain pickerel caught in any net, seine, or other device legally engaged in other fishing. However, a person may retain no more than one day's legal creel limit of ten chain pickerel for his own private use during the open season.

(d) Chain pickerel may not be transported into or out of the State during April, May, and June. Anglers, however, may possess and transport chain pickerel caught with rod, or hook and line, in accordance with the provisions of this section. This subsection does not prevent shipment in interstate commerce of live chain pickerel for propagating, breeding, or stocking purposes under § 4–11A–21 of this title, nor prevent any person from catching or engaging in catching chain pickerel for propagating or restocking the waters of the State under the direction of the Department under §

4–410 of this title.

(e) The Department is authorized to supervise, regulate, and control the harvest of black bass in the tidal waters of the State.

(f) The Department shall adopt regulations concerning the fishing for black bass by area, gear, season, size, and catch limits.

(g) The provisions of this section do not apply to catching, selling, purchasing, or possessing black sea bass.

§4–736.

(a) The Department may supervise, regulate, and control catching eels in the tidal waters of the State. In exercising this power, the Department may prescribe the areas within and methods by which eels may be caught.

(b) (1) A person may not catch eels for sale with pots or other devices in the tidal waters of the State without first obtaining a tidal fish license to catch finfish for commercial purposes from the Department.

(2) A licensee who is authorized to catch crabs under this section may use up to 50 pots to catch eels for personal use as crab trotline bait without obtaining an authorization to catch finfish.

(c) The Department shall adopt rules and regulations concerning commercial fishing for eels by area, gear, season, size, and reporting of catch.

(d) Each individual who catches eels for sale or for personal use as bait shall make catch reports, as prescribed by rule or regulation, on forms provided by the Department.

§4–738.

(a) A person may not catch or attempt to catch snapping turtles in the tributary waters of Charles County from April 15 to May 31, inclusive. A person may not use hook and line and trotline to catch snapping turtles in these waters.

(b) The Department may not prohibit the use of turtle pots in areas where nets are prohibited.

§4–739.

(a) The Department may make rules and regulations governing catching sturgeon in the waters of the State or possessing and selling within the State sturgeon caught in the waters of the State.

(b) The rules and regulations of the Department become effective only after

a public hearing is held. The time, place, and purpose of the public hearing shall be advertised in one newspaper of general daily circulation in the State, and at least one newspaper circulated in each county for two successive weeks in advance of the hearing. After the hearing and adoption of the rules and regulations, they shall be published for one week in the newspapers which published the notice of the hearing.

§4–740.

(a) A person may catch walleyed pike, commonly known as Susquehanna salmon, only by rod, or hook and line at any time in the tidal waters of the State. The open season for catching walleyed pike for commercial purposes is from March 15 to November 30.

(b) A person may not sell, purchase, offer to purchase, possess, or deliver to any private or common carrier for transportation, walleyed pike caught in the tidal waters of the State during the closed commercial season. A private or common carrier may not accept for transportation, and a person may not transport, carry, or cause to be transported, or carried by any means walleyed pike caught in the tidal waters of the State during the closed commercial season.

(c) Any person may possess or transport walleyed pike caught by rod, or hook and line, at any time during the year.

§4–741.

A person in charge of any boat or vessel catching or transporting shellfish commercially may not carry on board a domestic animal of any kind.

§4–742.

(a) (1) If the Department of the Environment determines by appropriate investigation that any area of waters of the State devoted to the production or storage of shellfish is polluted so that shellfish produced or stored in the area are a hazard to public health, it shall restrict the area for the catching or storing of shellfish.

(2) If the Department of the Environment finds it necessary to restrict an area of water for the taking and storing of shellfish because of the proximity of the area to the point of discharge of a sewage treatment plant or a point of overflow of a sewage pumping station, the Department of the Environment may increase or decrease the size of a restricted area in relation to the operational effectiveness of the sewage treatment plant or sewage pumping station.

(3) In determining whether to restrict, or lift any restrictions on, an area for the catching or storing of shellfish, the Department of the Environment shall use the most reliable available tests to:

(i) Determine whether a shellfish production area poses a risk to consumer health; and

(ii) Rule out contaminants that do not pose a risk to consumer health, including bacteria from vegetation.

(b) (1) The action of the Department of the Environment to restrict an area of water becomes effective immediately upon giving formal notice of the action to the Department. Notice also shall be given the appropriate governing body and the committee of oystermen of any county affected by the restriction.

(2) The Natural Resources Police Force shall patrol the area to warn watermen until public notice is given in newspapers of general circulation in each of the counties whose watermen work the restricted area normally. No arrests may be made until the next workday following the day the notice appeared unless the watermen fail to heed a warning of the officers.

(3) (i) If the Department of the Environment closes any area to the catching of shellfish under this section, in addition to the notice required in paragraph (1) of this subsection, the Department of Natural Resources shall mark the area so that the area can be seen from the water.

(ii) The Department of Natural Resources shall adopt rules and regulations to provide for the marking in a plain and visibly obvious fashion of any area that is closed to the catching of shellfish because of pollution. Even in the absence of such marking devices, a person may not catch shellfish in a restricted area as designated by the Department of the Environment if notice has been given to the appropriate governing body and the committee of watermen of any county affected by the restriction.

(c) (1) After establishing a restriction, the Department of the Environment shall test the water in the restricted area or inspect the source of pollution of the water. A copy of the report of analysis of every test and inspection shall be filed promptly with the appropriate governing body of every county affected by the restriction.

(2) Updated charts of the Chesapeake Bay and its tributaries showing all polluted areas shall be filed promptly with the appropriate governing body and oystermen's committee of every tidewater county. Copies of these charts shall be filed also with the Fisheries Administration and the Natural Resources Police.

(d) Whenever samples of water and shellfish of a restricted area indicate that the shellfish and water again comply with standards for harvesting shellfish, the restrictions promptly shall be lifted.

(e) The Secretary of the Environment may delegate authority to impose restrictions, or remove restrictions no longer required. These actions, however, shall be reported and consented to by the Secretary.

(f) Each violation of this section constitutes a separate offense punishable as provided by the provisions of this title.

§4–743.

(a) To protect the shellfish resources of the State, the Department may adopt rules and regulations prohibiting the importation of any shellfish and quarantining any area within the State populated by shellfish infected or affected or suspected of being infected or affected by any destructive disease, deleterious genetic characteristic, dangerous parasite, or other biological threat.

(b) The Department may establish by rules and regulations the penalty for violating any rule or regulation adopted pursuant to subsection (a). The penalty may not exceed a fine of $1,000 or imprisonment for one year, or both, together with confiscation of any gear and equipment, whether afloat or ashore, used to commit the violation, in the discretion of the court.

§4–744.

The Department shall issue a synopsis of laws covering pertinent information when issuing any commercial fishing license. A chart or adequate description of restricted waters shall be available at cost upon request.

§4–745.

(a) (1) Except as provided in subsections (c) and (d) of this section and § 4–217 of this title, a person may not fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries or in State waters of the Atlantic Ocean and the Atlantic coastal bays and their tributaries without first obtaining a Chesapeake Bay and coastal sport fishing license or registration issued under subsection (d)(3) of this section and possessing evidence of the license or registration.

(2) The license may be obtained from the Department or from any authorized agent of the Department. The following annual license fees shall apply:

(i) Resident $15

(ii) Short–term resident license valid for 7 consecutive days from date of issue $6

(iii) For a short–term nonresident license valid for 7 consecutive days from date of issue $12

(iv) Nonresident $22.50

(v) Resident and nonresident blind persons .....No fee

(vi) Complimentary license under subsection (e) of this section .....No fee

(3) Every Chesapeake Bay and coastal sport fishing license and

registration shall be valid for not more than 1 year and shall expire on December 31.

(4) An applicant for a license issued under this section shall provide all the information requested by the Department on forms issued by the Department.

(b) (1) The Department may designate a person engaged in a commercial enterprise to sell the Chesapeake Bay and coastal sport fishing license or issue a registration under subsection (d) of this section as an agent under the Department's control and supervision.

(2) (i) As compensation, the agent shall retain $1 for each license issued.

(ii) There is no agent compensation for each registration issued.

(3) The Chesapeake Bay and coastal sport fishing license shall be furnished to an agent upon satisfactory payment or upon consignment and only if the Department is given adequate security to insure ultimate payment by an agent to the Department for the licenses.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, all fees collected on behalf of the Department pursuant to this section shall be remitted to the Department in accordance with its rules and regulations for deposit with the State Treasurer to the credit of the Fisheries Research and Development Fund to be used for the replenishment, protection, and conservation of fish stocks caught by recreational fishermen, for enhancement of recreational fishing opportunities, and for research concerning tidal fishery resources. The Department shall publicly report annually the amounts collected and the expenditures.

(ii) In fiscal year 1999 and in each subsequent fiscal year, the Department, for the purposes set forth in subparagraph (iii) of this paragraph, shall use:

1. $2 from the sale of each license under subsection (a) of this section;

2. $20 from the sale of each license under subsection (d)(2) of this section; and

3. $225 of the special charter boat license under subsection (d)(1) of this section.

(iii) The Department shall use the moneys specified in subparagraph (ii) of this paragraph for:

1. Achieving the maximum federal fund apportionments;

2. Management assessment and sport fishing surveys; and

3. Angler outreach and public fishing information.

(5) In the preparation of plans for the expenditure of license receipts, the Secretary annually shall solicit the advice and opinions of the Department's Sport Fisheries Advisory Commission, representative fishing and boating associations, and other interested parties.

(c) A person may fish for finfish in the Chesapeake Bay or its tidal tributaries or in State waters of the Atlantic Ocean and coastal bays and their tributaries without a Chesapeake Bay and coastal sport fishing license if the person:

(1) Is under the age of 16;

(2) Possesses a valid commercial license;

(3) Holds a valid tidal water sport fishing license issued by the State of Virginia, Potomac River Fisheries Commission, or District of Columbia, provided that this exemption shall not take effect until the Secretary has published notice in the Maryland Register of the Secretary's determination that the Virginia, Potomac River Fisheries Commission, or District of Columbia requirements for a tidal water sport fishing license are substantially similar to and reciprocal with the Chesapeake Bay and coastal sport fishing license requirements of this section;

(4) Is fishing pursuant to any special charter boat license issued under subsection (d)(1) of this section;

(5) (i) Is on active duty with the armed forces of the United States;

(ii) Is a resident of this State;

(iii) Is on leave from the armed forces; and

(iv) Has, while fishing, a copy of the person's official leave orders;

(6) Fishes on a free fishing day designated by the Secretary;

(7) Holds a current resident consolidated senior sport fishing license issued under § 4–216 of this title;

(8) Holds a current registration issued under subsection (d)(3) of this section; or

(9) Is fishing on a commercial fishing pier licensed under subsection (d)(4) of this section.

(d) (1) The Department may provide by regulation for issuance of a special charter boat license that would be valid for all individuals on a charter boat operated by a licensed fishing guide in tidal waters of the State. The fee shall be:

(i) For 6 fishermen or less ..... $240.

(ii) For 7 or more fishermen ..... $290.

(2) (i) The Department may provide by regulation for issuance of an annual special Chesapeake Bay and coastal sport fishing license, which when permanently affixed to a boat registered in any state shall authorize any person on the boat to fish for finfish in the Chesapeake Bay or in its tributaries up to tidal boundaries or in State waters of the Atlantic Ocean and the Atlantic coastal bays and their tributaries, except that such a license may not be used on a boat that has been hired to take such persons fishing.

(ii) The annual fee for this special license shall be $50.

(iii) If a boat owner purchases the special license under this paragraph, the boat owner may fish anywhere in the Chesapeake Bay and its tributaries or the State waters of the Atlantic Ocean and the Atlantic coastal bays and their tributaries, whether the boat owner is fishing in the owner's boat, in another person's boat, on land, or elsewhere. The Department shall issue a complimentary Chesapeake Bay and coastal sport fishing license to the boat owner who purchases a special license under this paragraph. If a boat to which the special license is affixed has more than one owner, then only the individual applicant who signs the application for the special license shall be entitled to a complimentary Chesapeake Bay and coastal sport fishing license under this paragraph.

(3) (i) An individual shall register with the Department before fishing in any of the following areas that do not require a Chesapeake Bay and coastal sport fishing license:

1. A free fishing area established under § 4–214(b)(1) of this title with hook and line;

2. On private real property bordering on tidal water as an owner or tenant of the property, or a spouse or an immediate family member who resides on the property with the owner or tenant; and

3. On a boat licensed under paragraph (2) of this subsection.

(ii) There is no fee for registration under this paragraph.

(iii) An individual required to register under this paragraph shall provide all the information requested by the Department on forms issued by the Department.

(4) (i) 1. The Department may provide by regulation for the issuance of a special commercial fishing pier license that is valid for all individuals fishing from the pier in tidal waters of the State.

2. The annual fee for the special commercial fishing pier license shall be $290.

(ii) Individuals fishing from a licensed commercial fishing pier are exempt from purchasing a Chesapeake Bay and coastal sport fishing license.

(iii) 1. The owner or operator of a licensed commercial fishing pier shall maintain a log of the contact information of the persons fishing from that structure each day.

2. The logs required under subsubparagraph 1 of this subparagraph must be submitted electronically as prescribed or approved by the Department.

(e) (1) In this subsection, "former prisoner of war" means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

(2) The Department may issue a lifetime complimentary Chesapeake Bay and coastal sport fishing license to any Maryland resident who certifies that the resident is a former prisoner of war or a 100% service connected disabled American veteran.

(3) A complimentary license is not transferable and shall be issued on forms the Department designates.

§4–746.

(a) The Department shall conduct annually a scientific survey to determine the relative abundance of striped bass or rockfish of approximately 18 inches in length that are in the Chesapeake Bay and its tributaries. The survey shall be conducted in areas that are used by the Department to determine its young-of-the-year index of striped bass or rockfish.

(b) The Department shall complete the survey and report its results, subject to § 2-1246 of the State Government Article, to the General Assembly not later than December 1 of each year.

§4–747.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Shark" means any species of the subclass Elasmobranchii.

(ii) "Shark" does not include smooth–hounds, spiny dogfish, or species in the superorder Batoidea.

(3) "Shark fin" means the raw, dried, or otherwise processed detached fin or tail of a shark.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person may not possess, sell, offer for sale, trade, or distribute a shark fin.

(2) A person may possess a shark fin if:

(i) The person holds the appropriate State or federal license or permit authorizing the taking or landing of a shark for recreational or commercial purposes;

(ii) The shark fin is taken from a shark that the person has taken or landed; and

(iii) The shark fin is taken in a manner consistent with the person's license.

(3) A museum, college, or university may possess a shark fin if the shark fin is used solely for display or research purposes.

(c) The Department shall adopt regulations to implement this section.

§4–801.

(a) In this subtitle the following words have the meanings indicated.

(b) "Buckram crab" means a crab that has a paper shell.

(c) "Crab" means the blue crab species.

(d) "Green crab" means an under-developed peeler.

(e) "Peeler" means a crab which has a soft shell that is developing under the hard shell, on which there is a white, pink, or red line or rim on the edge of that part of the back fin next to the outer section of this fin.

§4–802.

The provisions of this subtitle apply only to the species of crab commonly known as the blue crab.

§4–802.1.

Any crabs caught in the waters of Worcester County shall be landed in the State. However, the Department may waive the provisions of this section in case of emergency, necessity, or for other good cause.

§4–803.

(a) The Department may adopt rules and regulations to effectuate the following purposes:

(1) To restrict catching and possessing any blue crab;

(2) The methods by which crabs are taken;

(3) To close or open any specified area to catch crabs;

(4) To prohibit or restrict devices used to catch crabs;

(5) To establish seasons to catch crabs;

(6) To establish that the workday for tidal fish licensees who catch crabs using trotline gear may begin earlier than 1 hour before sunrise; and

(7) To establish minimum size limits for hard, soft, and peeler crabs. However, this section does not permit the Department to change existing license fees for catching, picking, canning, packing, or shipping cooked hard or soft crabs or crab meat; or for selling, or shipping live hard or soft crabs by barrel or crate. The Department may set license fees on types of gear or equipment if not otherwise set by law.

(b) (1) The Department may not adopt regulations to:

(i) Restrict a tidal fish licensee who catches crabs using trotline gear to a workday of less than 8 hours per day, excluding time spent setting or taking up gear; or

(ii) Establish time restrictions on a tidal fish licensee using trotline gear for setting and taking up gear.

(2) If the Department authorizes the workday to begin earlier than 1 hour before sunrise, then:

(i) The Department may not adopt regulations to restrict a tidal fish licensee who catches crabs using trotline gear to a workday of less than 11 hours per day, including time spent setting or taking up gear; and

(ii) Trotline gear may not be set earlier than the catch time established by the Department.

(c) The Department's regulations may not become effective under this section until the Department first holds public hearings. The Department shall advertise the time, place, and purpose of the hearings in one newspaper of general daily circulation in the State, and at least in one newspaper circulated in the affected region of each county

whose waters may be directly affected by the proposed regulations for 2 successive weeks in advance of the hearings.

§4–804.

(a) Any person who owns or is in charge of operating a vessel utilized to catch crabs in the waters of the State for commercial purposes shall obtain a license.

(b) Any person crabbing from a "for hire" boat operated by the owner, who is present on the boat and is licensed to catch crabs for commercial purposes, is not required to obtain a license.

§4–807.

(a) Any person desiring to engage in the business of picking, canning, or packing crabs, except a person picking and selling crab meat for local family trade, first shall obtain a license. "Local family trade" means the selling of picked crab meat directly to the consumer by the picker, with the meat being picked entirely from crabs harvested by the picker or family of the picker. Nothing in this section exempts persons engaged in picking, canning, or packing crabs from the applicable Department of Health and Mental Hygiene requirements.

(b) This section does not require any person licensed to catch crabs to obtain a license to sell the crabs caught, or require a license for retail crab sellers who purchase crabs from a person licensed under this section.

§4–809.

(a) (1) Except as provided in regulations adopted under paragraph (2) of this subsection, a person may not catch or possess soft crabs measuring less than three and one–half inches across the shell from tip to tip of the spike.

(2) (i) The Department shall adopt regulations establishing and governing a permissible bycatch for soft crabs under this subsection.

(ii) The regulations that the Department adopts under this paragraph may not be more restrictive than the applicable restrictions on the permissible bycatch for hard crabs and peeler crabs.

(b) In the waters of Worcester County, a person may not catch, possess, or keep in floats any fat crabs, or any crab known as snot crab, green crab, or buckram crab.

(c) The minimum size of crabs does not apply to mature female crabs, identified by the rounded apron.

(d) The minimum size for peeler crabs set by the Department in regulation does not apply to crabs imported into Maryland during the closed season for catching crabs if the person possessing the imported crabs has a certificate of origin.

(e) Once taken, peelers shall be kept separate from other crabs.

§4–810.

The Department may adopt rules and regulations, after reasonable notice by publication, to permit or prohibit catching, canning, packing, shipping, or possessing the egg-bearing female crab or the female crab from which eggs have been removed.

§4–812.

(a) A person may set crab pots in the waters of Tangier Sound, including Kedges Straits and the Somerset County waters of Holland Straits, south of a line running from Lower Island Point on Bloodsworth Island, following the Dorchester County-Somerset County line to its junction with county line buoy A; thence in a northerly direction toward Sharkfin Shoal Light to its junction with a straight line running from range marker AA northeasterly to range marker BB and the Dorchester County-Somerset County line; thence in a northeasterly direction following the straight line running from range marker AA northeasterly to range marker BB and the Dorchester County-Somerset County line to its junction with a line running from the former dwelling of Thomas Tigner near Haines Point to the southwesterly most point of land on Clay Island, provided that no crab pots be set in water that is less than 4 feet deep at mean low tide.

(b) A person may set crab pots outside of marked channels in the waters of Tyler Creek on Smith Island from April 1 to June 15.

(c) A person may not set crab pots in the Dorchester County waters of Holland Straits.

§4–814.

(a) Except as otherwise provided in this section, a person authorized to catch crabs for commercial purposes may not set or fish more than 300 crab pots.

(b) For the license year ending August 31, 1994, a licensee who held a valid license to catch crabs for commercial purposes on April 1, 1994 may set and fish 300 additional crab pots for each additional crew member authorized on the license, but may not set more than 600 additional crab pots, regardless of the number of crew members, and may not set more than 900 pots per boat.

(c) (1) After August 31, 1994, an authorization granted under subsection (b) of this section to employ one or two additional crew members and thereby fish additional crab pots, shall be valid until the license is transferred, revoked by the Department or relinquished voluntarily by the licensee.

(2) An authorization granted under subsection (b) of this section may be transferred to another licensee separately from the original crab harvester license or tidal fish license in any valid transfer under Subtitle 7 of this title.

(d) (1) The Department shall determine the total number of additional crew authorizations granted under subsection (b) of this section.

(2) When a license is revoked or voluntarily relinquished, the Department may award the unused crew authorization to another licensee under criteria and procedures to be promulgated as regulations by the Department, provided that the number of crew authorizations in use may not exceed the total number granted under subsection (b) of this section as of August 31, 1994.

§4–815.

In St. Mary's County, a person may not harvest crabs with a bank trap or a channel pound after October 1, 2000.

§4–816.

The Department may adopt regulations to limit or prohibit the importation, use, catching, or possessing of the following nonnative crab species, which are determined to be harmful to the ecology and natural resources of the State:

(1) Green crab (Carcinus maenas) of the family Portunidae;

(2) Japanese shore crab (Hemigrapsus sanguineus) of the family Grapsidae; and

(3) Chinese mitten crab (Eriocheir sinensis) of the family Grapsidae.

§4–901.

(a) The Department may adopt rules and regulations to:

(1) Restrict the possession, landing, selling, or transporting of any lobster or lobster parts;

(2) Establish minimum size limits for lobsters.

(b) The Department shall publish a notice of any lobster harvest regulations proposed under this section, and of any subsequent amendments to the regulations, and shall hold a public hearing on the proposal unless a public hearing on a substantially similar proposal has been conducted in the State by a federal management authority with notice advertised by the Department as required by this section. The notice shall include the time and place of any hearing.

§4–902.

(a) Except as provided in subsection (b) of this section:

(1) A person may not take or possess diamondback terrapin for commercial purposes; and

(2) A person may not possess more than three diamondback terrapin for noncommercial purposes.

(b) This section does not prohibit:

(1) The incidental catch of diamondback terrapin, provided the diamondback terrapin are returned immediately to the water;

(2) The collection or possession of diamondback terrapin in accordance with the terms of a scientific or educational certificate or permit issued in accordance with § 4–212 of this title or § 10–909 of this article; or

(3) The possession and breeding of diamondback terrapin by a person who holds a valid permit issued by the Department for:

(i) Aquaculture activities under Subtitle 11A of this title; or

(ii) Captive wildlife breeding under Title 10, Subtitle 9 of this article.

(c) (1) The Department, in consultation with the Maryland Aquaculture Coordinating Council, shall adopt regulations for diamondback terrapin aquaculture and captive breeding before issuing any additional permits relating to diamondback terrapin under Subtitle 11A of this title or Title 10, Subtitle 9 of this article.

(2) The regulations adopted in accordance with paragraph (1) of this subsection shall include:

(i) Verifiable safeguards to identify legally obtained diamondback terrapin;

(ii) Standards for diamondback terrapin husbandry; and

(iii) Standards for shipping diamondback terrapin.

§4–903.

The Department shall adopt regulations governing the conservation of diamondback terrapin.

§4–906.

A person may not catch conch for commercial purposes unless the person first obtains a license from the Department.

§4–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) "Buy boat" means any boat engaged or used in buying, selling, or

transporting oysters caught by other boats.

(c) "Chesapeake Bay" means the waters, commonly known as the Chesapeake Bay as defined by the charts of the Oyster Survey of 1906 to 1912, and its amendments.

(d) "County waters" means the waters lying within the territorial limits of any county in the State as defined by the charts of the Oyster Survey of 1906 to 1912, and its amendments.

(e) "Diving apparatus" means any diving equipment that is supplied with air from the surface through a hose, or diving equipment generally referred to as scuba, the use of which allows a person to catch oysters by hand beneath the water.

(f) "Dredge" includes any dredge, scoop, scrape, or similar device used in catching oysters or clams by dragging.

(g) "Dredge boat" means any sailboat which does not have a screw, propeller, engine, turbine, or other device for self-propulsion, used in catching oysters or clams by dredge.

(h) "Dunnaged boat" means any boat having a false bottom, partition, ceiling, or deck, designed to diminish or having the effect of diminishing visible cargo space.

(i) "Handscrape" means any dredge cast and hauled by hand and without any winch, winder, or spool.

(j) "Hard-shell clams" mean mollusks of the species Mercenaria mercenaria.

(k) "Harvest" means to take, kill, trap, gather, catch or in any manner reduce any hard-shell clam, soft-shell clam, or oyster to personal possession or to attempt to engage in this conduct.

(l) "Harvest reserve area" means an area designated by the Department for the restoration and harvesting of oysters on a rotational basis.

(m) "Hydraulic clam dredge" means any device used for dredging clams which consists of a manifold through which water is forced under pressure for the purpose of digging clams and working them into the mouth of the dredge where the clams then are brought up to boat level by means of an escalator. "Hydraulic clam dredge" includes the vessel on which the dredge is carried.

(n) "Marketable oyster" means any oyster measuring 3 inches or more from hinge to mouth.

(o) "Natural oyster bar" means any submerged oyster bar, reef, rock, or area represented as an oyster bar on the charts of the Oyster Survey of 1906 to 1912 and its amendments.

(p) "Packer" means any person having a fixed place of business and buying, selling, packing, shucking, or preparing oysters for sale, trade, barter, or shipment to any dealer, merchant, or retailer.

(q) "Patent tongs" means any pincers, nippers, tongs, or similar device used to catch oysters and clams raised with rope, cable, or other hoisting gear.

(r) "Shinnecock rake" means a hand tool used to catch hard-shell clams or oysters. It usually consists of a tooth bar with projecting long, outwardly, and upwardly curving teeth which are progressively smaller towards the ends, form a basket, and are set transversely at the end of a long, usually wooden handle.

(s) "Soft-shell clams" means mollusks of the species Mya arenaria and of the species Genus Tagelus.

(t) (1) "Tong" means any pincers, nippers, tongs, or similar device used in catching oysters and clams and consisting of 2 shafts or handles and a metal body composed of 2 opposable and complementary baskets that:

(i) Are opened, closed, and emptied entirely by hand; and

(ii) 1. Are lifted by hand; or

2. May use power to assist lifting the tongs with a single lifting cable or rope attached at only a single point on 1 shaft of the tongs.

(2) "Tong" includes:

(i) Shaft tongs; and

(ii) Hand tongs.

(3) "Tong" does not include a patent tong.

(u) "Tong boat" means any boat on or from which tongs or patent tongs are used in catching oysters.

§4–1002.

Notwithstanding any other provision of this title, a person may not catch or attempt to catch clams or oysters by power dredge, hydraulic clam dredge, or other mechanical means in the Atlantic Coastal Bays, as defined in § 8–1802 of this article.

§4–1003.

Any resident of the State may catch oysters or clams on any area in the waters of the State from which catching oysters or clams is permitted under the provisions of this subtitle. This section applies to catching oysters or clams by rakes, tongs, patent tongs, dredges, handscrapes, or by other means permitted by law for the particular area.

This section applies also to catching clams by hydraulic or mechanical dredges or rigs permitted by law for the particular area. This section does not affect any provision of this subtitle concerning the licensing or regulation of catching oysters or clams, except as specifically provided in this section.

§4–1004.

(a) (1) A person may not catch oysters or clams for commercial purposes in the waters of the State unless the person first obtains a license, but a resident may catch up to 1 bushel each of oysters and clams a day for the person's own use and consumption without a license, in places and at times prescribed by rule or regulation of the Department. Notwithstanding the preceding sentence, a nonresident may catch in the tidal bays of Worcester County up to 1 bushel of hard clams per day for the nonresident's own use and consumption.

(2) The Department shall require an applicant for an oyster license to give the applicant's address and telephone number.

(b) Only a resident of the State may obtain a license to catch oysters or clams for commercial purposes in the waters of the State.

§4–1005.

(a) Subject to restrictions promulgated pursuant to this subtitle, a person may catch oysters or clams in the waters of the State only by hand, rakes, tongs, patent tongs, diving apparatus, dredges, handscrapes, cultch material suspended on strings, in trays, in bags, or similar devices. Soft-shell clams may be caught by hydraulic or mechanical dredges or rigs.

(b) The Department may make uniform the size and weight of patent tongs in waters where patent tongs are permitted. However, any person using any size or weight patent tongs on June 1, 1964, may continue to use them.

(c) A person may catch oyster spat in the waters of the State by suspended means such as cultch material on strings, trays, bags, or similar devices, which do not touch the bottom and do not interfere with navigation.

§4–1006.

(a) A person may not catch oysters or clams within 400 yards of the Federal Research Laboratory at Oxford.

(b) (1) A person may not catch oysters or clams on any area closed by the Department of the Environment due to pollution.

(2) However, oysters may be transplanted from areas deemed polluted during the closed season in accordance with the provisions of § 4-1009 of this subtitle and § 4-1106 of this title.

(3) (i) If the Department of the Environment closes any area to the catching of oysters or clams under this subsection, in addition to the notice required in subparagraph (ii) of this paragraph, the Department of Natural Resources shall mark the area so that the area can be seen from the water.

(ii) The Department of Natural Resources shall adopt rules and regulations to provide for the marking in a plain and visibly obvious fashion of any area that is closed to the catching of oysters or clams because of pollution. Even in the absence of such marking devices, a person may not catch oysters or clams in a restricted area as designated by the Department of the Environment if notice has been given to the appropriate governing body and the committee of watermen of any county affected by the restriction.

(c) During the open season for migratory wild waterfowl, a person may not catch oysters in Charles County within 500 yards of any stationary blind or blind site which is occupied and is being used for hunting migratory wild waterfowl.

§4–1006.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Aerial survey" means the annual aerial survey compiled by the Virginia Institute of Marine Sciences for the annual bay-wide Submerged Aquatic Vegetation Mapping Program.

(3) "SAV protection zone" means an area delineated by the Department for the protection from uprooting and the restoration of submerged aquatic vegetation.

(b) (1) In 2004 and every 3 years thereafter, the Department shall update the delineations of SAV protection zones that were completed in 2001.

(2) The updated delineations shall include areas where submerged aquatic vegetation has been mapped by aerial surveys during at least 1 of the previous 3 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a previously delineated SAV protection zone may be opened to the use of the gear set forth in subsection (f) of this section during an update if:

(i) Aerial surveys have not shown any submerged aquatic vegetation in the area during the past 3 years; or

(ii) Aerial surveys have shown the density of submerged aquatic vegetation in that area to be less than 10% during each of the past 6 years.

(2) The areas in the vicinity of Smith Island, South Marsh Island, and Bloodsworth Island that were closed to hydraulic clam dredging in the 1999 delineation shall be closed to the gear set forth in subsection (f) of this section and may not be reopened.

(d) (1) To the extent possible, the Department shall adjust SAV protection zones so that delineations are geographically manageable, utilizing straight lines and existing points of reference.

(2) (i) To the extent possible, an adjustment made in accordance with paragraph (1) of this subsection shall result in no net loss or gain of protected area.

(ii) To the extent possible, to prevent the net loss or gain of protected area resulting from an adjustment made in accordance with paragraph (1) of this subsection, the adjustment may:

1. Exclude small areas of vegetated bottom; or

2. Include small areas of unvegetated bottom.

(e) The Department:

(1) Shall utilize buoys or other visible landmarks as appropriate to mark SAV protection zones;

(2) May make revisions to the delineations of SAV protection zones at any time if determined to be necessary; and

(3) Shall publish, by public notice, delineations of SAV protection zones and revisions to SAV protection zones.

(f) A person may not use the following gear in a SAV protection zone:

(1) A hydraulic clam dredge;

(2) A traditional bottom dredge; and

(3) A shinnecock rake.

(g) This section may not be construed to affect the authority of the Department to adopt any additional measures that the Department determines are necessary to protect submerged aquatic vegetation beds in the waters of the State.

§4–1006.2.

(a) The Department annually shall publish maps and coordinates of oyster sanctuaries, closed oyster harvest reserve areas, and areas closed to shellfish harvest by the Department of the Environment.

(b) (1) The Department shall provide the publications required under this section to each tidal fish licensee who pays the oyster surcharges required under § 4–701(g) of this title.

(2) Before a person may catch oysters under a tidal fish license that has

an oyster authorization and for which the oyster surcharges have been paid, the person shall certify to the Department on a form the Department prescribes that the person received the publications required under this section.

§4–1007.

(a) The Department may adopt regulations designating oyster and clam buying stations and establishing the procedures for selling oysters and clams.

(b) The Department shall print up and make available to the buyer of oysters or clams the necessary forms required in regulations adopted under this section.

§4–1008.

(a) (1) In this section the following words have the meanings indicated.

(2) "Introduction" means the intentional or accidental placement in State waters of a nonnative oyster for any purpose other than scientific research that is conducted in accordance with standards developed by the Chesapeake Bay Program under the U.S. Environmental Protection Agency.

(3) "Nonnative" means a species of oyster other than the Crassostrea virginica.

(b) Except for the Department, a person may not introduce a nonnative oyster into State waters unless the person has a permit issued by the Department.

(c) (1) The Department may not introduce a nonnative oyster into State waters or issue a permit to another person for an introduction unless:

(i) The recommendations set forth in the 2004 report, "Nonnative Oysters in the Chesapeake Bay", produced by the Committee on Nonnative Oysters in the Chesapeake Bay, Ocean Studies Board, Division on Earth and Life Studies of the National Research Council, have been met to the extent feasible for the State of Maryland;

(ii) The specific research recommendations set forth in "Identifying and Prioritizing Research Required to Evaluate Ecological Risks and Benefits of Introducing Diploid Crassotrea Ariakensis to Restore Oysters to the Chesapeake Bay" (STAC Publication 04-002), have been fully met; and

(iii) A draft environmental impact statement conducted in accordance with the recommendations specified in subparagraphs (i) and (ii) of this paragraph has been completed; and

(iv) An independent oyster advisory panel of scientific experts appointed by the Secretary has:

1. Reviewed and approved the sufficiency of the data and assessments used to identify the ecological and economic risks and benefits of introducing a nonnative oyster into State waters and the degree of risk associated with implementing each oyster restoration alternative identified in the draft environmental impact statement prepared in accordance with item (iii) of this paragraph; and

2. Identified any additional research that the panel recommends to reduce the level of risk and uncertainty.

(2) Before the Department may introduce a nonnative oyster into State waters or issue a permit to another person for an introduction, the Department shall:

(i) Subject to § 2-1246 of the State Government Article, submit a report to the General Assembly demonstrating that the Department has met the requirements of paragraph (1) of this subsection;

(ii) Conduct public hearings regarding the Department's decision to introduce or to issue a permit to introduce a nonnative oyster into State waters;

(iii) For at least 30 days following the last public hearing conducted under item (ii) of this paragraph, receive written public comments on the Department's decision to introduce or to issue a permit to introduce; and

(iv) 1. Issue and publish a final decision, including a full scientific rationale for the final decision, a summary of oral and written comments received under items (ii) and (iii) of this paragraph, and the Department's response to these comments, in the Maryland Register; and

2. Publish the final decision, including all accompanying documentation under item 1 of this item, on the Department's website.

(3) Introduction of a nonnative oyster may not occur until at least 60 days after issuance of a final decision under paragraph (2)(iv) of this subsection.

(d) In addition to any other penalty provided under law, a person who violates subsection (b) of this section is:

(1) Guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding $25,000 or both, with costs imposed in the discretion of the court; and

(2) Liable for the imposition of a civil penalty up to $25,000 and, in the discretion of the court, the actual costs associated with remediation of the introduction.

§4–1008.1.

(a) The Department may prolong by not more than two weeks the season for catching oysters.

(b) (1) On the recommendation of the Calvert County or the St. Mary's County tongers' committee, the Department may authorize handscraping of oysters in the waters of Calvert and St. Mary's counties for 2 weeks, if inclement weather has prevailed during the tonging season.

(2) The Department shall determine the areas where handscraping of oysters is permitted.

(3) The Department shall establish regulations for the handscraping of oysters under this subsection. There shall be a catch limit of 10 bushels per person and no more than 30 bushels per boat. A person may not handscrape for oysters after 12:00 noon.

§4–1009.

(a) During the closed season for taking oysters, a person may take seed oysters from the natural bars of the State marked by the Department for a period not exceeding one month in any one year, at times designated by the Department. The seed oysters shall be taken only in accordance with rules and regulations the Department prescribes, sold only to lessees of private oyster grounds, delivered only on leased oyster bottoms and subject to the provisions of § 4–1103(c) of this title.

(b) The Secretary may establish by rule or regulation daily catch limits on the quantities of oysters which may be caught from the waters of the State except leased areas and aquaculture enterprise zones, and may amend the daily catch limits to conserve the public oyster resource. Notice of the establishment or amendment of these catch limits, including all applicable reasons for the Department's action, shall be given before publication, to the Joint Committee on Administrative, Executive, and Legislative Review and by publication of the notice in at least one newspaper of general circulation in the State, in at least one newspaper of general circulation in each county in which the affected waters are located, and on the website of the Department not less than one week prior to the effective date.

(c) A person may not land, sell, or attempt to land or sell on any day oysters from the waters of the State exceeding the daily catch limit established by the Secretary by more than 10 percent. However, in emergencies, the Department may authorize unloading up to two daily catch limits in 1 day. A licensed oyster buyer or dealer may sell or attempt to sell oysters which he shows were purchased from another catcher.

(d) All oysters landed or offered for sale on any day by any person licensed to catch oysters which are in excess of the daily catch limit shall become the property of the State, and payment shall be made directly to the State by the buyer or receiver of the oysters at the same price paid the catcher for the balance of his catch. All funds received under this subsection shall be deposited to the credit of the Fisheries Research and Development Fund and shall be used for repletion of the natural oyster bars of the State.

§4–1009.1.

(a) The Department may adopt regulations which designate an area as a harvest reserve area for oysters.

(b) Notwithstanding any other provision of law, by publishing public notice, the Department may establish for a harvest reserve area:

(1) The opening or closure of an area for the harvesting or conservation of oysters;

(2) The harvest limit;

(3) The seasons, days, and times when oysters may be harvested;

(4) A minimum size limit of not less than 3 inches; and

(5) A maximum size limit.

(c) (1) An action of the Department under subsection (b) of this section may not become effective until:

(i) A copy of the notice to be published under item (ii) of this paragraph has been delivered to the Joint Committee on Administrative, Executive, and Legislative Review; and

(ii) 48 hours after notice has been published:

1. In at least one newspaper of general circulation in the State;

2. In at least one newspaper of general circulation in each county in which the affected waters are located; and

3. On the website of the Department.

(2) The notice required under paragraph (1) of this subsection shall state all applicable reasons for the Department's action.

(d) The Department shall use the following biological criteria for the opening and closing of a harvest reserve area:

(1) Growth rates;

(2) Disease prevalence and intensity;

(3) Mortality thresholds; and

(4) Biomass thresholds.

§4–1010.

A person may not have patent tong heads on board a boat when shaft tonging in Queen Anne's County, Wicomico County, and Kent County waters.

§4–1012.

(a) A person may not catch oysters by dredge in the Atlantic Coastal Bays, as defined in § 8–1802 of this article, or in the following areas of the Chesapeake Bay: the area bounded by a line drawn from Lowes Point towards the Bloody Point Lighthouse for a distance of 1.8 miles, and then direct to North Point on Poplar Island; then southerly around the westerly shore of Poplar Island to the southwesterly most point; then running in a straight line to the Department marker on the northern shore of Pawpaw Cove which area shall be reserved for catching of oysters with shaft tongs only; all the area lying within one–fourth mile of the western shore of Poplar Island; all the area within one–half mile of Plum Point; all the area within one and one–half miles of Sandy Point, Hackett Point, Tolly Point, and Thomas Point within Anne Arundel County waters; and the following oyster bars: 2–9, 2–10, 5–1, 5–2, 5–3A, 5–3B, 8–2, 8–6, and 8–9, as defined by the charts of the Oyster Survey of 1906 to 1912, and its amendments.

(b) Any boat sailing over any areas of the State which are exempt from dredging, by this subtitle or by rule or regulation of the Department, with any dredge, scrape, scoop, or similar instrument on board or in tow, may be apprehended by any Natural Resources police officer or any other law enforcement officer. If the boat has on board any wet oysters, dredge, or dredge line, or if the deck is wet and the boat is equipped for catching oysters with dredge or similar instrument, these facts shall be prima facie evidence that the boat has been used to violate the provisions of this section.

§4–1013.

(a) Any person who owns or is in charge of operating any dredge boat shall have a license to catch oysters by dredge boat.

(b) The captain or master of any dredge boat shall securely attach the two numbers, furnished by the Department for each dredge boat, to the shrouds of the foremast on the port and starboard sides of the boat, with the bottom or lower edge of the number not less than 4 feet above the deck. The numbers shall be displayed in an upright position to provide maximum visibility at all times during the dredging season, and may not be concealed or defaced. Each number shall be painted in black figures on white durable material 2 feet by 2 feet in size. The material shall be selected by the Department. The numbers on the material may not be less than 16 inches in height and a proportionate width.

(c) The owner, captain, master, or any crew member of any boat capable of self–propulsion by any motor, turbine, or other engine attached to the boat, may not have on board the boat, or in tow, or permit on board or in tow, any scoop, handscrape,

dredge, or similar instrument used in dredging, or any winch, spool, winder, or other tackle used in dredging, unless the boat is permitted by the Department to dredge on leased land, or is engaged in taking seed oysters under the surveillance and with the permission of the Department. Notwithstanding any other provisions of this subtitle, the Department may designate by rule or regulation a period of time not to exceed 3 days in any one week during which dredge boats licensed under the provisions of this subtitle may be propelled by means of the auxiliary yawl boat carried on the dredge boat in the waters of the Chesapeake Bay. The Department may prescribe the maximum daily limit on any day.

(d) The owner, captain, master, or any crew member of any boat may not catch oysters by scoop, handscrape, or dredge, or permit oysters to be caught by scoop, handscrape, or dredge, on any land in the State leased for cultivating oysters unless the boat is permitted by the Department for dredging on leased land, and the owner, captain, or master of the boat has on board the written consent of the lessee or tenant of the leased land from which any oysters are caught.

(e) All submerged land of the State not leased for cultivation of oysters nor designated as dredging territory by the provisions of this subtitle shall be reserved for tongers exclusively. The owner, captain, master or any crew member of any boat may not catch oysters by scoop, handscrape, or dredge, or attempt or conspire to catch oysters by scoop, handscrape, or dredge, from any submerged land of the State reserved for tongers exclusively or closed by any rule or regulation, or order of the Department. The taking of oysters by scoop, dredge or handscrape by hand may be authorized by the Secretary upon the recommendations of the appropriate county tongers committee, in areas reserved for tonging when areas which are designated for tonging oysters are closed because of icing conditions at least 7 consecutive days. Handscraping may be authorized on a day for working day basis according to the number of days when tonging is not possible because of ice cover, but not to exceed 14 working days. The Secretary may specify areas to be opened and restrictions on gear. There shall be a limit of 10 bushels per man and no more than 30 bushels per boat. A person may not handscrape for oysters after 12 noon. However, this subsection does not apply to catching seed oysters under the surveillance and with the permission of the Department.

(f) A person may not catch oysters in the waters of the State or possess any scoop, dredge, handscrape, or similar instrument having a tooth bar more than 42 inches in length measuring from the outside teeth on dredges used in dredging on rock bottoms or 44 inches in length measuring from the outside teeth on dredges used in dredging on mud bottoms, or of a weight exceeding 200 pounds.

(g) Subject to the laws relating to firearms, the captain, master or any person on board or having control of any dredge boat, may not have or permit to be kept on the dredge boat more than two shotguns not larger than a number ten gauge and using shot not larger than number one.

§4–1014.

(a) This section applies only to the waters of the State that lie contiguous to Somerset County in the Chesapeake Bay.

(b) There is an oyster sanctuary in Monie Bay known as the Webster ground that includes all the waters inshore of a line northeasterly from Long Point to a designated point in Monie Bay at latitude 38 degrees, 12 minutes, 37.8 seconds north, longitude 75 degrees, 51 minutes, 51.0 seconds west, then southwesterly to the eastern entrance to Pigeon House Creek.

(c) A person may not catch oysters in the oyster sanctuary described in subsection (b) of this section or an oyster sanctuary that was established by regulations adopted by the Department.

§4–1014.1.

(a) This section applies only to the waters of the State that lie contiguous to Calvert County in the Chesapeake Bay.

(b) A person may not catch oysters in an oyster sanctuary that was established by regulations adopted by the Department.

§4–1014.2.

(a) This section applies only to the waters of the State that lie contiguous to St. Mary's County in the Chesapeake Bay.

(b) A person may not catch oysters in an oyster sanctuary that was established by regulations adopted by the Department.

§4–1014.3.

(a) This section applies only to the waters of the State that lie contiguous to Dorchester County in the Chesapeake Bay.

(b) A person may not catch oysters in an oyster sanctuary that was established by regulations adopted by the Department.

§4–1015.

(a) A person who catches oysters from the waters of the State with any scoop, dredge, tong, rake, or any similar instrument shall cull the oysters on the natural bar from which they were caught, and return to the bar all shells, stones, gravel, and slag. Any oyster whose shell measures less than 3 inches in distance between its longest or widest points, whether or not attached to a marketable oyster, shall be included in the culling and replaced on the bar from which caught. The Department by rule may permit the possession of marketable oysters to which nonmarketable oysters adhere

so closely that it is impossible to remove them without destroying the smaller oyster. Oyster culling shall be completed before any oyster is thrown or deposited in the hold or bottom of any boat.

(b) After culling and placing in the hold or bottom of a boat, a person's possession of oysters may not include a combined total of more than 5 percent of oysters which measure less than 3 inches from hinge to bill, and cultch consisting of shells, stones, gravel, and slag. In ascertaining this percentage the Department shall select by random sample an amount of oysters from any pile, hold, bin, house, or place as deemed proper and require it to be culled and disposed of, as provided by this section. All small oysters and cultch that adhere to marketable oysters shall be separated, and the marketable oysters shall be excluded from any measurement of small oysters and cultch. However, a person may possess marketable oysters that have undersized oysters or spat less than 1 inch in length from hinge to bill attached to them that cannot be separated without destroying the small oyster.

(c) A person may not transport or attempt to transport outside the State oysters measuring less than 3 inches in length from hinge to mouth regardless of whether they are caught on the natural bars of the State or from private beds and lots in the State.

(d) The provisions of this subtitle relating to the inspection and culling of oysters and the imposition of penalties for any violation of the cull law apply to oysters in the shell found anywhere within the State, whether afloat or ashore, and whether said oysters have been caught within the waters of the State or shipped or brought into the State. However, oysters containing more than 5 percent shells or small oysters legally taken from privately owned beds outside the State may be admitted if:

(1) Inspected by the Department prior to storage in a shucking house; and

(2) Accompanied by a bill of sale or bill of lading issued by the private planters selling the cargo or an appropriate certificate from the authorities of the state of origin, certifying that the cargo was caught from privately owned oyster beds in the state of origin and that the oysters were caught in full compliance with the laws of that state.

§4–1015.1.

(a) (1) Notwithstanding any other provision of this subtitle or regulation promulgated thereunder, a person who catches oysters from the waters of this State using any sort of diving apparatus shall cull the oysters on the natural bar from which they were caught, and return to the bar all shells, stones, gravel, and slag. Any oyster whose shell measures less than 3 inches in distance between its longest or widest points, whether or not attached to a marketable oyster, shall be included in the culling and replaced on the bar from which caught. Oyster culling shall be completed before any oyster is thrown or deposited in the hold or bottom of any boat.

(2) After culling and placing in the hold or bottom of a boat, a diver's

possession of oysters may not include a combined total of more than 5 percent of oysters which measure less than 3 inches between its longest or widest points, and cultch consisting of shells, stones, gravel, and slag. In ascertaining this percentage the Department shall select by random sample an amount of oysters from any pile, hold, bin, house, or place as deemed proper and require it to be culled and disposed of, as provided by this section. All small oysters and cultch that adhere to marketable oysters shall be separated, and the marketable oysters shall be excluded from any measurement of small oysters and cultch. However, a person may possess marketable oysters that have undersized oysters or spat less than 1 inch in distance between their longest or widest points attached to them that cannot be separated without destroying the small oyster.

(b) Notwithstanding any other provision of this subtitle or regulation promulgated pursuant to this subtitle, persons aboard a boat who are using diving apparatus to catch oysters from the waters of this State may not catch more than a total of 30 bushels per boat in any day. Any person aboard a boat on which more than 30 bushels have been caught in a day may be charged with violating this subsection.

(c) The Department shall by rule and regulation set aside certain waters of this State to be used exclusively by hand tongers in catching oysters. Before adopting the regulations in their final form, the Department shall consult each of the local hand tonger committees.

§4–1017.

(a) Unless a license first is obtained from the Department, a person may not (1) have a fixed place of business buying oysters and employing labor to prepare them for market, or (2) buy more than 25 bushels of oysters per year from persons who catch them from the natural oyster bars of the State.

(b) The Department may not issue a license required by this section unless the applicant pays all taxes due for the prior year under § 4-1020 of this subtitle.

(c) A person may possess oysters caught from the natural oyster bars of the State until one week past the close of the season for taking oysters as established in § 4–1008.1 of this subtitle. Oysters may be caught by dredge or handscrape at any time in Worcester County and may be shipped in the shell at any time within or from that county. In counties where oysters may be caught from leased areas at any time pursuant to the provisions of Subtitle 11A of this title, a person may possess oysters at any time.

§4–1018.

(a) The Department may adopt regulations governing the size, type, and use of containers used to measure oysters harvested or sold in the State.

(b) Due to the quantity of water contained in measures of newly shucked oysters, any proprietor or manager of a plant, house, or establishment shall measure

oysters as received from the shuckers in a special gallon cup which contains no more than 9 pints. Any device other than this 9 pint gallon cup may not be used to measure any oysters received from shuckers. A Natural Resources police officer shall stamp every 9 pint gallon measure used in measuring newly shucked oysters. A proprietor or manager of any house, plant, or establishment which shucks oysters shall have every 9 pint gallon measure stamped.

(c) Every shucked oyster sold in the State shall be sold by the standard United States one–half pint, pint, quart, or gallon liquid measure, or by fractions or multiples of these liquid measures.

§4–1019.

Any person buying or selling oyster shells shall report to the Department, at times the Department prescribes by rule or regulation, every purchase or sale of oyster shells, stating the number of bushels purchased or sold, the date of sale, the name and address of the other party to the transaction, and any other information the Department prescribes by rule or regulation.

§4–1019.1.

The Department shall initiate the development of a program for enactment by the Maryland General Assembly to encourage return of the State's oyster shell resource to the tidal waters of the State to assist oyster propagation. The Department also may use the Fisheries Research and Development Fund to purchase oyster shell.

§4–1019.2.

(a) This section does not apply to:

(1) An individual who takes or uses oysters for personal use or consumption purposes; or

(2) Old oyster shells that are dredged from the Chesapeake Bay or its tributaries.

(b) Except as provided in subsection (c) of this section, any licensed oyster dealer shall reserve for 8 months after the opening of each annual public shellfish fishery season all shells of oysters harvested from the Chesapeake Bay or its tributaries and commercially shucked in the State for purchase by the Department for oyster restoration, unless the dealer plants or provides the shells for planting:

(1) In an area privately leased for aquaculture purposes;

(2) On riparian bottom as provided in § 4–11A–17 of this title for the propagation of oysters; or

(3) On public shellfish fishery areas designated by the Department.

(c) (1) The Department shall determine whether sufficient funds are available for the Oyster Shell Purchase Program under this section.

(2) The Department shall notify every licensed oyster dealer not later than September 1 of each year whether the Oyster Shell Purchase Program will be carried out during the ensuing license year.

(3) If the Department does not notify licensed oyster dealers that the Oyster Shell Purchase Program will be carried out during the ensuing license year, a licensed oyster dealer may sell or dispose of fresh oyster shell at any time to any person for any lawful purpose.

(4) The Department shall:

(i) Establish procedures for the expeditious notice, payment, and removal of shells purchased; and

(ii) Provide for the transportation, storage, and placement on public oyster bars in State waters.

(d) All existing contracts executed prior to July 1, 1988 concerning the purchase of oyster shell shall be valid and exempt from the provisions of this section for the length of time for which the contract covers.

(e) Unless permission has been obtained from the Department, it shall be unlawful for any person to take or catch oysters or shell in any of the waters of the State for the purpose of converting the oysters or shell into lime, chickenmeal, or road construction materials.

(f) (1) In consultation with the Oyster Advisory Commission and the Tidal Fisheries Advisory Commission, the Department shall determine annually the fair market value that the Department pays for:

(i) Fresh oyster shells; and

(ii) Transportation and placement of fresh oyster shells.

(2) The Secretary shall adopt regulations to implement the requirement set forth in paragraph (1) of this subsection.

§4–1020.

(a) A separate permit shall be obtained for shipping each cargo, truckload, or other consignment of oysters in the shell out of the State. An inspection tax of 30 cents per bushel shall be levied upon marketable oysters shipped in the shell to any place outside the State and shall be paid by the shipper. The tax imposed by this subsection shall be levied in addition to every other tax imposed on oysters.

(b) A severance tax of $1 per bushel shall be levied upon every bushel of oysters caught within the limits of the natural oyster bars of the State exclusive of the Potomac River. The oyster buyer or receiver shall pay the tax to the Department for deposit to the credit of the Fisheries Research and Development Fund. This section does not prevent any person licensed to catch oysters in the State from selling his oysters in the shell directly to a consumer in the State. If the consumer is a licensed buyer of oysters, he shall assume the obligations placed by this subsection on the first buyer of the oysters to remit the tax to the Department. However, if the consumer is not a licensed buyer of oysters, the seller of oysters shall assume this obligation.

(c) All taxes collected under this section shall be credited to the Fisheries Research and Development Fund and used only for the repletion of the natural oyster bars of the State. The tax increase effective July 1, 1982, shall be used solely for the oyster seed program, with a minimum of 5 percent of the increase being used in each of the following counties:

Anne Arundel;

Calvert;

Charles;

Dorchester;

Kent;

Queen Anne's;

Somerset;

St. Mary's;

Talbot; and

Wicomico.

(d) If the Department finds that an oyster buyer or an oyster packer or dealer does not have adequate records or has incorrect reports of oyster purchases or sales and that the amount of inspection taxes due on these purchases or sales cannot be accurately determined, the Department shall determine the taxable purchases or sales of the buyer or of the oyster packer or dealer for any period involved and compute the tax from the best information available. If within 30 days the oyster buyer or oyster packer does not produce proof that the computations are incorrect, the determination or computation is prima facie correct.

(e) If the Department determines the purchases and sales of oysters and computes the tax due, it shall levy a deficiency assessment against the oyster buyer or the oyster packer or dealer and notify him of the tax due and of the amount of the

deficiency assessment. If the oyster buyer or oyster packer or dealer fails to pay the tax and assessment within ten days after receiving notice from the Department, the Department shall levy, in addition to the tax assessment, a penalty not exceeding 10 percent of the amount due, plus one half of one percent for each month the tax or additional tax remains unpaid.

(f) The Department, through the Attorney General, may collect unpaid taxes provided for in this section in the same manner as other unpaid taxes due the State are collected. In addition, the Department may seize and hold any boat, truck, or other vehicle in which any oysters were or are transported until the taxes are paid.

§4–1021.

(a) The Department may adopt rules and regulations governing the type, number, and size of dredges used in Pocomoke and Tangier sounds and governing those areas in which dredges may be operated. A person may have two dredges aboard any boat if no more than one dredge is in operation at any given time.

(b) A person may not catch clams in Pocomoke and Tangier sounds between sunset on one day and sunrise the following day or on Sundays. The season for catching hard-shell clams by dredge under this section is from September 15 in each year to May 31 of the year following, inclusive.

(c) A person may not have any oysters aboard any boat in Pocomoke or Tangier sounds when a dredge is aboard.

§4–1021.1.

A person may not catch hard–shell clams by hydraulic clam dredge or other mechanical means in the Atlantic Coastal Bays, as defined in § 8–1802 of this article.

§4–1021.2.

(a) The Department may adopt regulations governing the use of patent tongs to harvest hard–shell clams in areas of Somerset County where the use of patent tongs to catch oysters is authorized.

(b) (1) This subsection applies only in Somerset County.

(2) A person may not catch hard–shell clams with patent tongs:

(i) Between sunset on any day and sunrise the following day; or

(ii) On Sundays.

(3) The season for catching hard–shell clams with patent tongs is the same as the season for catching oysters with patent tongs as provided in § 4–1008.1 of this subtitle or as altered by regulations adopted under § 4–2A–05 of this title.

§4–1022.

(a) A person may not catch hard-shell clams in the waters of the State with a shinnecock rake or similar device.

(b) Notwithstanding the provisions of subsection (a) of this section, a person may catch hard-shell clams with a handscrape, shinnecock rake, or hydraulic dredge in the waters of Worcester County. Unless a person first obtains the permission of the shore or wharf owner, he may not catch hard-shell clams within 300 feet of any shore or wharf.

§4–1023.

Notwithstanding the provisions of this subtitle, the Department may adopt and modify rules and regulations governing catching hard-shell clams in the waters of Worcester County. These rules and regulations may specify the type and size of gear used, maximum quantity of clams caught per day, minimum size of clams caught, season for catching clams, days of the week and hours of the day when clams may be caught or landed, and the areas in which clams may be caught with any type of gear. A person may not catch clams by handscrape, shinnecock rake, hydraulic dredge, or any mechanical means from June 1 to September 15.

§4–1024.

(a) Any person desiring to catch hard-shell clams by rake in the waters of Worcester County shall apply to the Department for a license.

(b) Every applicant shall exhibit to the Department satisfactory evidence showing the name or number and size of the boat. Each applicant shall certify that he is the bona fide owner of the boat, that a nonresident of the State does not hold a lien on the boat, and that he has been a State resident for at least one year prior to making the application. The applicant shall supply any other information the Department requires.

§4–1027.

(a) A person shall obtain a license before engaging in the business of shipping or selling hard-shell clams taken from the waters of the State.

(b) This section does not apply to any person selling his own catch.

§4–1028.

Every hard-shell clam dealer shall pay a special tax of 25 cents for each bag, which shall contain no more than 105 hard-shell clams, on all clams sold by the dealer. All taxes pursuant to this section shall be remitted to the Department in accordance with its rules and regulations for deposit to the credit of the Fisheries Research and Development Fund and shall be used solely to replenish the hard-shell clam resources

of the State.

§4–1029.

Any money received by the Department for licenses, fees, or taxes shall be transmitted by the Department to the State Comptroller for deposit to the credit of the Fisheries Research and Development Fund.

§4–1030.

Any hard-shell clams caught in the waters of the State shall be landed in the State. However, the Department may waive the provisions of this subsection in case of emergency, necessity, or for other good cause.

§4–1031.

(a) In this section, "transverse dimension" means the measurement across both shells of a hard–shell clam at the widest point perpendicular to the hinge line where the two shells meet.

(b) A clam dealer may possess hard–shell clams having a transverse dimension of less than the size required by the Department if the dealer offers a bill of lading approved by the Department as proof that all clams were caught in waters outside the State.

§4–1032.

Advisory committees shall be formed in each county where soft-shell clams may be caught by hydraulic clam dredge. Each committee shall be composed of five persons, four of whom possess a hydraulic clam dredge license and one who possesses a soft-shell clam dealer's and shipper's license. Committee members shall be elected by persons possessing a hydraulic clam dredge license or a soft-shell clam dealer's and shipper's license. The Department shall confer with the elected committees on any matter affecting the management of the soft-shell clam fishery.

§4–1033.

(a) The Department shall adopt rules and regulations assuring that a tidal fish license authorizes a person to use only one hydraulic clam dredge. The Department also shall adopt rules and regulations requiring all licensees operating a hydraulic clam dredge owned by another person, or subject to a lien held by another person to have the license in possession when engaged in licensed activities and to affix the license identification number permanently to the vessel as required in § 4–701(i) of this title.

(b) (1) The Department shall adopt rules and regulations governing licensing of persons buying, selling, shipping, transporting, or otherwise dealing in soft–shell clams, and the methods by which they may do so. However, a license may not be required to sell or dispose of clams in any retail market, restaurant, or other

establishment where clams are sold or served for immediate use or consumption, when the clams are purchased from a person possessing a dealer's or shipper's license.

(2) The Department shall require any person licensed to dredge for soft–shell clams or licensed pursuant to the provisions of this subsection to maintain and submit records to the Department.

(c) The Department may promulgate rules and regulations relating to any aspect of the soft–shell clam fishery and shall adopt rules and regulations governing:

(1) Measurement and structural details of a hydraulic clam dredge;

(2) The number of hydraulic clam dredges which may be carried on a vessel;

(3) The use of mufflers on motors or engines on hydraulic clam dredges or on board boats carrying hydraulic clam dredges;

(4) The establishment of limits on the number of bushels which may be caught by a hydraulic clam dredge, or by a boat carrying a hydraulic clam dredge;

(5) The minimum size of soft–shell clams;

(6) The times and dates for taking, landing, and unloading soft–shell clams; and

(7) Protection of soft–shell clams from contamination, or from deterioration as a result of excessive heat.

§4–1035.

A severance tax of 50 cents per bushel shall be levied on all soft-shell clams of all species Mya arenaria caught within the State. The tax shall be paid by the buyer of clams at the place in the State where the clams are to be shipped in bulk no further by vessel, or before clams are shipped out of the State by vessel. All taxes pursuant to this section shall be remitted to the Department in accordance with its rules and regulations for deposit to the credit of the Fisheries Research and Development Fund and shall be used solely to replenish the soft-shell clam resources of the State. A severance tax may not be levied on soft-shell clams of the species genus Tagelus.

§4–1036.

A person may sell soft-shell clams of the species Mya arenaria caught by hydraulic clam dredge only to a person possessing a soft-shell clam dealer's and shipper's license. A person may sell soft-shell clams of the species genus Tagelus to persons other than a licensed dealer or shipper.

§4–1037.

A person may not catch or attempt to catch soft–shell clams with a hydraulic clam dredge or any other gear except hand–held tools, such as shovels and hoes, in the following areas:

(1) Within 150 feet of a natural oyster bar or area leased under Subtitle 11A of this title and marked as required by that subtitle;

(2) Within 1,000 feet of any occupied duck blind where decoys are set out during waterfowl hunting season;

(3) Except for the William Preston Lane, Jr. Memorial Bridge and its parallel span, the Governor Thomas Johnson Memorial Bridge, and the area of the Choptank River Bridge that is within Talbot County, within 50 feet of any bulkhead, structure, wharf, pier, or piling that is erected in, over, or under the waters of the State under a permit granted by the State or federal government;

(4) Within 300 feet of any private bathing beach running not more than 300 feet along the shore which is marked as required by rule and regulation or within 1,000 feet of any public bathing beach from May 1 to September 30. However, the owner or lessee of a single property may not claim protection for more than one private bathing beach contiguous to this property;

(5) (i) Within 50 feet of the mean high watermark of any shoreline in Queen Anne's, Talbot, or Somerset counties;

(ii) Within 300 feet in Dorchester County; or

(iii) Within 150 feet in Anne Arundel County, Calvert County, St. Mary's County, or Kent County downriver from Nichols Point at the eastern side of the mouth of Langford Creek and within 300 feet upriver from Nichols Point;

(6) The Dorchester County waters of the Choptank River and its tributaries, east of a line running from Horn Point to Martin Point and west of a line running from Sharp's Island Light to Hill's Point; Brannock Bay; the Little Choptank River; Tar Bay; the Honga River; all waters east of a line running from the most southerly point of Holland Island to Holland Island Bar Light; all waters east of a line running from Richland Point to Okahanikan Point; and any areas reserved by the Department for production of seed oysters; and

(7) In the Atlantic Coastal Bays, as defined in § 8–1802 of this article.

§4–1038.

(a) Except as provided in § 4–1039 of this subtitle, a person may not catch soft–shell clams by hydraulic clam dredge in the following waters:

(1) Anne Arundel County. — (i) Within 500 feet of any sea nettle net;

(ii) Within 800 feet of any public bathing beach between Saunders and Dutchman's Point, if the beach is marked as required by rule or regulation and the public uses the beach for bathing;

(iii) In Marley Creek; Stoney Creek; Bodkin Creek; Magothy River above a line drawn from Mountain Point to Persimmon Point; Little Magothy River; Whitehall Bay between the shore and a line drawn from Hackett's Point to Possum Point; Mill Creek; Severn River between the shore and a line drawn from Greenbury Point to the east side of the entrance to Lake Ogleton; South River between the shore and a line drawn between Turkey Point and east side of Duvall Creek, and extending 1,500 feet in front of Sandy Point State Park and Fort Smallwood State Park; West River south and west of a line running from Cheston Point to Curtis Point; or

(iv) Anywhere in Anne Arundel County north of the Chesapeake Bay Bridge within 800 feet of the shoreline, or south of the Chesapeake Bay Bridge and north of Thomas Point within 300 feet of the shoreline from September 16 to April 15 and within 800 feet of the shoreline from April 16 to September 15; south of Thomas Point within 300 feet of the shoreline, except that between Turkey Point and Ramsey Lake clamming is prohibited within 800 feet of the shoreline. This subsection does not prohibit the catching of clams by hydraulic clam dredge in West River or Rhode River.

(2) Queen Anne's County. — In the waters of Eastern Bay and its tributaries; Shipping Creek; Cox's Creek; Crab Alley Creek; Wye River south of a line from the southernmost tip of Ferry Point to the northernmost tip of Drum Point; Wye East River west of a line from the southernmost tip of Wye Island to northernmost tip of Bruff's Island; Kent Narrows south of a line drawn from the northernmost tip of Ferry Point to the northernmost tip of Long Point.

(3) Somerset County. — In the Wicomico River or Monie Bay east of a line from the easternmost entrance of Rock Creek to the southeast extremity of Mollie's Point.

(4) Talbot County. — (i) In the Tred Avon River and in Town Creek in front of Oxford, between the shoreline and the center of the channel, except during October and November;

(ii) Within 1,200 feet of the Federal Research Laboratory at Oxford.

(b) A person may not catch by hydraulic or mechanical clam dredge soft–shell clams from the waters of Charles or Wicomico counties, or the Atlantic Coastal Bays, as defined in § 8–1802 of this article.

§4–1039.

(a) The Department may open or close any area in which the catching of soft–shell clams by hydraulic clam dredge is not prohibited under the provisions of this

subtitle if: (1) in its opinion other natural resources will not be significantly damaged; (2) the area to be opened is clearly defined and plainly marked; and (3) the area is patrolled by Natural Resources Police vessels during dredging operations.

(b) In any area where hydraulic clam dredging is prohibited under § 4–1038(a) of this subtitle the Department may open selected areas if the areas opened are patrolled by Natural Resources Police vessels during dredging operations.

(c) Before opening or closing any area the Department shall publish notice in at least one newspaper of general circulation in the State, and in at least one newspaper of general circulation in each county. Any closing or opening shall be effective no less than 24 hours from publication of notice.

(d) The provisions of this section do not apply to Charles and Wicomico counties, or the Atlantic Coastal Bays, as defined in § 8–1802 of this article.

§4–1040.

(a) A clam dredge in or crossing a restricted area shall have the dredge's conveyor raised above the surface of the water.

(b) A person may not have any oysters aboard a clam dredge boat.

§4–1041.

A person in charge of any boat or vessel rigged for catching surf clams or ocean quahogs shall obtain a license from the Department before he catches any surf clams in the waters of the State or lands any surf clams or ocean quahogs in the State.

§4–1043.

The Department may establish size limits and open and close areas for harvesting of surf clams. The Department shall publish a notice of its proposal to open or close an area or change size limits at least 30 days before the effective date of the proposal and shall hold a public hearing on the proposal at least 15 days before the effective date unless a public hearing on a substantially similar proposal has been conducted in the State by a federal management authority with notice advertised by the Department as required by this section. The notice shall include the time and place of any hearing and shall be published in at least one newspaper of general circulation in the State and at least one newspaper of general circulation in Worcester County.

§4–1101.

(a) In this subtitle the following words have the meanings indicated.

(b) "Chesapeake Bay" means the waters, commonly known as the Chesapeake Bay, as defined by the charts of the Oyster Survey of 1906 to 1912, and its amendments.

(c) "County waters" means the waters lying within the territorial limits of any county in the State as defined by the charts of the Oyster Survey of 1906 to 1912, and its amendments.

(d) "Dredge" includes any dredge, scoop, handscrape, or similar device used in catching oysters and clams by dragging.

(e) "Hydraulic clam dredge" means any device used for dredging clams which consists of a manifold through which water is forced under pressure for the purpose of digging clams and working them into the mouth of the dredge where the clams then are brought up to boat level by means of an escalator. "Hydraulic clam dredge" includes the vessel on which the dredge is carried.

(f) "Leased oyster bottom" means any land lying beneath the waters of the State leased by the State to any person for the purpose of protecting, sowing, bedding, or cultivating oysters and other shellfish.

(g) "Marketable oyster" means an oyster measuring 3 inches or more from hinge to mouth.

(h) "Natural clam bar" means any area of submerged tidal bottom not classified as a natural oyster bar which has a population of clams of any species judged by the Secretary to have significant commercial value.

(i) "Natural oyster bar" means any submerged oyster bar, reef, rock, or area represented as an oyster bar on the charts of the Oyster Survey of 1906 to 1912 and its amendments.

(j) "Patent tongs" means any pincers, nippers, tongs, or similar device used to catch oysters or clams and raised with rope, cable, or other hoisting gear.

(k) "Shinnecock rake" means a hand tool used to catch hard-shell clams or oysters. It usually consists of a tooth bar with projecting long, outwardly and upwardly curving teeth which are progressively smaller toward the ends, form a basket, and are set transversely at the end of a long, usually wooden handle.

(l) "Tong" means any pincers, nippers, tongs, or similar device operated entirely by hand and consisting of two shafts or handles and a metal body composed of two opposable and complementary baskets used in catching oysters and clams.

§4–1102.

(a) The Department may resurvey any submerged area of the State to determine the position and extent of any natural oyster bar.

(b) If, after conducting a survey in accordance with subsection (a) of this section, the Department finds that any natural oyster bar is located incorrectly on existing charts or that the existing charts do not reflect the actual condition of submerged lands,

the Department shall amend the existing charts or coordinates by regulation.

§4–1103.

(a) The Department shall take measures which in its judgment seem best calculated to increase the productivity or utility of oyster resources in the State, including:

(1) Identifying and using effective methods of cleaning diseased oyster bars;

(2) Providing clean shell for the bars;

(3) Using hatchery produced oysters to replant sites; and

(4) Applying for a permit to dredge buried oyster shells.

(b) The Department may select and reserve for its own use areas, to be known as seed areas, within the waters of the State for the propagation of seed oysters. The number, size, and location of these areas shall be determined from time to time by the Department. The Department shall, before publication, deliver a notice of reservation, including all applicable reasons for the Department's act, to the Joint Committee on Administrative, Executive, and Legislative Review and publish the notice not less than 30 days before the closing date of any seed area in one newspaper of general circulation in the State and at least one newspaper of general circulation in each county in which the affected waters are located, and on the website of the Department. The Department shall schedule a public hearing on the proposal not less than 15 days before the proposed closing date. The hearing shall be held at the county seat of the county in which the affected waters are located. If the affected waters are located in more than one county, the hearing shall be held in that county seat closest to the affected waters, but if the area affected is totally within State waters, the hearing shall be held in Annapolis.

(c) The State may sell seed oysters to persons who hold a valid aquaculture or submerged land lease for no less than the prevailing price of seed oysters of similar quality in nearby states. Conditions of sale may be prescribed by rule or regulation of the Department. The proceeds from these sales shall be credited by the Comptroller to the Fisheries Research and Development Fund.

(d) (1) In addition to the provisions of subsections (b) and (c) of this section concerning the establishment of oyster seed areas and the sale of seed oysters to a leaseholder, the Department may:

(i) Sell or remove seed oysters from oyster seed areas if the sale or removal is made under disease protocols; and

(ii) Adopt regulations necessary to implement the provisions of this subsection.

(2) The Department shall credit the proceeds of any sale of seed oysters under this subsection to the Fisheries Research and Development Fund in the Department.

(3) The Department shall:

(i) Sell, at prevailing market prices, seed oysters produced in an aquaculture oyster seed area to a person who holds a valid lease issued under Subtitle 11A of this title, or an aquaculture permit to cultivate shellfish; and

(ii) Use any revenue derived from the sale of seed oysters to reimburse the Fisheries Research and Development Fund for any expenditure needed to create the aquaculture oyster seed areas under this subsection.

§4–1103.1.

The Department shall enter into an agreement with the Potomac River Fisheries Commission to establish oyster seed areas in the Potomac River from Cornfield Point to Point Lookout for the purpose of propagating seed oysters to replenish natural oyster bars in Calvert, Charles, St. Mary's counties, and other areas of the State.

§4–1105.

A person may not catch oysters on any area closed or reserved for propagation of oyster seed under the provisions of this subtitle. This section does not prohibit the Department from catching oysters.

§4–1106.

(a) The Department may transplant oysters, shells, or other cultch from one closed area to another, transplant or otherwise utilize within the State seed oysters produced on shells or other cultch planted by the Department, or transplant or utilize any other seed oyster which may accumulate on areas where seed oysters are not likely to develop into desirable marketable oysters.

(b) (1) The Department shall have licensed oystermen in each tidewater county of this State select a county committee of five representative licensed tongers, who earn their livelihood by catching oysters, to confer with the Department concerning oyster propagation conducted by the Department in that county. Each county committee shall elect a chairman to serve on a statewide committee of oystermen to advise the Department on statewide issues concerning oyster propagation.

(2) A similar advisory committee that includes licensed dredgers shall be selected to confer with the Department concerning the propagation of oysters in the dredging areas. The committee shall elect a chairman to serve on a statewide committee of oystermen to advise the Department on statewide issues concerning oyster propagation.

(3) The Department shall appoint 5 representative, licensed oystermen of this State who earn their livelihood catching oysters by using diving apparatus as a committee to confer with the Department concerning oyster propagation conducted by the Department in the areas of the State where the catching of oysters by using diving apparatus is permitted. The committee shall select a chairman to serve on a statewide committee of oystermen to advise the Department on statewide issues concerning oyster propagation.

(4) The Department shall appoint 5 representative, licensed oystermen of this State who earn their livelihood catching oysters by using patent tongs as a committee to confer with the Department concerning oyster propagation conducted by the Department in the areas of the State where the catching of oysters by using patent tongs is permitted. The committee shall select a chairman to serve on a statewide committee of oystermen to advise the Department on statewide issues concerning oyster propagation.

(5) The term of membership for each committee is four years, except that of the original committeemen, three are to serve a four-year term and two are to serve a two-year term. Each term begins on March 1.

(6) If a vacancy occurs because a member is unable or unwilling to serve, the Department immediately shall notify in writing each member of the committee of the vacancy. The committee shall arrange for a new election to fill the vacancy. If the vacancy is not filled within 60 days after the vacancy occurs, the Department shall make the necessary appointments to fill each vacancy. When committee members are selected or when any vacancy is filled, the Department shall notify promptly the members of the General Assembly from the county of the names of the committee members selected or appointed to fill a vacancy in that county. An appointment to a vacancy in an unexpired term is limited to the remainder of the term.

(7) The Department shall prescribe by rule and regulation the time, place, and manner of selection of the oyster committees.

(8) The Fisheries Administration shall submit an annual summary of the Fisheries Research and Development Fund to the committee of oystermen for each county. The summary shall include an accounting of receipts and expenditures.

(c) The Department shall expend any fund appropriated in the budget for oyster propagation for the planting of oyster shells, other cultch, or seed oysters on natural oyster bars or seed areas, or for the purchase of necessary equipment.

(d) The Department may close without holding a public hearing any natural oyster bar in the waters of the State with the approval of the appropriate committee of oystermen.

§4–1107.

The Department may cooperate with any county or political subdivision providing

funds to purchase and plant shells and transplant seed oysters. The appropriate governing body of any county or political subdivision that expends funds for this purpose may designate the planting areas for the purchased shells.

§4–1118.1.

(a) Except for normal harvesting activities, the dredging and transplanting of oyster shell or seed oysters as part of the Department's Oyster Propagation Program, or as authorized in a State wetlands license, a person may not destroy, damage, or injure any oyster bar, reef, rock, or other area located on a natural oyster bar in the Chesapeake Bay that is not a leased oyster bottom.

(b) Any person who destroys, damages, or injures any oyster bar, reef, rock, or other area referred to in subsection (a) of this section is liable to the State in a civil action, as the Department considers appropriate, for the restoration of, mitigation of, or monetary damages for any destruction, damage, or injury that the person causes to resources on the natural oyster bar.

§4–11A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) "Aquaculture" means the commercial rearing of fish or aquatic plants for sale, trade, barter, or shipment.

(c) "Aquaculture Enterprise Zone" means an area of the Chesapeake Bay approved for the leasing of submerged land or the water column by the Department in consultation with the Department of the Environment and the Wetlands Administrator of the State Board of Public Works.

(d) "Aquaculture lease" means a lease of any submerged land or the water column located in an Aquaculture Enterprise Zone for cultivating oysters or other shellfish for commercial purposes.

(e) "Atlantic Coastal Bays" means the waters of the Assawoman, Isle of Wight, Sinepuxent, Newport, and Chincoteague Bays and their tributaries.

(f) "Chesapeake Bay" means the waters commonly known as the Chesapeake Bay as defined by the charts of the Oyster Survey of 1906 to 1912 and its amendments.

(g) "Demonstration lease" means a lease of submerged land for the purpose of demonstrating the ecological benefits of growing shellfish or for research or education.

(h) "Dredge" includes any dredge, scoop, handscrape, or similar device used in catching oysters and clams by dragging.

(i) "Natural clam bar" means any area of submerged tidal bottom not classified as a natural oyster bar which has a population of clams of any species judged by the

Secretary to have significant commercial value.

(j) "Natural oyster bar" means any submerged oyster bar, reef, rock, or area represented as an oyster bar on the charts of the Oyster Survey of 1906 to 1912 and its amendments.

(k) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(l) "Public shellfish fishery area" means an area in which shellfish is harvested for commercial purposes.

(m) "SAV Protection Zone" means an area of submerged aquatic vegetation as mapped in aerial surveys by the Virginia Institute of Marine Sciences in 1 or more of the 5 years preceding the designation of an Aquaculture Enterprise Zone or an application for a lease under this subtitle.

(n) "Submerged land lease" means any land lying beneath the waters of the State leased by the State to any person for cultivating oysters and other shellfish for commercial purposes.

(o) "Tong" means any pincers, nippers, tongs, or similar device operated entirely by hand and consisting of 2 shafts or handles and a metal body composed of 2 opposable and complementary baskets used in catching oysters and clams.

(p) "Water column lease" means a lease of the column of water on or under the surface of the water and above the surface of the submerged land.

(q) "Yates Bar" means any submerged oyster bar, reef, rock, or area represented as an oyster bar on the charts of the Oyster Survey of 1906 to 1912, not including any amendments.

§4–11A–02.

(a) (1) The Department shall promulgate by regulation requirements that are necessary to ensure that aquaculture operations do not adversely impact wild stocks of fish, including measures for identifying fish as products of an aquaculture operation. In developing these regulations, the Department shall consult with the Aquaculture Coordinating Council, established by § 4–11A–03.2 of this subtitle, and incorporate in the regulations public notice provisions in accordance with § 4–11A–09 of this subtitle.

(2) The Department may not issue a permit for the raising of nonnative species, including hybrids of striped bass, or nonnative stocks unless:

(i) The permit limits the aquaculture operation to nontidal ponds, lakes, or impoundments; and

(ii) The aquaculture operation is constructed in a manner that assures that nonnative stocks are precluded from entering the tidal waters or contaminating the native species of the State.

(b) A person may not engage in aquaculture unless the person has obtained a permit from the Department. The permit shall be conditioned upon the person complying with the regulations promulgated under subsection (a) of this section.

(c) A permittee under this section shall allow the Department to inspect at reasonable hours any facilities, equipment, or fish involved in the permittee's aquaculture operations.

(d) Except as otherwise provided by law or by regulations adopted by the Department, all provisions of this title and regulations adopted under this title applicable to the taking, possession, sale, and transport of finfish do not apply to finfish that are in or from aquaculture operations in nontidal ponds, lakes, or impoundments.

§4–11A–03.

(a) (1) The General Assembly defines aquaculture as an agricultural and fisheries management activity.

(2) "Aquaculture" includes the commercial rearing of finfish, shellfish, and aquatic plants for sale, trade, barter, or shipment.

(b) It is the intent of the General Assembly to create:

(1) An Aquaculture Review Board and an Aquaculture Coordinating Council to promote the development of an aquaculture industry in this State; and

(2) An Aquaculture Coordinator, employed by the Department, to assist persons in obtaining the permits and licenses necessary to conduct aquaculture in the State.

(c) The Department is the lead agency for:

(1) Promoting, coordinating, and marketing aquaculture and aquaculture products;

(2) Coordinating and streamlining the process of applying for a State aquaculture permit; and

(3) Enforcing laws, regulations, and rules.

(d) The University of Maryland is the lead agency for research in aquaculture production and shall be responsible for development of education and extension programs which promote aquaculture as an industry.

§4–11A–03.1.

(a) There is an Aquaculture Review Board.

(b) (1) The Review Board shall consist of the following members, each of whom shall represent one of the following State departments charged with responsibility for an aspect of the State aquaculture permitting process or oversight of permit compliance:

(i) The Department of Natural Resources, to be represented by the Aquaculture Coordinator, who shall serve as chair;

(ii) One representative of the Department of the Environment, designated by the Secretary of the Environment;

(iii) One representative of the Department of Health and Mental Hygiene, designated by the Secretary of Health and Mental Hygiene; and

(iv) One representative of the Department of Agriculture, designated by the Secretary of Agriculture.

(2) The National Marine Fisheries Service shall be invited to designate a representative to the Review Board.

(3) The United States Army Corps of Engineers shall be invited to designate a representative to the Review Board.

(c) (1) The Aquaculture Coordinator shall be the single point of contact for an applicant for all permits and licenses necessary to conduct aquaculture in the State.

(2) The Review Board shall:

(i) Coordinate the development of statewide aquaculture policy and, to the maximum extent feasible, the streamlining of the application process;

(ii) Track each application as it is processed; and

(iii) Ensure full and meaningful departmental communication with an applicant during each stage of the application process.

§4–11A–03.2.

(a) There is an Aquaculture Coordinating Council.

(b) The Coordinating Council shall consist of the following 17 members:

(1) 1 member of the Maryland Senate designated by the President of the Senate;

(2) 1 member of the Maryland House of Delegates designated by the

Speaker of the House;

(3) 1 representative of the Department of Agriculture designated by the Secretary of Agriculture;

(4) 1 representative of the Department of Natural Resources Police designated by the Secretary of Natural Resources;

(5) 1 representative of the Department of Natural Resources, Fisheries Service, designated by the Secretary of Natural Resources;

(6) 2 representatives of the University of Maryland designated by the President of the University of Maryland, College Park:

(i) 1 with expertise in aquaculture research; and

(ii) 1 representing the Maryland Cooperative Extension;

(7) 1 representative of the Department of Business and Economic Development designated by the Secretary of Business and Economic Development;

(8) 1 representative of the Department of the Environment designated by the Secretary of the Environment;

(9) 1 representative of the Department of Health and Mental Hygiene designated by the Secretary of Health and Mental Hygiene;

(10) 3 representatives of the aquaculture industry designated by the Governor;

(11) 3 tidal fisheries licensed harvesters, including at least one who is a member of the Maryland Watermen's Association designated by the Governor; and

(12) 1 representative designated by the President of the University of Maryland Center for Environmental Science.

(c) (1) The Coordinating Council shall:

(i) Formulate and make proposals to the Governor and, in accordance with § 2–1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee on or before June 30 of each year for advancing Maryland aquaculture, including recommendations for a fee structure on aquaculture operations in order to reduce State expenditures on aquaculture programs;

(ii) Establish and monitor a grant program for the implementation of appropriate projects that support the economic health of the State aquaculture industry;

(iii) Conduct applied studies of projects and products that will expand the aquaculture industry in the State;

(iv) Conduct market tests to determine acceptability and potential demand for new aquaculture products;

(v) As appropriate, implement pilot projects and small commercial demonstrations to resolve any outstanding quality or production issues and to educate industry representatives, regulators, and other partners;

(vi) Support the aquaculture industry in its efforts to implement innovative procedures and to comply with associated regulations;

(vii) Enhance the awareness of innovative aquaculture products and programs among commercial buyers and the general public;

(viii) On or before December 31, 2006, develop best management practices that:

1. Provide guidance for freshwater and marine aquaculture permitting and compliance; and

2. Serve as the basis for the adoption of State regulations regarding tidal and nontidal aquaculture;

(ix) Investigate and, to the extent feasible, enhance the area of State waters that is available to private lease for purposes related to the aquaculture and seafood industries;

(x) Provide for the establishment of Aquaculture Enterprise Zones in the Chesapeake and coastal bays, so as to:

1. Streamline the permitting process in these zones;

2. Provide incentives for private investment in leasing operations; and

3. Encourage individuals with historical records in the commercial fishery to adapt their expertise to the raising and harvesting of seafood by aquaculture; and

(xi) On a regular basis, review State regulations impacting aquaculture and make recommendations to the Aquaculture Review Board regarding any necessary or advisable regulatory changes.

(2) The Coordinating Council may establish subcommittees to provide technical assistance to the Council, with subcommittee topics and membership as the Council determines to be appropriate.

(d) (1) The term of a member appointed by the Governor is 3 years.

(2) The terms of the members appointed by the Governor serving on July 1, 2006 expire as follows:

(i) 2 members in 2007;

(ii) 2 members in 2008; and

(iii) 2 members in 2009.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term begins serves only for the rest of the term and until a successor is appointed and qualifies.

(5) An appointed member may not serve more than 2 consecutive terms.

(e) The Governor may remove a member for incompetence or misconduct.

(f) The Coordinating Council may elect from among its members a chairman, vice–chairman, secretary and other officers it deems appropriate.

(g) The Coordinating Council shall determine the time and place of its meetings.

(h) The members of the Coordinating Council may not receive a salary, but shall be reimbursed for reasonable expenses incurred in attending meetings and other Council business, as provided under the Standard State Travel Regulations.

§4–11A–04.

(a) In consultation with the Oyster Advisory Commission, the Department shall identify by regulation the public shellfish fishery area in the Chesapeake Bay based on commercial harvesting activity during the 3 years preceding June 1, 2009, any surveys conducted by the Department, and other quantitative data known or made available to the Department.

(b) The public shellfish fishery area may not be leased for shellfish aquaculture.

§4–11A–05.

(a) This section applies to leasing in an Aquaculture Enterprise Zone in the Chesapeake Bay.

(b) (1) In consultation with the Department of the Environment and the Wetlands Administrator of the Board of Public Works, the Department shall establish Aquaculture Enterprise Zones in the Chesapeake Bay.

(2) An Aquaculture Enterprise Zone may not be located:

(i) Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of designation of the Aquaculture Enterprise Zone;

(ii) Within 150 feet of the public shellfish fishery or a registered pound net site;

(iii) Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

(iv) Within 150 feet of a federal navigational channel;

(v) In any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; or

(vi) In an SAV Protection Zone.

(3) In determining the location of an Aquaculture Enterprise Zone, the Department shall consider potential conflicts presented by other uses of the proposed area, to include navigation, recreation, and commercial fishing.

(4) Before adopting regulations establishing an Aquaculture Enterprise Zone, the Department shall hold a public hearing in the county or counties immediately adjacent to the proposed location of the Aquaculture Enterprise Zone.

(c) (1) Subject to paragraph (2) of this subsection, the Department may issue to any person an aquaculture lease in an Aquaculture Enterprise Zone.

(2) (i) 1. The Department shall set aside 25% of each Aquaculture Enterprise Zone for leasing to persons who hold tidal fish licenses under Subtitle 7 of this title and who have actively used those licenses during the 3 years preceding June 1, 2009.

2. An applicant for a lease under this subparagraph shall comply with the provisions for leasing set forth in this subtitle.

3. The set–aside provided for in subsubparagraph 1 of this subparagraph shall expire June 1, 2011.

(ii) The Department may issue an aquaculture lease to a corporation only if:

1. The corporation is organized under the laws of the State; and

2. More than 50% of the stock in the corporation is owned by

residents of the State.

(3) The Department may establish a buffer between leased areas within an Aquaculture Enterprise Zone.

(d) A person who leases an area in an Aquaculture Enterprise Zone may cultivate shellfish:

(1) On the submerged land;

(2) In temporary protective enclosures approved by the Department on the surface of the submerged land;

(3) Subject to approval by the United States Army Corps of Engineers, on or under the surface of the water in a floating structure or in a structure on the submerged bottom, except that the height of the structure may not exceed 18 inches; or

(4) In any other manner authorized by the Department.

(e) Notwithstanding any other provision of this subtitle, an Aquaculture Enterprise Zone located within a sanctuary must be compatible with oyster restoration and must satisfy the criteria for permissible leasing within a sanctuary as provided in regulations adopted under this subtitle.

§4–11A–06.

(a) This section applies to a submerged land lease in the Chesapeake Bay that is not in an Aquaculture Enterprise Zone.

(b) (1) (i) Subject to subparagraph (ii) of this paragraph, the Department may issue to a person a submerged land lease in waters of the Chesapeake Bay after the Department of the Environment classifies the waters as:

1. Approved, conditionally approved, or restricted for harvest; or

2. Prohibited, provided that the lease is used exclusively for the planting and gathering of seed for aquaculture and the leaseholder complies with the requirements of the National Shellfish Sanitation Program as implemented by the Department.

(ii) The Department may issue a submerged land lease in the waters of the Chesapeake Bay to a corporation only if:

1. The corporation is organized under the laws of the State; and

2. More than 50% of the stock in the corporation is owned by

residents of the State.

(2) A submerged land lease may not be located:

(i) Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of initial application for the lease;

(ii) Within 150 feet of the public shellfish fishery or a registered pound net site;

(iii) Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

(iv) Except as provided in paragraph (4) of this subsection, within 150 feet of a federal navigational channel;

(v) Subject to paragraph (3) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; or

(vi) In an SAV Protection Zone.

(3) Paragraph (2)(v) of this subsection does not apply to a riparian owner or a lawful occupant of the riparian property.

(4) A submerged land lease of a riparian owner or a lawful occupant of the riparian property may be located in Herring Creek in St. Mary's County.

(c) A person with a submerged land lease in the Chesapeake Bay may cultivate shellfish on the submerged land, in temporary protective enclosures approved by the Department on the surface of the submerged land, or in any other manner authorized by the Department.

(d) Notwithstanding any other provision of this subtitle, a lease of submerged land located within a sanctuary must be compatible with oyster restoration and must satisfy the criteria for permissible leasing within a sanctuary as provided in regulations adopted under this subtitle.

§4–11A–07.

(a) This section applies to a submerged land lease in the waters of the Atlantic Coastal Bays.

(b) (1) Subject to paragraph (2) of this subsection, the Department may issue to a person a submerged land lease in waters of the Atlantic Coastal Bays after the Department of the Environment classifies the waters as:

(i) Approved, conditionally approved, or restricted for harvest; or

(ii) Prohibited, provided that the lease is used exclusively for the

planting and gathering of seed for aquaculture and the leaseholder complies with the requirements of the National Shellfish Sanitation Program as implemented by the Department.

(2) The Department may issue a submerged land lease in the waters of the Atlantic Coastal Bays to a corporation only if:

(i) The corporation is organized under the laws of the State; and

(ii) More than 50% of the stock in the corporation is owned by residents of the State.

(c) (1) A submerged land lease may not be located:

(i) Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of initial application for the lease;

(ii) Within 150 feet of the public shellfish fishery or a registered pound net site;

(iii) Within 150 feet of any oyster reserve or a Yates Bar located in an oyster sanctuary;

(iv) Within 150 feet of a federal navigational channel;

(v) Subject to paragraph (2) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;

(vi) In an SAV Protection Zone; or

(vii) In a setback or buffer from the Assateague Island National Seashore established by the Department.

(2) Paragraph (1)(v) of this subsection does not apply to a riparian owner or a lawful occupant of the riparian property.

(d) A person with a submerged land lease in the Atlantic Coastal Bays may cultivate shellfish on the submerged land, in temporary protective enclosures approved by the Department on the surface of the submerged land, or in any other manner authorized by the Department.

(e) (1) The Department may establish submerged land areas in the Atlantic Coastal Bays that:

(i) Are preapproved for leasing;

(ii) May not be leased;

(iii) May be approved for leasing only on specific application and

review by the Department.

(2) In establishing areas that are preapproved for leasing or that may not be leased under paragraph (1) of this subsection, the Department shall consider potential conflicts presented by other uses of the proposed area, including navigation, recreation, and commercial fishing.

(f) Notwithstanding any other provision of this subtitle, a lease of submerged land located within a sanctuary must be compatible with oyster restoration and must satisfy the criteria for permissible leasing within a sanctuary as provided in regulations adopted under this subtitle.

§4–11A–08.

(a) This section applies to a water column lease in the waters of the State.

(b) The Department may issue to a person a water column lease in waters of the State after the Department of the Environment classifies the waters as:

(1) Approved, conditionally approved, or restricted for harvest; or

(2) Prohibited, provided that the lease is used exclusively for the planting and gathering of seed for aquaculture and the leaseholder complies with the requirements of the National Shellfish Sanitation Program as implemented by the Department.

(c) (1) A water column lease may not be located:

(i) Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of initial application for the lease;

(ii) Within 150 feet of the public shellfish fishery or a registered pound net site;

(iii) Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

(iv) Except as provided in paragraph (3) of this subsection, within 150 feet of a federal navigational channel;

(v) Subject to paragraph (2) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;

(vi) In an SAV Protection Zone; or

(vii) In a setback or buffer from the Assateague Island National Seashore established by the Department.

(2) The provisions of paragraph (1)(v) of this subsection do not apply to the

riparian owner or a lawful occupant of the riparian property.

(3) A water column lease of a riparian owner or a lawful occupant of the riparian property may be located in Herring Creek in St. Mary's County.

(d) A person with a water column lease in the waters of the State may cultivate shellfish:

(1) Subject to approval by the United States Army Corps of Engineers, on or under the surface of the water in a floating structure; or

(2) In any other manner authorized by the Department.

§4–11A–09.

(a) A person who wishes to obtain an aquaculture, water column, or submerged land lease shall pay a nonrefundable application fee established by the Department, in consultation with the Aquaculture Coordinating Council, and complete and submit an application to the Department.

(b) An application for an aquaculture lease, water column lease, or submerged land lease shall include:

(1) A declaration that the applicant intends to actively use the leased area for commercial purposes; and

(2) A proposed plan for active use of the lease that shall include:

(i) The lessee's source and quantity of shellfish seed;

(ii) The methods and means the applicant will use to grow shellfish;

(iii) The quantity of shellfish that the lessee expects to plant and harvest, and the time for planting and harvesting, during the initial 3 years of the lease; and

(iv) A description of the labor, materials, and equipment to be used by the lessee.

(c) The requirements for active use of a lease shall include:

(1) Annually planting at least one–fourth of the leased area at a minimum density of 1,000,000 shellfish seed per acre; or

(2) Complying with any other requirements established by the Department.

(d) (1) The term of a lease is 20 years.

(2) Except for a demonstration lease under § 4–11A–11 of this subtitle, a lease may be of any size provided that the leaseholder actively uses the area.

(3) The Department shall establish, in consultation with the Aquaculture Coordinating Council, an annual amount of rent and an aquaculture development surcharge for an aquaculture, water column, or submerged land lease.

(4) The Department, as it considers necessary to protect the public health, safety, and welfare, may:

(i) Deny a lease application for reasonable cause; or

(ii) Include any conditions in a lease.

(e) If an application for an aquaculture lease meets the requirements of this subtitle, the Department shall survey the leased area and issue a lease to the applicant.

(f) If an application for a submerged land lease in an area preapproved for leasing in the Atlantic Coastal Bays meets the requirements of this subtitle, the Department shall survey the leased area and issue a submerged land lease to the applicant.

(g) (1) If an application for a submerged land or water column lease in the Chesapeake Bay or in the Atlantic Coastal Bays meets the requirements of this subtitle:

(i) The applicant for the lease shall mark the proposed area with a stake; and

(ii) The Department shall:

1. Advertise the application on the website of the Department and once a week for 2 weeks in a newspaper published in the county or counties where the proposed lease is to be located;

2. Notify the owners of property directly in front of the proposed activity;

3. Notify each Chair of an Oyster Committee in the county in which the proposed activity is located; and

4. Notify other interested parties that the Department deems appropriate.

(2) (i) Within 30 days of publication of the last advertisement under paragraph (1) of this subsection, any person who has a specific right, duty, privilege, or interest that is different from that held by the general public and may be adversely affected by the proposed lease may file a petition with the Department protesting the issuance of the lease.

(ii) The protest shall be heard in accordance with the requirements of the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(iii) The Department shall hold a public informational meeting on the issuance of a lease on the request of any person.

(iv) Immediately after termination of the period prescribed in subparagraph (i) of this paragraph for filing a petition or after a final decision dismissing a protest, the Department shall survey the proposed leased area and issue a lease to the applicant.

§4–11A–10.

(a) A leaseholder shall:

(1) Subject to subsection (b) of this section, actively use the lease and comply with any standards for planting, harvesting, and use of the leased area established by the Department;

(2) Mark each lease area with an 8–inch by 12–inch marker displaying the initials of the leaseholder and posted on a minimum of four poles;

(3) Comply with any other marking requirements established by the Department for the protection of navigation;

(4) Comply with the regulations established by the Department of Health and Mental Hygiene in consultation with the Department of the Environment to carry out the mandate of the National Shellfish Sanitation Program; and

(5) Pay the rent and the aquaculture development surcharge for the lease at the time established by the Department.

(b) The Department may waive the requirements for active use of a lease on a showing that conditions not present at the time of execution of the lease, including the unavailability of shellfish seed, prevent active use of the leased area.

(c) A leaseholder may not:

(1) Place shellfish, bags, nets, or structures on submerged aquatic vegetation;

(2) Plant or harvest shellfish within 500 yards of any stationary blind or blind site that is occupied and being used for hunting migratory waterfowl;

(3) Sublease a lease;

(4) Transfer a lease without the approval of the Department;

(5) Harvest shellfish between the hours of sunset and sunrise; or

(6) Place unlawfully harvested oysters on a lease.

(d) Shellfish planted or harvested in accordance with a lease issued under this subtitle are subject to inspection by the Department.

(e) (1) A person who wishes to renew a lease issued under this subtitle or an existing shellfish lease or oyster lease shall submit an application that meets the requirements for an initial application in § 4–11A–09 or § 4–11A–11 of this subtitle.

(2) Before the termination or expiration of a lease issued under this subtitle, the leaseholder shall have the right of first refusal with respect to future leases of the leased area.

(f) (1) The Department may terminate a lease issued under this subtitle for failure to comply with the requirements of this subtitle.

(2) The Department shall notify a leaseholder by registered mail of its intention and proposed decision to terminate a lease for failure to comply with the requirements of this subtitle.

(3) A leaseholder who wishes to contest the Department's proposed decision may request a review of the decision by the Secretary, which shall be filed not later than 30 days after receipt of the Department's decision.

(4) Failure of a leaseholder to respond to the Department's proposed decision within 30 days of the date of the decision shall cause the leasehold to revert to the State.

§4–11A–11.

(a) This section applies to demonstration leases.

(b) (1) The Department may issue a demonstration lease to a public high school, an incorporated college or university within the State, a 4–H club, or a nonstock, nonprofit corporation organized under the laws of the State exclusively for educational, conservation, or ecological purposes.

(2) An application for a demonstration lease shall include a declaration that the applicant intends to actively use the leased area for demonstration purposes and a proposed plan for active use of the lease.

(c) The size of the lease may not exceed 5 acres.

(d) The proposed lease area may not be located:

(1) Within a minimum of 50 feet of shoreline or any pier without the

written permission of the riparian owner at the time of application for the lease;

(2) Within 150 feet of the public shellfish fishery or a registered pound net site;

(3) Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

(4) Within 150 feet of a federal navigational channel;

(5) In any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;

(6) In an SAV Protection Zone; or

(7) In a setback or buffer from the Assateague Island National Seashore established by the Department.

(e) (1) A demonstration lease may not be assigned or transferred.

(2) Any transfer or assignment or attempt to transfer or assign a lease shall be void and the interest in submerged land shall revert to the State without the necessity of any action by the State.

(f) (1) (i) A demonstration leaseholder shall actively use the lease for the purpose of demonstrating the ecological benefits of growing shellfish or for research or education.

(ii) Failure to actively use the lease may result in termination of the lease.

(2) A person may not harvest shellfish for commercial or consumption purposes from an area that is subject to a demonstration lease.

§4–11A–12.

(a) The Department shall maintain a record of leases issued under this subtitle.

(b) (1) Except as provided in paragraph (2) of this subsection, all fees, funds, and revenues derived from the administration of this subtitle shall be paid to the Comptroller of the Treasury and credited to the Fisheries Research and Development Fund.

(2) The Department shall transfer any funds derived from the aquaculture development surcharge to the State Department of Agriculture to be used for development of, and training and grants for, shellfish aquaculture.

(c) In accordance with § 4–742 of this title, the Department of the Environment may close to the catching, planting, or harvesting of shellfish waters in:

(1) The shellfish public fishery area;

(2) An Aquaculture Enterprise Zone;

(3) An area preapproved for leasing in the Atlantic Coastal Bays; or

(4) An area subject to an aquaculture lease, submerged land lease, or demonstration lease.

(d) In consultation with the Department of the Environment and the Wetlands Administrator of the Board of Public Works, the Department shall adopt regulations to implement this subtitle.

§4–11A–13.

(a) Except as provided in § 4–1008 of this title, a leaseholder may plant, cultivate, sow, or protect oysters only of the species known as Crassostrea virginica in the waters of the State.

(b) (1) In this subsection, the word "shellfish" includes live oysters, seed oysters, oyster shells, live hard–shell clams, live soft–shell clams, and clam shells.

(2) A person may not import or possess within the State shellfish taken from waters outside the waters of the State for planting in the waters of the State without the approval of the Department.

§4–11A–14.

(a) (1) Except as provided in paragraph (2) of this subsection, a leaseholder may cultivate or remove shellfish planted on his aquaculture or submerged land lease area in any manner he deems proper.

(2) A person may not use a hydraulic escalator dredge to harvest shellfish in the Atlantic Coastal Bays.

(b) Each leaseholder shall keep accurate records concerning the seeding and planting of cultch and oysters on, and the harvesting, and selling of oysters from his aquaculture, submerged land, or demonstration lease area. Each leaseholder shall report this information to the Department on forms the Department prescribes.

(c) (1) On or before January 1 of each year, a leaseholder shall provide to the Department a report documenting the use of the lease during the prior year.

(2) A leaseholder shall provide to the Department any other report that the Department may require.

(3) Failure to file a report may result in termination of the lease.

(4) Failure to actively use a lease may result in termination of the lease.

§4–11A–16.

(a) (1) A person, other than the leaseholder, may not willfully and without authority catch oysters on any aquaculture or submerged land lease area, or willfully destroy or transfer oysters on this land in any manner.

(2) The Department shall request the office of the local State's Attorney or the Attorney General to bring a criminal action under § 7–104 of the Criminal Law Article against a person found to be in violation of this subsection provided that the leased area is designated and marked with buoys and other signage or the person knew or should have known that the harvest of oysters from the area was unlawful.

(3) (i) On conviction of a person for a violation of this subsection, the Department may suspend all existing tidal fish licenses issued to that person for a period not to exceed:

1. 1 year for a first conviction; or

2. 2 years for a second or subsequent conviction.

(ii) Before suspending any license under this section, the Department shall give the licensee written notice of the right to request a hearing.

(iii) A licensee may request a hearing within 15 days from the date that the notice required by this section is mailed.

(iv) The Department shall hold a hearing within 30 days of the date of the request and render a decision within 30 days of the hearing.

(b) A person, other than a leaseholder, may not remove, alter, transfer, or destroy any marker, shellfish, equipment, or structures on any aquaculture or submerged land lease area.

(c) A person, other than an aquaculture or submerged land leaseholder, while he is in default in payment of any rent or fee, may not use for any purpose any submerged land of the State.

§4–11A–17.

The owner of any wharf or other structure constructed on or about the water and approved by the corps of engineers, shall have exclusive use, for the purpose of growing and harvesting shellfish, of the area:

(1) Below the owner's wharf or structure; and

(2) In Calvert, Howard, St. Mary's, and Talbot counties only, within 5 feet of the owner's wharf or structure, oysters grown in trays, baskets, or containers that are attached to a private pier or wharf by lines or ropes that are the property of the

owner of the pier or wharf.

§4–11A–18.

The Department shall establish 3 separate areas of 10 acres of submerged land each for oyster propagation research in the vicinity of:

(1) Horn Point in Cambridge in Dorchester County;

(2) Deale Island in Somerset County; and

(3) The waters of St. Mary's County, other than in the Potomac River.

§4–11A–19.

Notwithstanding any other provision of this title, the Department may adopt regulations that allow taking, possession, transport, or sale of oysters, from leased oyster bottoms that are less than the minimum size limit in §§ 4–1015 and 4–1015.1 of this title.

§4–11A–20.

(a) The Department may issue a permit authorizing a person to establish and operate an artificial or man-made pond or lake which he owns, leases, or controls, where fishing is permitted for payment of a fee, and in which fish stocked are artificially propagated by commercial hatcheries, or purchased from persons licensed to sell fish. The Department may issue the permit if it determines the lake or pond does not conflict with any reasonable prior public interest. The permit fee shall be $25 a year. The permit expires on December 31 following the date of issuance.

(b) The Department shall prescribe by regulation the size of the area, method of fishing, open and closed seasons, and the catching of fish by furnishing tags for a reasonable fee. The Department also shall regulate the release, possession, and use of legally propagated game and freshwater fish, and may require any report necessary concerning the operation of these areas.

(c) Any permit issued under the provisions of this section may be revoked for violation of any provision of this section or any regulation of the Department relating to fee-fishing lakes. The owner or operator of a fee-fishing lake or pond may not operate it without a permit.

(d) (1) The provisions of this title do not apply to any privately owned recreational area if the following factors are present:

(i) The payment of a fee to the owner of the area is not exclusively for the privilege of fishing in any ponds or lake on the property;

(ii) The lakes or ponds are stocked privately by the owner with

privately owned fish; and

(iii) Activities other than fishing are provided for the users of the recreational area.

(2) The owner or owners of any privately owned recreational area and the users of the area are not required to display fishing licenses.

§4–11A–21.

(a) A person may apply in writing to the Department for a permit to breed, propagate, and sell any species of game and freshwater fish protected by law, in ponds or lakes which he owns or leases. The Department, upon receipt of a permit fee of $5 may issue to the applicant a breeder's license permitting him to hatch, rear, transport, sell, barter or exchange any fish. A fish breeder's permit expires on December 31 following the date of issuance.

(b) The Department shall promulgate regulations governing the release, possession, sale, shipment, and identification of every game and freshwater fish bred under a fish breeder's permit. The Department may require any report necessary concerning the operation of a fish breeder's permit. Any permit issued under the provisions of this section may be revoked for a violation of any provision of this section or any regulation made pursuant to it.

§4–11A–22.

If a person who owns, controls, or erects an artificial pond on land he owns or possesses, puts any fish or the eggs or spawn of fish in the pond for breeding and cultivating purposes, and gives notice by written or printed handbills in public places near the pond, no other person may enter the premises to fish, without obtaining the consent of the owner.

§4–11A–23.

(a) In this section, "permit" means a shellfish nursery permit.

(b) A person may not engage in the commercial rearing of shellfish seed outside an area leased under this subtitle without first obtaining a permit from the Department.

(c) For a shellfish nursery to be located on land, the Department may issue a permit only to the owner or legal tenant of the property or to a person with the permission of the property owner.

(d) (1) For a shellfish nursery to be located in waters of the State outside a leased area, the Department may issue a permit only:

(i) To the owner of a wharf or other structure constructed on or about

the water and approved by the U.S. Army Corps of Engineers, or to a person with the permission of the owner of the wharf or other structure; and

(ii) For the cultivation of shellfish seed within 20 feet of the wharf or other structure, in an area of water not exceeding 200 square feet.

(2) A person is not required to obtain a water column lease or a submerged land lease for a permitted in–water shellfish nursery operation.

(3) Shellfish nursery products are exempt from water quality classifications and restrictions established by the Department of the Environment under the National Shellfish Sanitation Program.

(e) (1) To obtain a permit, a person shall:

(i) Complete and submit an application to the Department on a form prescribed by the Department; and

(ii) Pay a nonrefundable application fee established by the Department in consultation with the Aquaculture Coordinating Council.

(2) The application fee may not exceed the cost of processing the permit.

(f) The Department may, as it considers necessary to protect the public health, safety, and welfare:

(1) Deny a permit application for reasonable cause; or

(2) Include conditions in a permit.

(g) (1) The term of a shellfish nursery permit is 5 years.

(2) The Department may revoke or suspend a permit issued under this section at any time for noncompliance with the requirements of this section, regulations adopted under this section, or the conditions of the permit.

(h) A permit holder shall allow the Department to inspect at reasonable hours any facilities, equipment, or shellfish that are part of the permit holder's shellfish nursery operations.

(i) The Department may adopt regulations to implement this section.

§4–11B–01.

(a) There is a Seafood Marketing and Aquaculture Development Program and a Division of Market Development.

(b) The Seafood Marketing and Aquaculture Development Program and Division of Market Development shall be part of the Department.

(c) The Seafood Marketing and Aquaculture Development Program and Division of Market Development shall have the powers, duties, responsibilities, and functions provided in the laws of this State.

§4–11B–02.

(a) There is a Seafood Marketing Fund.

(b) The Fund may receive proceeds from activities conducted by the Seafood Marketing and Aquaculture Development Program. These activities may include cookbook sales, poster sales, seafood festivals, and similar activities.

(c) The Secretary shall adopt regulations to administer the Seafood Marketing Fund.

§4–11C–01.

(a) There is a Seafood Program Management Team to be administered by the Maryland Cooperative Extension.

(b) The Team shall:

(1) Establish and monitor a grant program for the implementation of appropriate projects that support the economic health of the Maryland seafood industry;

(2) Prioritize, select for funding, and oversee seafood industry projects under a rapid response structure; and

(3) Examine new technologies, equipment, raw and value–added products, feasibility studies, and market development and cost control strategies.

(c) The Team shall consist of the following 18 individuals appointed by the Department:

(1) 12 members including:

(i) 1 holder of a tidal fisheries license;

(ii) 1 crab processor;

(iii) 1 oyster packer;

(iv) 1 surf clam processor;

(v) 1 finfish processor;

(vi) 1 value–added processor;

(vii) 1 wholesale distributor;

(viii) 1 seafood distributor;

(ix) 1 aquafarmer;

(x) 1 representative of the Chesapeake Bay Seafood Industries Association;

(xi) 1 representative of the Maryland Watermen's Association; and

(xii) 1 representative of the Seafood Marketing Advisory Commission; and

(2) 6 advisors, including 1 representative each from:

(i) The University of Maryland, College Park;

(ii) The University of Maryland Eastern Shore;

(iii) The Department;

(iv) The Department of the Environment;

(v) The Department of Natural Resources; and

(vi) The Department of Health and Mental Hygiene.

(d) (1) (i) Team members shall select the chair from among the Team members.

(ii) Only Team members may vote in the selection of projects to be funded.

(2) At the invitation of the members, Team advisors may assist with project design, proposal preparation, and project–related research.

(e) If a project is funded by the Team, the Team shall make public the project's design and results on the Department's website and by other methods determined by the Team or as required by law.

§4–11D–01.

(a) There is an Innovative Seafood Technologies Program.

(b) The Program shall:

(1) With industry and other relevant partners, evaluate existing and innovative seafood technologies to determine the nature and extent of limitations on

expansion and profitability and to identify potential strategies for growth;

(2) Conduct applied studies, including comparisons of alternative processing methods, to determine effective and efficient methods to expand the production and profitability of Maryland seafood;

(3) Conduct market tests to determine new product acceptability and potential demand;

(4) As appropriate, implement pilot projects and small commercial demonstrations to resolve any outstanding quality or production issues and to educate industry representatives, regulators, and other partners;

(5) Support the seafood industry in its efforts to implement innovative procedures and to comply with associated regulations; and

(6) Enhance the awareness of innovative products and programs among commercial buyers and the general public.

(c) As appropriate, the Program shall utilize the expertise of representatives of the Seafood Program Management Team, the seafood industry, including seafood harvesters, producers, processors, buyers, and food industry suppliers, and government and related academic fields.

§4–11E–01.

(a) There is a Seafood Marketing Advisory Commission.

(b) The Commission consists of 13 members.

(c) Of the 13 Commission members:

(1) 1 shall be the Secretary of Agriculture or the designee of the Secretary of Agriculture, as an ex officio nonvoting member;

(2) 1 shall be the Secretary of Natural Resources or the designee of the Secretary of Natural Resources, as an ex officio nonvoting member;

(3) 5 shall represent the seafood packers in this State, at least 3 of whom shall be members of the Chesapeake Bay Seafood Industries Association;

(4) 2 shall be licensed Maryland watermen;

(5) 1 shall represent the retail food industry in this State;

(6) 1 shall represent the aquaculture industry in this State; and

(7) 2 shall be consumer members.

(d) (1) The Governor shall appoint the 3 members representing the Chesapeake Bay Seafood Industries Association from a list of names submitted to the Governor by the Chesapeake Bay Seafood Industries Association. The names on the list shall be three times the number of vacancies;

(2) Except for the ex officio members and the members representing the Chesapeake Bay Seafood Industries Association, the Governor shall appoint each member with the advice of the Secretary; and

(3) Except for the ex officio members, each member appointed by the Governor shall be appointed with the advice and consent of the Senate.

(e) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) The term of a member is 4 years.

(g) A member may not serve more than 2 terms on the Commission.

(h) The terms of the initial voting members of the Commission expire as follows:

(1) 2 in 1988;

(2) 3 in 1989;

(3) 3 in 1990; and

(4) 3 in 1991.

(i) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(j) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(k) The Governor may remove a member for incompetence or misconduct.

(l) The Commission shall assist the Seafood Marketing and Aquaculture Development Program and the Division of Market Development in the Department of Agriculture in:

(1) Promoting increased consumption and distribution of Maryland seafood; and

(2) Seeking efficient methods to reduce cost and improve the quality and marketability of Maryland seafood.

§4–1201.

(a) Except as otherwise specifically provided in this title, a person who violates any provision of this title is guilty of a misdemeanor and, upon conviction, is subject to a fine not exceeding $1,000, with costs imposed in the discretion of the court.

(b) Unless another penalty is specifically provided elsewhere in this title, any person found guilty of a second or subsequent violation of any provision of this title is subject to a fine not exceeding $2,000, or imprisonment not exceeding one year, or both, with costs imposed in the discretion of the court. For the purpose of this subsection, a second or subsequent violation is one which has occurred within two years of any prior violation of this title.

(c) In addition to any administrative penalty provided in this title, violation of any rule or regulation adopted by any unit within the Department pursuant to the provisions of this title is a misdemeanor and is punishable as provided in subsections (a) and (b) of this section.

(d) (1) In addition to any other applicable penalty set forth in subsections (a) and (b) of this section, a person who violates any provision of this title or any regulations adopted by the Secretary under the authority of this title concerning the taking of or creel limits for striped bass, commonly known as rockfish, shall be subject to the following penalties:

(i) For a first violation, a fine not exceeding $1,500 per fish;

(ii) For a second violation, within a 2–year period, a fine not exceeding $2,500 per fish and revocation of the fishing license for a period not less than 1 year but not more than 2 years; and

(iii) For a third violation within a 4–year period, a fine not exceeding $2,500 per fish and revocation of the fishing license for a period not less than 2 years but not more than 5 years.

(2) In addition to any other penalty provided under this title, a person who commits any of the following violations, and the violation results in the unlawful capture of over $20,000 worth of striped bass as determined by the proceeds of the unlawful capture, is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years:

(i) Using unlawful gear;

(ii) Harvesting during closed seasons;

(iii) Harvesting from a closed area;

(iv) Violating established harvest, catch, or size limits; or

(v) Violating tagging and reporting requirements.

(e) A common carrier transporting fish who is not the buyer, seller, or catcher of the fish or is not controlled by the buyer, seller, or catcher of the fish is not subject to any penalty under this section for transporting fish which is either unlawfully caught or of unlawful size provided that the operator of the common carrier has in his possession a valid bill of lading, stating the origin, shipper, destination and receiver of the fish and the common carrier does not know or have reason to know that the fish were unlawfully caught or of unlawful size.

(f) In addition to any other applicable penalty set forth in this title, a person who unlawfully takes oysters from a leased oyster bottom, an oyster sanctuary, an oyster reserve, or an area closed to shellfish harvest by the Department of the Environment, when the area is designated and marked by buoys or other signage or the person knew or should have known that taking the oysters from the area was unlawful, is subject to a fine not exceeding $3,000.

(g) (1) If a person is convicted of violating any provision of this title and the violation causes or results in the injury, death, or destruction of any fish, including a protected species of animal, in addition to any other penalty provided in this title, the Secretary may order the person to pay restitution to the Department for the resource value of the fish, as determined by the regulations adopted by the Department under paragraph (2) of this subsection.

(2) The Department, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, shall adopt regulations that establish a schedule of resource values for individual species.

(3) If two or more defendants are convicted for the same violation causing or resulting in the injury, death, or destruction of protected species of animals, the court may impose restitution against the defendants jointly and equally.

(4) (i) Restitution under this section shall be paid within 30 days or a time prescribed by regulation.

(ii) In each instance, restitution paid under this section shall be credited to the Department to be used only for the replacement, habitat management, or enforcement programs for injured, killed, or destroyed fish or protected species of animals.

(h) In addition to any other applicable penalty under this title, a person who violates § 4–708(a)(1) of this title (Committing separate commercial fishing violation while license or authorization is suspended or revoked) or § 4–708(a)(2) of this title (Engaging in commercial fishing activity without holding appropriate license or authorization) is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding $25,000 or both, with costs imposed in the discretion of the court.

§4–1202.

(a) (1) Except as provided in paragraph (2) of this subsection, if any fine is imposed by the District Court for a violation of any provision of this title, the fine shall be collected pursuant to the provisions of law of the District Court system.

(2) Notwithstanding any other provision of law, a fine imposed by the District Court under § 4–1201(h) of this subtitle on a person who commits a separate commercial fishing violation while the license or authorization is suspended or revoked or who engages in commercial fishing activity without holding the appropriate license or authorization, less the costs of collection, shall be paid to the Fisheries Research and Development Fund.

(b) If any fine is imposed by the circuit court of any county, the fine, less the costs of collection, shall be paid to the Fisheries Research and Development Fund, unless otherwise provided for.

§4–1203.

If any Natural Resources police officer or any law enforcement officer has probable cause to believe that any person possesses any fish or any device in violation of this title, the officer shall go before any District Court judge of the county in which the fish or device is supposed to be and make affidavit to that fact. If the judge finds the affidavit legally sufficient, the judge shall issue a search warrant against the person complained of, directed to the officer making the affidavit, commanding the officer to proceed at once and search for the fish or device and, upon finding it, to seize, take possession, and keep it until further order by the judge. The warrant shall be executed pursuant to Rule 4-601 of the Maryland Rules. The warrant shall be returned within 5 days from the issuing date or within a shorter period of time as set forth in the search warrant.

§4–1204.

(a) If a Natural Resources police officer or any law enforcement officer has probable cause to believe that any fish or device is possessed, in violation of this title, and it is not possible or feasible to secure a search warrant in time to seize the fish or device, then he may examine without a warrant any boat, railway car, box, crate, package, or game bag.

(b) In this event, a Natural Resources police officer, in uniform or accompanied by a uniformed police officer, may stop and search an automobile, any vehicle, or trailer for the purpose of examining the fish bag. He also may determine whether the person has an appropriate license.

(c) However, this section does not permit entering a dwelling house without first procuring a search warrant.

§4–1205.

A Natural Resources police officer or any law enforcement officer, upon arresting any person for violating any provision of this title or any rule or regulation promulgated pursuant to it, shall seize every fish unlawfully caught, sold, offered for sale, transported, or possessed. The Department may dispose of the seized fish at its discretion.

§4–1206.

(a) A Natural Resources police officer or any law enforcement officer, upon arresting any person for violating any provision of this title or any rule or regulation promulgated pursuant to it, may seize every device, equipment, conveyance, or property unlawfully used. If the owner or person in charge of the seized device, equipment, conveyance, or property is convicted, the court may declare the device, equipment, conveyance, or property forfeited in addition to any other penalty provided in this title. Any forfeiture becomes the property of the Department for disposition at its discretion. If the owner is not known, the court may proceed ex parte to hear and determine any question of forfeiture. If the owner or person charged with the violation is not convicted, the device, equipment, conveyance, or property seized shall be released and returned to the owner or person charged.

(b) However, the device, equipment, conveyance, or property may not be forfeited if the owner was not a consenting party or privy to a violation.

§4–1207.

(a) In addition to any other penalty or fine provided in this title, any person who is convicted of violating any provision of this title or any regulation adopted under the authority of this title may have the license under which the person operated in the commission of violation suspended or revoked by the court.

(b) (1) A court may suspend for not more than 1 year a fishing license of a person who is convicted of violating § 6-402 of the Criminal Law Article while carrying a fishing rod or net for the purpose of fishing.

(2) When a person not holding a fishing license is convicted of violating § 6-402 of the Criminal Law Article while carrying a fishing rod or net for the purpose of fishing, the court may order that the person not obtain a fishing license for a period of not more than 1 year.

§4–1208.

(a) In this section, "violation" means a violation of:

(1) Any provision of this title; and

(2) Any rule or regulation concerning fish and fisheries adopted by the

Department.

(b) If a person applies for the expungement of the person's record concerning any violation, the Department shall expunge the record if, at the time of application:

(1) The person has not been convicted of a violation for the preceding 3 years, and any license issued to the person under this title has never been suspended or revoked;

(2) The person has not been convicted of a violation for the preceding 5 years, and any license issued to the person under this title shows not more than 1 suspension and no revocations; or

(3) The person has not been convicted of a violation for the preceding 10 years, regardless of the number of suspensions or revocations.

§4–1209.

Upon the failure of any person to appear in a court of this State as required by any charging document accusing the person of committing any offense under this title, in addition to any other appropriate action taken by the court or the Department, the Department may immediately suspend, without hearing, any license issued to the person under this title. The Department may not issue any new license under this title to the person until the person appears in court to answer the charging document.

§4–1210.

(a) (1) In addition to any other penalty or fine provided in this title, a person who holds a license to catch oysters under § 4–701 of this title and receives a citation for an offense listed under paragraph (2) of this subsection may have the license revoked in accordance with this section.

(2) The following offenses, committed in violation of this title or of any regulation adopted under this title, are grounds for revocation of a license to catch oysters under this section:

(i) Taking oysters located more than 200 feet within a closed or prohibited area;

(ii) Taking oysters with gear that is prohibited in that area;

(iii) Taking oysters outside of a time restriction for the harvest of oysters by more than 1 hour;

(iv) Taking oysters during closed seasons; and

(v) Taking oysters from a leased area by a person other than the leaseholder or the leaseholder's designee.

(b) (1) Within 60 days after a person who holds a license to catch oysters under § 4–701 of this title receives a citation for an offense listed under subsection (a) of this section, the Department shall hold a hearing on the matter in accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(2) After a hearing is conducted under paragraph (1) of this subsection, if the presiding officer finds or concludes that the person knowingly has committed an offense listed under subsection (a)(2) of this section, the Department shall revoke the person's license to catch oysters.

(c) A person who is aggrieved by the final decision of the Department may obtain judicial review of the decision in accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(d) A person whose license has been revoked in accordance with this section may not engage or work in the fishery for which the license was revoked whether or not it requires the use of another license.

§4–1211.

(a) (1) In addition to any other penalty or fine provided in this title, a person who is authorized to catch striped bass or crabs under § 4–701 of this title and who commits an offense established under paragraph (2) of this subsection may have the authorization to catch striped bass or crabs revoked in accordance with this section.

(2) The Department, in consultation with the Tidal Fisheries Advisory Commission and the Sport Fisheries Advisory Commission, shall adopt regulations that establish grounds for the revocation of an authorization to catch striped bass or crabs under § 4–701 of this title, which shall include egregious or repeat violations in the following categories:

(i) Using illegal gear;

(ii) Harvesting during closed seasons;

(iii) Harvesting from a closed area;

(iv) Violating established harvest, catch, or size limits; and

(v) Violating tagging and reporting requirements.

(b) (1) Before the revocation of an authorization to catch striped bass or crabs under this section, the Department shall hold a hearing on the matter in accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(2) After a hearing is conducted under paragraph (1) of this subsection, if

the presiding officer finds or concludes that the person knowingly has committed an offense listed under subsection (a)(2) of this section, the Department shall revoke the person's authorization to catch striped bass or crabs.

(c) A person who is aggrieved by the final decision of the Department may obtain judicial review of the decision in accordance with the Administrative Procedure Act under Title 10, Subtitle 2 of the State Government Article.

(d) A person whose authorization has been revoked in accordance with this section may not engage or work in the fishery for which the authorization was revoked whether or not it requires the use of another authorization.

§5–101.

(a) In this title the following words have the meanings indicated.

(b) "County" includes Baltimore City unless otherwise indicated.

(c) "Department" means Department of Natural Resources.

(d) "Environmental services" means the benefits generated for society by the existence and dynamic development of forests, including:

(1) Producing oxygen and removing carbon dioxide from the atmosphere;

(2) Regulating the surface and underground flow of water;

(3) Providing effective filtration systems for higher water quality;

(4) Supporting a myriad of native flora and fauna; and

(5) Providing goods and services ranging from forest products to aesthetics.

(e) (1) "Forest land" means a biological community dominated by trees and other woody plants that are capable of producing timber or other wood products with a stocking of at least 100 trees per acre with at least 50% of those trees having a 2–inch or greater diameter at 4.5 feet above the ground.

(2) "Forest land" includes forested areas that have been cut but not converted to other land uses.

(f) "Forest stewardship plan" means a document written by a professional forester who is licensed under Title 7, Subtitle 3 of the Business Occupations and Professions Article, regarding a parcel of land comprised of not less than 5 contiguous forested acres that lists activities that enhance or improve forest resources, including soil, water, timber, recreation, and aesthetics over a 15–year period.

(g) "Forestry" or "silviculture" means the science, art, and practice of creating,

managing, using, and conserving forests and associated resources for human benefit and in a sustainable manner to meet desired goals, including goals for:

(1) Clean air and water;

(2) Biodiversity;

(3) Wildlife habitat;

(4) Fiber production; and

(5) Recreation.

(h) (1) "Forestry practices" means activities conducted to achieve land management objectives.

(2) "Forestry practices" includes:

(i) Planting;

(ii) Prescribed burning;

(iii) Thinning;

(iv) Pruning;

(v) Harvesting;

(vi) Fertilizing; and

(vii) Pesticide and herbicide application.

(i) "No net loss of forest" means 40% of all land in Maryland is covered by tree canopy.

(j) "Person" includes the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

(k) "Secretary" means Secretary of Natural Resources.

(l) "Silvicultural product" or "forest product" means any raw material yielded by a forest, including:

(1) Timber;

(2) Timber products; and

(3) Any other forest materials, such as lumber, poles, pulpwood, firewood, and pine straw.

(m) "Sustainable forestry" or "sustainable forestry management" means an internationally accepted and applied stewardship concept for the use of forests and forest lands in a manner and at a rate that maintains a forest's:

(1) Biodiversity;

(2) Productivity;

(3) Regeneration capacity;

(4) Nutrient reduction benefits;

(5) Vitality; and

(6) Ecological, economic, and social purposes at local and national levels that do not cause damage to other ecosystems.

(n) "Working landscapes" means:

(1) Forest lands that are managed consistently with the requirements of a forest stewardship plan or a forest conservation plan, approved by the Department or a professional forester who is licensed under Title 7, Subtitle 3 of the Business Occupations and Professions Article, that advances sustainable forestry management as defined in subsection (m) of this section; and

(2) Agricultural lands that are managed consistently with criteria set forth by the Department of Agriculture.

§5–102.

(a) The General Assembly finds that:

(1) Forests, streams, valleys, wetlands, parks, and scenic, historic, and recreation areas of the State are basic assets and their proper use, development, and preservation are necessary to protect and promote the health, safety, economy, and general welfare of the people of the State;

(2) Enhancing the extent and condition of tree and forest cover in the Chesapeake Bay watershed is critical to the success in restoring the Chesapeake Bay because forests are the most beneficial use of protecting water quality due to their ability to capture, filter, and retain water, as well as absorb pollution from the air;

(3) Forests and trees are key indicators of climate change and can mitigate greenhouse gas emissions by carbon sequestration;

(4) Forests provide habitat for hundreds of wildlife species, including

habitat needed for rare, threatened, and endangered species;

(5) Forests are susceptible to environmental degradation caused by natural threats;

(6) Forests, like other open space areas, are under intense development–related pressures for residential, commercial, and industrial conversion due to the demands of a growing population;

(7) Trees and forests in urban areas provide multiple benefits, including:

(i) Mitigation of urban stormwater runoff into the Chesapeake Bay;

(ii) Sequestration of carbon;

(iii) Avoidance of energy–related emissions;

(iv) Mitigation of air pollutants, such as ozone and particulate matter;

(v) Reduction of the urban heat island effect; and

(vi) Contributions to community livability;

(8) Forest land owners, including local government officials responsible for overseeing the management of publicly owned forest lands, could benefit from research–based education outreach programs in order to help facilitate an understanding of sustainable forestry management that is consistent with forest stewardship principles;

(9) Forests are a renewable resource that help the State meet its renewable energy goals that are consistent with the State's:

(i) Green power goal for State facilities;

(ii) Renewable Energy Portfolio Standard;

(iii) Healthy Air Act; and

(iv) Maryland Clean Energy Incentive Act of 2006; and

(10) This title sets forth Maryland's vision for sustaining Maryland's coveted forest lands into the 21st century that is consistent with the Chesapeake 2000 Agreement and the 2007 Forestry Conservation Initiative.

(b) It is the policy of the State to encourage the retention and sustainable management of forest lands by:

(1) Achieving no net loss of forest;

(2) Affording due consideration to the protection and retention of forests in the State through existing land conservation programs where they have the highest value in terms of promoting the State's compliance with its clean water goals under the Chesapeake 2000 Agreement and the 2007 Forest Conservation Initiative;

(3) Enhancing the retention of privately owned forest lands through research–based educational outreach efforts to landowners by the State's forest conservancy district boards;

(4) Developing financial incentives to encourage landowners to retain and manage their forests sustainably and in a manner that is consistent with a forest stewardship plan;

(5) Promoting renewable energy policies and markets with increased emphasis on the use of in–State produced woody biomass;

(6) Ensuring dual certification of the State's forests by the Forest Stewardship Council and the Sustainable Forestry Initiative;

(7) Recognizing the importance of:

(i) A viable forest products industry to the economies of rural Maryland;

(ii) Continued development of fiber products; and

(iii) Maryland's green infrastructure; and

(8) Developing and enhancing programs with a sustainable forestry component, including a forest mitigation banking system, a carbon credit or carbon sequestration program, a clean water credit trading system, an environmental services credit trading program, and a renewable energy credit trading system.

§5–102.1.

(a) (1) In this section, the term "forestry" includes activities prescribed by a licensed professional forester in accordance with § 7–101 of the Business Occupations and Professions Article.

(2) "Forestry" does not include the clearing of land as a prelude to a change in the use of land.

(b) Forestry, as prescribed by a person licensed as a forester under Title 7 of the Business Occupations and Professions Article and in accordance with accepted silvicultural principles, as defined by the Society of American Foresters, constitutes a traditional, fundamental, beneficial, and desirable use of the State's forest resource. Forestry is an important land management tool that contributes significantly to the economy of the State by the support of a vital forest products industry, as well as to

the health of forests and their wildlife, water quality, and recreational benefits by the sustainment of forest productivity and wildlife habitats.

(c) In Maryland, forestry, including the harvest and transport of forest products, is often carried out in close proximity to populated areas. Other than development for more intensive uses, this harvest of timber may represent a major source of income for the profitable use of private property.

(d) (1) Retention, management, and expansion of the State's forested resources are critical to the health and vitality of the Chesapeake Bay watershed, rural Maryland, and forest resource–based industries.

(2) It is the intent of this subsection to:

(i) Encourage forestry practices in local comprehensive plans developed in accordance with Title 1, Subtitle 4 or Title 3 of the Land Use Article; and

(ii) To express the General Assembly's intent that local planning and zoning restrictions that impact silvicultural practices may not be more stringent than restrictions imposed by State law and regulation.

(e) Since it is in the State and public interests to preserve the forest land base and other natural resources, a local government with planning and zoning powers shall support forestry by a reasonable exercise of these powers, including the consideration, development, and interpretation of planning and zoning requirements that beneficially impact the efficient and economic practice of forestry in a manner consistent with the local government's implementation of the visions listed in § 1–201 of the Land Use Article.

§5–103.

(a) (1) In this section the following words have the meanings indicated.

(2) "Construction activity" means work by a constructing agency related to:

(i) Construction of or improvements to a highway; or

(ii) Off–site environmental mitigation related to highway construction.

(3) "Constructing agency" means:

(i) A unit of State or local government; or

(ii) Any other person who uses State funding and performs any construction activity with the State funding.

(4) (i) "Forest" means a biological community dominated by trees or other woody plants covering a land area of 1 acre or more.

(ii) "Forest" includes an area that has been cut but not cleared of trees or other woody plants.

(5) "Forest mitigation banking" means the intentional restoration or creation of forests undertaken expressly for the purpose of providing credits for reforestation requirements with enhanced environmental benefits from future activities.

(6) "Watershed" means all lands lying within an area described as a subbasin in water quality regulations adopted by the Department of the Environment.

(b) To accomplish a construction activity involving land clearing, a unit of State or local government or any other person using State funding for the construction project:

(1) May cut or clear only the minimum number of trees and other woody plants that are necessary and consistent with sound design practices; and

(2) Shall make every reasonable effort to minimize the cutting or clearing of trees and other woody plants.

(c) (1) If the total area of forest cut or cleared in connection with a construction activity by a unit of State or local government or any other person using State funding for the construction project equals 1 acre or more, the constructing agency shall locate an equivalent area of State–owned or other publicly owned land to be reforested by the Department at a rate of 10 cents per square foot of the area of required planting.

(2) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the reforestation projects shall be established on any public land within the county and watershed in which construction activity by a unit of State or local government has caused a loss of trees where the public entity that owns the land agrees to that use of the land.

(ii) If the reforestation project cannot be reasonably accomplished in the county and watershed in which the construction activity is located, then the reforestation shall occur in the county or watershed in the State in which the construction activity is located, or shall be accomplished by use of credits in a forest mitigation bank in the county and watershed in which the construction activity is located.

(iii) If the reforestation project cannot be reasonably accomplished in the county or watershed in which the construction activity is located, or by use of credits in the county and watershed in which the construction activity is located, then reforestation may occur by the use of credits in a forest mitigation bank in the county

or watershed in which the construction activity is located.

(3) The constructing agency shall reimburse the Department for the reforestation activities at an appropriate rate of 10 cents per square foot of the area of required planting.

(4) Any land for a reforestation project shall be:

(i) If possible, on the site or in the project right–of–way being used for the construction activity;

(ii) If sufficient area is not available at the site or within the project right–of–way, on State–owned or other publicly owned land in the county and watershed in which the construction activity is located;

(iii) If the reforestation project cannot be reasonably accomplished in the county and watershed in which the construction activity is located, on State–owned or other publicly owned land in the county or watershed in the State in which the construction activity is located; or

(iv) If the reforestation project cannot be reasonably accomplished on State–owned or other publicly owned land in the county or watershed in the State in which the construction activity is located, accomplished through use of forest mitigation bank credits in the watershed in which the construction activity is located.

(d) If the constructing agency is unable to locate a sufficient amount of State or other publicly owned land or available forest mitigation bank credits to comply with the requirements of subsection (c) of this section, the constructing agency shall contribute money, at the rate of 10 cents per square foot of the area of required planting, to the Reforestation Fund established under subsection (e) of this section.

(e) (1) In this subsection, "Fund" means the Reforestation Fund.

(2) There is a Reforestation Fund in the Department.

(3) The purpose of the Fund is to:

(i) Finance the planting of trees on:

1. Land located in the county and watershed in which construction projects giving rise to Fund contributions are located; and

2. Private property on which trees were destroyed by a treatment to destroy plant pests that was applied by the Department of Agriculture; and

(ii) Finance the prevention of and response to forest health emergencies.

(4) The Department shall administer the Fund.

(5) (i) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(6) The Fund consists of any money received from contributions by a constructing agency under subsection (d) of this section.

(7) (i) Subject to subparagraph (ii) of this paragraph, the Fund may be used only to:

1. Plant trees on land located in the county and watershed in which construction projects giving rise to Fund contributions are located;

2. If reforestation cannot be reasonably accomplished in the county and watershed in which the construction activity is located:

A. Plant trees on State or other publicly owned lands located in the county or in the watershed in the State in which the construction activity is located; or

B. Purchase credits in, establish, or maintain a forest mitigation bank in the county or watershed in which the construction activity is located in accordance with Department regulations;

3. Replace trees, except nursery stock that has not been replanted, that were destroyed by the application of a treatment applied to destroy plant pests under a quarantine imposed by the Secretary of Agriculture, whether or not the quarantine is in effect in the county or watershed where the construction activity occurred; or

4. Finance the prevention of and response to forest health emergencies by:

A. Maintaining the health and vitality of forest land and urban tree canopy; and

B. Preventing or controlling significant forest land and urban tree canopy degradation caused by acts of nature.

(ii) 1. Except as provided in subsubparagraph 2 of this subparagraph, moneys in the Fund may be used for administrative costs calculated in accordance with § 1–103(b)(2) of this article.

2. The Fund may not be used to finance administrative

activities associated with a mitigation bank.

3. Any credits created by the Fund may not be sold to compensate for additional forest impacts.

(iii) 1. The Department shall accomplish the reforestation for which money is deposited in the Fund within 2 years or three growing seasons after project completion, as appropriate.

2. Money deposited in the Fund under subsection (d) of this section shall remain in the Fund for a period of 2 years or three growing seasons, and at the end of that time period, any portion that is not used to meet the reforestation requirements shall be returned to the constructing agency.

(8) (i) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(9) Expenditures from the Fund may be made only in accordance with the State budget.

(f) (1) Any unit of State or local government that engages in construction activities involving land clearing on forest lands shall consult with the Department to assure compliance with this section:

(i) Before cutting in or clearing a forest; and

(ii) Before locating a reforestation area in accordance with this section.

(2) The provisions of this subsection shall also apply to any construction activity by any other person who uses State funding for that activity.

(g) The provisions of this section do not apply to any agricultural practice implemented under a soil and water conservation plan.

(h) On or before July 1 of each year, the Department or local authority shall submit to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee a report on:

(1) The number and location of each construction activity subject to the requirements of this section;

(2) The amount and location of acres cleared, conserved, and planted in connection with the activity; and

(3) The amount of reforestation fees collected and expended.

(i) Forest mitigation banking under this section shall be conducted in accordance with standards adopted under Subtitle 16 of this title.

(j) The Department may adopt regulations to implement this section.

§5–201.

(a) The Department shall promote, administer, and manage every State-owned or leased forest, park, scenic preserve, natural area, parkway, historic monument, and recreation area, administer every law and rule or regulation relating to forests, parks, scenic preserves, natural areas, parkways, historic monuments, recreation areas, fire control, roadside trees, the restoration of deforested or denuded areas, and the operation of the State forest nursery.

(b) Every right, power, duty, obligation, and function conferred upon or exercised by the Department of Forests and Parks is transferred to and exercised by the Department. Every reference to the Department of Forests and Parks which appears in the Code, other laws of the State, or in any ordinance, resolution, rule, regulation, legal action, directive, or document, means the Department.

§5–202.

There is a Forest and Park Service in the Department.

§5–204.

(a) (1) There is a Sustainable Forestry Council in the Department.

(2) The purpose of the Council is to advise the Department on all matters related to:

(i) Sustainable forestry management in the State;

(ii) The expenditure of funds from the Mel Noland Woodland Incentives Fund under § 5–307 of this title;

(iii) Existing regulatory and statutory policies that are perceived as economic barriers to a viable forest products industry;

(iv) New markets to enhance forest health, including renewable energy development through biomass energy, to offset fossil fuel consumption and reduce greenhouse gas emissions;

(v) Creative strategies to help privately owned forest lands better compete with real estate market values that are driving forest conversion and fragmentation;

(vi) The means to promote forest–based economies and processing capability that contribute to economic and employment growth; and

(vii) Assigning a nutrient efficiency benefit to forest stewardship plans and other forest conservation management plans that can be measurably tracked and reported by the number of forested acres covered by the plans.

(b) There is a Park Advisory Commission in the Department.

(c) (1) The Sustainable Forestry Council shall have 9 members.

(2) Members of the Council shall be appointed by the Governor, with the advice of the Secretary, to serve at the pleasure of the Governor.

(d) (1) The Park Advisory Commission shall have 12 members.

(2) Members of the Park Advisory Commission shall be appointed by the Governor, with the advice of the Secretary, to serve at the pleasure of the Governor.

§5–206.

(a) The Secretary may commission any person to act as a forest or park warden, subject to removal at any time at the pleasure of the Secretary. While holding office, a warden has and may exercise the authority and power of a Natural Resources police officer or a law enforcement officer as provided in his commission so far as arresting and prosecuting persons for violations of any forest or park laws or of the laws, rules and regulations enacted for the protection of the State forestry reservations, State parks, historic monuments, recreation areas, or for the protection of fish and game.

(b) The Secretary shall, within the limits of any appropriation made for this purpose, commission forest, park, and wildlife rangers as the Secretary deems necessary for the enforcement of laws and regulations as provided in this subsection. All appointments shall be made from a list of eligible persons prepared in accordance with the provisions of the State Personnel and Pensions Article. An employee so commissioned and assigned law enforcement duties has and may exercise the powers of a Natural Resources police officer or a law enforcement officer of the State. These powers may be exercised upon:

(1) Properties owned by the State and managed by the Department;

(2) Railroad rights–of–way and utility properties which are not owned by the State, but which traverse properties owned by the State and managed by the Department;

(3) All public and private properties which are within the boundaries of State properties managed by the Department;

(4) All waters of the State within one mile of the shoreline of all properties

owned by the Department;

(5) All public and private property adjoining property owned by the State and managed by the Department;

(6) All park property in Maryland owned by the federal government;

(7) All roadways within the boundaries of or that portion of roadway adjoining properties owned by the State and managed by the Department; and

(8) Any property in Maryland for the purpose of executing a warrant that has resulted from law enforcement activities on property on which a forest, park, and wildlife ranger may exercise law enforcement powers.

(c) In exercising the powers granted under subsection (b) of this section, the law enforcement officer shall make every attempt to minimize delay of the operations of railroads and all utilities.

(d) Unless the Department has a signed memorandum of understanding with the law enforcement agency with primary jurisdiction over the property, a forest, park, and wildlife ranger may not exercise law enforcement powers under the provisions of subsection (b)(3) and (5) of this section.

(e) All forest, park, and wildlife rangers, including persons appointed for training prior to regular assignment as a ranger, shall remain in a probationary status for a period of 2 years from the date of initial appointment. The Secretary may discharge an employee in probationary status for any cause which is deemed sufficient in the sole discretion of the Secretary.

(f) (1) Whenever Natural Resources police officers receive a salary increase, forest and park rangers in the State Forest and Park Service shall receive a salary increase in the same percentage as the salary increase received by Natural Resources police officers.

(2) Whenever Natural Resources police officers receive a grade or step increase, forest and park rangers in the State Forest and Park Service shall receive an equal grade or step increase.

(g) Subject to § 1–107 of this article, in cases of inconsistency between this subtitle and the provisions of the State Personnel and Pensions Article, the provisions of this subtitle shall control as to all matters relating to Natural Resources law enforcement officers.

§5–207.

(a) (1) The Department may purchase and manage lands in the name of the State, suitable for forest culture, reserves, watershed protection, State parks, scenic preserves, historic monuments, parkways, and State recreational reserves, using for

these purposes any special appropriation or surplus money not otherwise appropriated, which is standing to the credit of the Forest Reserve or Park Reserve Fund. However, an individual tract of land or easement in excess of 100 acres may not be purchased in Garrett County, except with the approval of the County Commissioners of that county. The Department may accept any gift of land in the name of the State to be held, protected, and administered by the Department as State parks, forests, or other reserves, and used to demonstrate the practical utility of the land for recreational areas, State parks, scenic preserves, parkways, historic monuments, timber culture, water conservation, and as a breeding place for wildlife. Any gift shall be absolute except for the reservation of mineral and mining rights over and under the land, and a stipulation that it shall be administered for State forest, park, or recreation purposes.

(2) The Department shall meet its needs for land in Garrett County by acquiring the land only from willing sellers, provided that the Department may acquire by condemnation easements of the minimal extent necessary for access or utility service to lands of the Department if there is no alternative location or means of providing the access or service.

(3) The Department may apply for a certificate of reservation for public use of abandoned land under Title 13 of the Real Property Article.

(b) The Department may accept gifts, donations, or contributions of land from the federal government or any of its agencies, enter into agreements with the federal government or any of its agencies, and acquire by lease, purchase, or otherwise, lands the Department deems suitable for State forests or parks. The Department may make expenditures from any funds not otherwise obligated for the management, development, and utilization of the lands. It may sell or dispose of products from the lands, and make rules and regulations necessary to carry out the provisions of this subsection. Any revenue received from the lands shall be paid into the State Treasury to the credit of the Forest or Park Reserve Fund in accordance with the provisions of § 5-212 of this subtitle. However, at least 50 percent of the gross revenues derived from the lands may be devoted to the payment of any obligations for the purchase incurred under the provisions of this subsection, until the obligations are fully paid.

(c) Notwithstanding any other provision of law, a lease into which the Department enters after July 1, 1979 for any land acquired under this title is not subject to redemption of the tenant, unless the lease expressly provides otherwise.

§5–208.

(a) The Department may condemn land, earth, gravel, stone, timber, material, or any improvements in the name of the State when action is necessary to carry out the purpose of any legislative act or advance the aims of forestry, parks, or recreation, and the work of the Department. The Department may pay any cost and expense incurred out of any surplus money standing to the credit of the Forest Reserve or Park Reserve Funds, not otherwise appropriated. This section does not apply to land located within Baltimore City.

(b) After a complaint for condemnation has been filed in accordance with Maryland Rule 12-205, and upon payment into the court of an amount equal to the higher of two appraisals, the court, at the request of the Department, may, following a prompt hearing, issue an injunction prohibiting any physical change or improvement to the property which would adversely affect the public purpose for which the Department is seeking to condemn the property. However, if the complaint for condemnation and payment into the court is accompanied or followed by an affidavit or affidavits from the Department alleging a reasonable belief that the property owner intends to cause imminent and irreparable physical change to the property, the court may issue an ex parte injunction prohibiting any physical change or improvement to the property until a prompt hearing can be held, after which hearing the terms of the ex parte injunction may be continued or modified as justice may require until the condemnation proceedings are concluded. The court may, as a part of the hearing, release all or part of the funds to prevent economic injury to the landowner.

(c) If the Department abandons the condemnation suit, the court may award the defendants compensation for any economic injury that they may have incurred due to the injunction prohibiting any change or improvement to the property.

§5–209.

(a) The Department may make rules and regulations for the maintenance of order, safety, sanitation, traffic control, or for the protection of trees and other property and the preservation of the natural beauty within the State parks and forests, State reserves, scenic preserves, parkways, historical monuments, recreational areas, and any other lands under its control. The rules and regulations shall be posted in conspicuous places upon the lands and enforced by the forest and park officers.

(b) (1) The Secretary shall promulgate rules and regulations regarding equipment standards and the operation of off–road vehicles by type, as defined in § 10–410(d) of this article, on property owned or controlled by the Department.

(2) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, the Secretary shall conduct appropriate studies and, by January 1, 1975, designate and identify areas for use by the general public for operation of motorcycles, snowmobiles and other off–road vehicles on that property exclusive of wildlife management areas or State fisheries management areas to the extent such use is compatible with the character and established uses of property controlled by the Department.

(ii) An off–road vehicle may not be used:

1. Where its operation will damage the wildland character of the property; or

2. Where the noise from its operation will be audible at or interfere with the use of a picnic or camping area open to public use.

(iii) The Department may not establish an off–road vehicle trail on

State–owned property located in Sideling Hill in Washington County, including:

1. The Sideling Hill Wildlife Management Area; and

2. The areas of Sideling Hill that are located to the north and south of Interstate 68.

(3) (i) Prior to March 31, 1976, every off–road vehicle to be used on Department lands shall be registered and provided suitable identification by the Department, which shall charge an annual uniform fee for all registrants, revenues derived from which shall be used to acquire and maintain areas for off–road vehicle use by the general public.

(ii) Any investment earnings derived from the revenues shall be credited to the General Fund of the State. Revenues from the fee are not subject to § 7–302 of the State Finance and Procurement Article.

(iii) Revenues may be used for administrative costs calculated in accordance with § 1–103(b)(2) of this article.

(4) Any property to be acquired or designated for off–road vehicle use shall be subject to a public hearing held in the county or counties wherein the property is situated.

(c) The Department shall, with the endorsement of the Secretary of Natural Resources and the Secretary of Health and Mental Hygiene, after a public hearing following 60 days notice, adopt and publish maximum sound level limits under specified measurement conditions governing the operation of motor-driven off-highway vehicles in State parks and forests and other lands under its control not later than January 1, 1976. Such limits shall be established at the most restrictive level consistent with the attainment of the environmental noise standards adopted by the Department of Health and Mental Hygiene which is achievable through the application of the best available technology and at a reasonable cost. The Department shall adopt and enforce regulations for the administration and enforcement of this section, taking into account accepted scientific and professional methods for measurement of sound levels.

(d) (1) No person may sell, offer for sale, distribute, or lease any new motor-driven off-highway recreational vehicle that is of a type not subject to registration under the Maryland Vehicle Law and that has a maximum sound level potential exceeding the sound level limits established by the Department for the maximum allowable noise emissions from such vehicles.

(2) The Department shall, after consultation with the Department of Transportation, and with the endorsement of the Secretary of Natural Resources and Secretary of Health and Mental Hygiene, after a public hearing following 60 days notice, adopt and publish maximum sound level limits for the various classes of such vehicles not later than January 1, 1976. Such limits shall be established at the most restrictive level consistent with the environmental noise standards adopted

by the Department of Health and Mental Hygiene which is achievable through the application of the best available technology and at a reasonable cost.

(3) The Department shall establish test procedures to establish compliance with the limits adopted, taking into consideration accepted scientific and professional standards for the measurement of sound. Such test procedures shall be in substantial conformity with test procedures contained in applicable standards and recommended practices established by the Society of Automotive Engineers, Inc., or its successor bodies, or the American National Standards Institute or its successor bodies, for the measurement of sound levels.

(4) The manufacturer, distributor, importer, or designated agent shall file a written certificate under oath with the Department that the makes and models described thereon comply with the requirements established pursuant to this section. Such certificates shall be filed for each make and model sold in this State.

(e) The Department shall adopt regulations that prescribe the type and color of paint to be used for posting private property under § 6-402 of the Criminal Law Article.

§5–210.

The Secretary, upon request, shall assist other State units, counties, towns, corporations, and individuals in preparing plans for park, recreation and natural area acquisition and development, acquisition of multiple use areas including protection of watersheds, management, and replacement of trees, woodlots, and timber tracts under an agreement that a party obtaining the assistance, pay at least the field expenses of the men employed in preparing the plans.

§5–211.

The Department shall prepare, print, and distribute on request, matter relating to the State forests, parks, scenic preserves, parkways, historic monuments, and recreational areas.

§5–212.

(a) In this section, "Fund" means the Forest or Park Reserve Fund.

(b) There is a Forest or Park Reserve Fund in the Department.

(c) The purpose of the Fund is to enable the Department to purchase and manage in the name of the State lands suitable for forest culture, reserves, watershed protection, State parks, scenic preserves, historic monuments, parkways, and State recreational reserves.

(d) The Department shall administer the Fund.

(e) (1) The Treasurer shall hold the Fund separately and the Comptroller

shall account for the Fund.

(2) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(f) The Fund consists of:

(1) Except as provided in § 5–307(f)(4) of this title, any money obtained from the State forest reserves, State parks, scenic reserves, parkways, historic monuments, and recreation areas;

(2) Revenue distributed to the Fund from fines collected under § 5–1302 of this title; and

(3) Revenue received by the Fund under § 5–207(b) of this subtitle.

(g) (1) Subject to paragraph (3) of this subsection, the Fund may be used only for:

(i) 1. Purchasing and managing in the name of the State lands suitable for forest culture, reserves, watershed protection, State parks, scenic preserves, historic monuments, parkways, and State recreational reserves; and

2. Helping to offset the costs to the Forest and Park Service for developing and implementing a forest health emergency contingency program under § 5–307 of this title;

(ii) Subject to paragraph (2) of this subsection, payments to counties in the amount of:

1. If the State forest or park reserve comprises less than 10% of the total land area of the county, a sum equal to 15% of the revenue derived from the State forest or park reserve located in that county; and

2. If the State forest or park reserve comprises 10% or more of the total land area of the county, a sum equal to 25% of the revenue derived from the State forest or park reserve located in that county; and

(iii) Administrative costs calculated in accordance with § 1–103(b)(2) of this article.

(2) For fiscal years 2012 and 2013 only, the payments under paragraph (1)(ii) of this subsection shall be based only on the revenue derived from sales of timber.

(3) From revenues described in subsection (f) of this section that are attributable to Maryland Park Service operations, the Governor shall include in the State budget an appropriation for the Maryland Park Service equal to:

(i) At least 60% of the revenues, for fiscal year 2016;

(ii) At least 80% of the revenues, for fiscal year 2017; and

(iii) 100% of the revenues, for fiscal year 2018 and each fiscal year thereafter.

(h) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

§5–212.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Account" means the Forest and Park Concession Account.

(3) (i) "Concession operations" means activities within a State forest or park that:

1. Raise revenue;

2. Function under a separate budget system; and

3. Supplement the operation of the facility where it is located.

(ii) "Concession operations" includes:

1. Food concessions;

2. Boat rentals;

3. Gift shops;

4. Marine sales;

5. Snack bars; and

6. Camp stores.

(b) There is a Forest and Park Concession Account in the Department.

(c) The purpose of the Account is to finance:

(1) The maintenance and operation of concession operations; and

(2) The functions of State forests and parks.

(d) The Department shall administer the Account.

(e) (1) The Treasurer shall hold the Account separately and the Comptroller shall reconcile the Account.

(2) The Account is a special, nonlapsing account that is not subject to § 7-302 of the State Finance and Procurement Article.

(f) The Account consists of any money derived from concession operations in State forests and parks.

(g) (1) Except as provided in paragraph (2) of this subsection, the Account shall be used only for:

(i) The maintenance and operation of concession operations;

(ii) The function of State forests and parks to the extent of the projected balance of the Account from the prior fiscal year; and

(iii) Administrative costs calculated in accordance with § 1–103(b)(2) of this article.

(2) (i) Subject to subparagraph (ii) of this paragraph, each county in which any State forest or park is located shall be paid annually out of the Account:

1. If the State forest or park reserve comprises less than 10% of the total land area of the county, a sum equal to 15% of the net revenue derived from concession operations within a State forest or park located in that county; or

2. If the State forest or park reserve comprises 10% or more of the total land area of the county, a sum equal to 25% of the net revenue derived from concession operations within a State forest or park located in that county.

(ii) For fiscal years 2012 and 2013 only, the payments under subparagraph (i) of this subsection may not be made.

(h) (1) The Treasurer shall invest the money of the Account in the same manner as other State money may be invested.

(2) Any investment earnings of the Account shall be credited to the General Fund of the State.

(i) (1) Expenditures from the Account may be made only in accordance with the State budget.

(2) The budget submitted by the Governor to the General Assembly shall include the revenues and expenditures of the Account in the same detail as other special fund accounts administered by the Department.

§5–213.

An item lost or abandoned within a State forest, park, or wildlife management area and unclaimed for one year becomes the property of the State, and the Secretary may dispose of the item in the best interest of the State.

§5–214.

(a) The Department shall develop a system for long-range renewable forest resources planning. The public and private forest land resources of Maryland, including, but not limited to, wood fiber, forest recreation, wildlife, fish, forest watershed, and wilderness potential, shall be examined and inventoried periodically. As part of the forest resource planning process, the Department periodically shall develop, review and revise a resource plan that should help to provide for a sustained yield of forest resource benefits for the citizens of Maryland. The forest resource plan shall be made available for public and legislative review and comment.

(b) To assure the availability and compatibility of planning data, scientific information and funding, the Department shall cooperate with the U.S. Department of Agriculture in forest resource planning efforts as provided for in the Forest and Rangelands Renewable Resources Planning Act of 1974 and the Cooperative Forestry Assistance Act of 1978.

(c) The Department may accept federal funds and may provide cost share funds to cooperative governments.

§5–215.

(a) In this section, "Fund" means the Deep Creek Lake Recreation Maintenance and Management Fund.

(b) There is a Deep Creek Lake Recreation Maintenance and Management Fund in the Department for the maintenance and management of the land, recreational facilities, and services that are related to Deep Creek Lake in Garrett County.

(c) (1) Except as provided in paragraphs (2) and (4) of this subsection, the Department shall pay all fees collected for boat launching at Deep Creek Lake State Park, all funds collected from lake and buffer use permits, contracts, grants, and gifts as a result of the Deep Creek Lake management program, and any investment earnings of the Fund, into the Fund.

(2) At the end of each quarter of the fiscal year, the Department shall pay 25% of the total revenue collected during the quarter under paragraph (1) of this subsection to the Board of County Commissioners of Garrett County.

(3) (i) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(ii) Any investment earnings of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund.

(4) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

(d) Unless there is an agreement between the Secretary and the Deep Creek Lake Policy and Review Board as to a proposed change, the fee for issuance and processing of any permit covered under subsection (c) of this section may not be changed.

(e) (1) Before the Department and the Deep Creek Lake Policy and Review Board may change any fee for the issuance and processing of any permit covered under subsection (c) of this section, the Secretary shall hold a public hearing in Garrett County.

(2) Notice of the public hearing shall be published in two newspapers of general circulation in Garrett County at least 30 days before the hearing.

(3) The notice shall include the proposed change in the fee and the reason for the fee.

(f) (1) A person may apply to the Department for a lake and buffer use permit.

(2) A person who is aggrieved by a decision of the Department to issue or deny a lake and buffer use permit may seek judicial review of the decision in accordance with Title 10, Subtitle 2 of the State Government Article.

§5–215.1.

(a) The General Assembly declares that:

(1) Deep Creek Lake and the land under and around it possess unique and valuable scenic, ecologic, historic, recreational, fish, wildlife, and other natural resource values; and

(2) A Deep Creek Lake recreation and land use plan will:

(i) Protect the resources and natural value of the lake and surrounding land;

(ii) Provide for the ongoing recreation, use, and enjoyment of these resources; and

(iii) Fulfill vital conservation purposes by wise, sustainable use of

these resources.

(b) (1) The Secretary and the Deep Creek Lake Policy and Review Board shall prepare a plan that provides for the wise use, protection, and management of the natural and recreational resources of Deep Creek Lake.

(2) The plan shall:

(i) Evaluate the lake, shoreline, and buffer area as a recreational, water, natural, and scenic resource, considering land use, carrying capacity, zoning, visitor access, recreation areas, commercial and private use, and related activities; and

(ii) Reflect activities such as fishing, boating, docking, hiking, water sports, scenic appreciation, natural interpretation, and other programs which provide the public with opportunities to appreciate and enjoy the value of the lake and buffer area.

(c) The Department may consult with the Department of the Environment and the Department of Business and Economic Development:

(1) In preparing the Deep Creek Lake recreation and land use plan; and

(2) On any other matter relating to Deep Creek Lake.

(d) (1) Subject to paragraph (2) of this subsection, the Secretary may adopt regulations relating to Deep Creek Lake that are necessary to:

(i) Protect the public health and safety, natural resources, and the environment; or

(ii) Implement the Deep Creek Lake recreation and land use plan.

(2) Before the Secretary proposes or adopts a regulation, the Secretary shall submit a draft of the regulation to the Deep Creek Lake Policy and Review Board for its review and consent if the regulation relates to:

(i) The content or the adoption and implementation of a Deep Creek Lake recreation and land use plan, as described under subsections (a) and (b) of this section; or

(ii) Any fee proposed under § 5-215 of this subtitle.

§5–216.

(a) There is a Deep Creek Lake Policy and Review Board.

(b) (1) The Board consists of:

(i) Five members appointed by the Governor in accordance with

paragraph (2) of this subsection;

(ii) The Senator of the Maryland General Assembly who represents legislative district 1 or the Senator's designee;

(iii) The Delegate of the Maryland General Assembly who represents delegate district 1A of legislative district 1 or the Delegate's designee;

(iv) A member of the Board of County Commissioners of Garrett County, selected by the Board of County Commissioners, or an alternative County Commissioner, serving as the member's designee;

(v) The president of the Deep Creek Lake property owner's association or the president's designee; and

(vi) The chairman of the Garrett County Chamber of Commerce or the chairman's designee.

(2) Of the five members appointed under paragraph (1)(i) of this subsection:

(i) Two shall be residents of Garrett County;

(ii) One shall be a representative of the Maryland Bass Federation and a resident of Maryland; and

(iii) Two shall be members at large.

(3) (i) Each member of the Board appointed under paragraph (1)(i) of this subsection serves for a term concurrent with the term of the Board of County Commissioners of Garrett County.

(ii) At the end of a term, the member continues to serve until a successor is appointed.

(iii) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(4) Each member of the Board or designee serving under paragraph (1)(ii) through (vi) of this subsection serves for a term concurrent with the member's office or position.

(c) From among the members appointed under subsection (b)(1)(i) of this section, the Governor shall name a chairman of the Board.

(d) (1) A majority of the members then serving on the Board is a quorum.

(2) A member of the Maryland General Assembly, or a designee of the member, shall abstain from voting on:

(i) A proposed fee under § 5–215(d) of this subtitle; or

(ii) Any other regulation submitted to the Board under § 5–215.1(d)(2) of this subtitle.

(e) (1) The Board shall meet at least four times a year.

(2) The chairman shall determine the time and place of the meetings of the Board.

(3) Each meeting shall be conducted in Garrett County.

(f) (1) A member of the Board:

(i) May not receive compensation; but

(ii) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(2) Expenses shall be paid from the Deep Creek Lake Recreation Maintenance and Management Fund.

(g) (1) The Board shall review and advise the Secretary on matters that relate to the Deep Creek Lake Recreation Maintenance and Management Fund and the Deep Creek Lake management program.

(2) The Board may review and make recommendations to the Secretary on budgetary matters that concern the management and maintenance of the lake and buffer area.

§5–217.

A person may not dispose of raw sludge sewage on State park land or State forest land, unless the disposal is part of a program designed and operated by the Department of Natural Resources or the Department of the Environment.

§5–218.

(a) In this section the following words have the meanings indicated:

(1) "Corps" means the Maryland Conservation Corps.

(2) "Youth" means a Maryland resident who is age 16 through 24.

(b) There is a Maryland Conservation Corps in the Department.

(c) The Corps shall provide meaningful and productive employment for available manpower of this State in the field of development and maintenance of the State's natural resources. The General Assembly finds that employing

Maryland's youth to conserve or develop natural resources and enhance and maintain environmentally important lands and waters is:

(1) Beneficial to the youth of the State because it provides them with educational and work opportunities; and

(2) Beneficial to the State's economy and environment.

(d) The purpose of this section is to provide Maryland's youth with a work experience opportunity that will:

(1) Further their understanding and appreciation of natural resources; and

(2) Teach them basic and fundamental work ethics, including:

(i) Discipline;

(ii) Cooperation;

(iii) The ability to live and work with others; and

(iv) The value of a day's work.

(e) The Corps shall engage in projects for:

(1) Conserving, improving, and developing natural resources; and

(2) Enhancing, preserving, and maintaining environmentally important public lands and waters.

(f) Corps projects shall conserve, improve, or develop natural resources or enhance, preserve, and maintain environmentally important public lands and waters, while providing youths with an opportunity for personal development in a variety of basic skills. Projects shall be undertaken in both urban and rural areas on the basis of:

(1) The environmental and natural resource benefits the project offers;

(2) The opportunity for public use the project offers; and

(3) The on-the-job training value of the project.

(g) Youths participating in the Corps shall work in projects which do the following:

(1) Preserve, maintain, and enhance environmentally important lands and waters;

(2) Work on public works projects in urban and rural areas;

(3) Conserve, maintain, improve, and develop natural resources in urban and rural areas;

(4) Assist in emergency operations, such as natural disaster relief and the rescue of lost and injured individuals;

(5) Assist in fire prevention and suppression;

(6) Directly contribute to the conservation of energy;

(7) Contribute toward making public facilities accessible to individuals with disabilities; and

(8) Assist other State agencies in developing, rehabilitating, and restoring parklands, recreational facilities, historical resources, fish spawning and rearing habitats, wildlife habitats, and the Chesapeake Bay.

(h) (1) The Department shall recruit and employ youths for the Corps through existing State service delivery systems.

(2) The Department shall recruit youths for employment in the Corps without regard to their prior employment or educational background.

(3) A youth recruited for the Corps may not be hired through mechanisms for the employment of skilled service or professional service employees in the State Personnel Management System and may not earn any of the benefits of a skilled service or professional service employee, with the exception of special appointments.

(i) Annual funding for the Corps will be from:

(1) Appropriated funds; or

(2) The Forest and Park Reserve Fund.

(j) The Department shall use any federal appropriations that:

(1) May become available; and

(2) Are designated for State employment programs in the field of natural resources conservation.

(k) The Department shall adopt rules and regulations to carry out the provisions of this section.

§5–219.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Reforestation" means the stocking or restocking of an area with

forest tree species.

(ii) "Reforestation" includes:

1. Site preparation by mechanical operation, application of herbicides, or prescribed burning;

2. Tree planting;

3. Release of seedlings from competing vegetation;

4. Animal damage control of seedlings; and

5. Other activities that the Secretary requires.

(iii) "Reforestation" does not include the growing of Christmas or ornamental trees.

(3) (i) "Timber stand improvement" means any cultural operation made to improve the composition, constitution, condition, or increment of a timber stand that does not result in immediately salable forest products.

(ii) "Timber stand improvement" includes:

1. Tree removal, girdling, poisoning, and pruning activities; and

2. Activities that improve forest health, including:

A. Efforts to control invasive species;

B. Creation or maintenance of forested riparian buffers;

C. Installation of water quality protection devices;

D. Reduction, removal, or other management of the residual materials generated during timber harvest;

E. Restoration of forest habitat affected by logging access roads and trails; and

F. Other habitat improvement or best management practices as determined by the Department.

(b) A person who owns or leases 3 to 1,000 acres of land may apply for reforestation or timber stand improvement certification under this section if the land is:

(1) Capable of growing more than 20 cubic feet of wood per acre per year;

and

(2) Available for the application of scientific forest management practices for the primary purpose of growing and harvesting forest tree species.

(c) The Department shall issue an initial certification of reforestation or timber stand improvement to an applicant who owns or leases 3 to 1,000 acres of land that is used as commercial forest land or that is being restored and is capable of growing a commercial forest, if there is:

(1) A successful planting of the required minimum number of seedlings with acceptable species; or

(2) Timber stand improvement activities in accordance with a forest management plan developed by a licensed forester.

(d) (1) Within 2 years after the date of initial certification, the Department shall issue a final certification of reforestation or timber stand improvement to an applicant who received an initial certification if:

(i) Seedlings are living without other vegetation growing around or over the seedling; or

(ii) Successful timber stand improvements have been made in accordance with regulations of the Secretary.

(2) If the reforestation or timber stand improvement activities do not meet the requirements for final certification when the application is made, the applicant may replant or conduct additional timber stand improvement activities.

(e) If an application for final certification is not filed within 2 years after the date of initial certification, the applicant shall submit a plan to continue the reforestation or timber stand improvement project to the Department.

(f) The Department shall decertify land if:

(1) Reforestation or timber stand improvement activity on the land is discontinued before issuance of a final certificate;

(2) A final certificate application or a plan of continuation is not filed within 2 years after the date on which the initial certificate is issued; or

(3) The land does not continue to be used as commercial forest land for 15 years after final certification is issued.

(g) The Secretary shall:

(1) Adopt regulations to carry out this section;

(2) Provide to a certified person notice of initial and final certification that the person may file with the Comptroller as evidence of the eligibility of the person for the income tax subtraction modification for reforestation and timberland expense allowed under §§ 10–208 and 10–308 of the Tax – General Article; and

(3) Send a copy of a decertification notice to the Comptroller for purposes of the income tax addition modification for reforestation and timberland expense required under §§ 10–205 and 10–306 of the Tax – General Article.

§5–301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Approved practice" includes:

(1) Planting;

(2) Seeding;

(3) Timber stand improvement;

(4) Prescribed burning;

(5) Site preparation; and

(6) Other forest resource development practices required of an applicant.

(c) "Cost-share assistance" means partial financial assistance in amounts as the Department determines, subject to limitations of this subtitle.

(d) "Department" means the Department of Natural Resources.

(e) (1) "Eligible landowner" means an individual, group, or corporation that owns private woodland in the State.

(2) "Eligible landowner" does not include a corporation or a subsidiary of a corporation that:

(i) Manufactures forest products; or

(ii) Provides utility services and is capable of producing crops of commercial timber.

(f) "Secretary" means the Secretary of Natural Resources.

(g) "Mel Noland Woodland Incentives Fund" means the special fund established in the State Treasury under § 5–307 of this subtitle.

§5–302.

(a) The General Assembly declares that it is in the general public interest of the State to foster and encourage the development, management, and protection of the nonindustrial private woodlands of the State as these lands provide:

(1) Significant environmental, aesthetic, and wildlife benefits; and

(2) For the production of timber and forest resources essential to commerce and industry in the State.

(b) The General Assembly finds that:

(1) The growing demands on woodlands and related land resources cannot be met by intensive management of public lands and industrial forests alone;

(2) Nonindustrial private woodlands of the State are a significant source of the production of timber and other forest resources; and

(3) Unless measures are instituted to encourage landowners to apply practices to ensure the development, management, and protection of nonindustrial private woodlands, this natural resource will not be sustained with a consequent detriment to the citizens of the State.

(c) It is the intention of the General Assembly to provide incentives to eligible landowners:

(1) To apply practices that provide for:

(i) Afforestation of suitable open lands;

(ii) Reforestation of cutover or other nonstocked or overstocked woodlands;

(iii) Timber stand improvement practices, including thinning, prescribed burning, and other silvicultural treatments; and

(iv) Forest resources management and protection; and

(2) To provide for the nonindustrial private woodland production of timber and other related forest resources.

§5–303.

(a) The Department shall develop and implement a Woodland Incentives Program to assist eligible landowners in conducting a program of woodland management.

(b) (1) The Secretary shall adopt regulations to carry out the provisions of this

subtitle.

(2) Regulations under subsection (a) of this section shall include consideration of:

(i) The establishment of land size limits for which cost-share assistance may be granted;

(ii) A determination of practices that are eligible for cost-sharing assistance;

(iii) Subject to the limitations imposed by this subtitle, the establishment of maximum amounts of assistance that an eligible landowner may receive for implementation of an approved practice;

(iv) The establishment of criteria for prioritizing applications, including size of land, soil productivity, and tree species;

(v) A periodic review of actual costs of woodland development practices;

(vi) The establishment of criteria for Department assistance in implementation of an approved practice;

(vii) The imposition by the Department of reasonable charges for implementation assistance; and

(viii) A system of monitoring the implementation of approved practices.

§5–304.

(a) An applicant for cost–share assistance shall:

(1) Submit a woodland management plan to the Department;

(2) File an application with the Department stating:

(i) The practice to be implemented;

(ii) The approximate cost of the practice to be implemented; and

(iii) A description of the land or lands upon which the practice is to be implemented;

(3) File a statement of intent stating that the owner:

(i) Intends to use the cost–share assistance for long–range timber growing and improvement; and

(ii) If there is joint tenancy, tenancy in common, or group ownership, has no knowledge of another application that is pending for cost–share assistance to be used on the land described in the application; and

(4) Submit other information required by the Department.

(b) An owner may not receive a total of State and federal cost share assistance in an amount that exceeds 100% of the actual cost of the approved practice.

§5–305.

An approved applicant may receive cost-share assistance in the amount determined and approved by the Department, provided:

(1) No assistance may exceed 75 percent of the actual cost incurred by the applicant in implementing the approved practice on a particular tract of land;

(2) An eligible landowner may not receive more than $5,000 in a calendar year for all approved practices implemented by the landowner, unless the owner has submitted a 3-year plan for woodland resource development under paragraph (3) of this section; and

(3) If the Department has approved a 3-year plan for woodland resource development, an eligible landowner may not receive more than $15,000 during the 3-year period for all approved practices implemented by the landowner.

§5–306.

An eligible landowner who receives cost-share assistance under this subtitle to implement an approved practice shall execute a written agreement with the Department, that specifies:

(1) The practice to be implemented;

(2) A description of the land on which the practice is to be implemented;

(3) The landowner's commitment to use the cost-share assistance to implement the practice;

(4) The ability of the Secretary or the designee of the Secretary to inspect the land on which the practice is to be implemented in order to determine compliance; and

(5) The liability of the landowner for the full amount of cost-share assistance if the practice is not implemented because of the landowner's failure to comply with the requirements of this subtitle.

§5–307.

(a) In this section, "Fund" means the Mel Noland Woodland Incentives Fund.

(b) There is a Mel Noland Woodland Incentives Fund in the Department.

(c) The purpose of the Fund is to finance the Woodland Incentives Program and the cost–share assistance established under this subtitle.

(d) The Department shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) As provided in § 13–306 of the Tax – Property Article, up to $200,000 annually of the proceeds of the tax imposed by § 13–302 of the Tax – Property Article that are attributable to the taxation of instruments of writing that transfer title to parcels of land that are entirely woodland;

(2) Revenues collected by the Department from the payment of charges imposed for Department assistance in implementation of an approved practice;

(3) Money distributed from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund under § 8–2A–04 of this article; and

(4) Subject to approval by the Secretary and the Board of Public Works, a portion of the revenues derived from the forestry practices on designated lands owned and managed by the Department, that are conducted in accordance with applicable State law and regulation.

(g) The Department shall use the Fund:

(1) To help fund the Woodland Incentives Program and the cost–share assistance established under this subtitle;

(2) For administrative costs calculated in accordance with § 1–103(b)(2) of this article;

(3) To offset the costs of the Forest and Park Service for developing and approving forest stewardship plans on privately owned forest lands;

(4) To provide annual grants to the forest conservancy district boards under § 5–605 of this title, to help facilitate their respective outreach efforts to encourage forest land owners to develop forest stewardship and other forest

conservation management plans;

(5) To establish a forest health emergency contingency program to help:

(i) Maintain the health and vitality of publicly owned and privately owned forest lands; and

(ii) Prevent or control large degradation caused by natural threats;

(6) To provide financial assistance, as provided in the State budget, for the administration of an urban and community forestry program established under § 5–426 of this title, including:

(i) Increasing the number of communities with tree canopy goals;

(ii) Facilitating compliance with the Chesapeake Bay Program's forestry targets;

(iii) Supporting the use of urban tree canopy expansion for air quality improvement purposes; and

(iv) Helping achieve implementation of Regional Greenhouse Gas Initiative offset opportunities in urban areas;

(7) To help fund a forest marketing and utilization program in the Department to provide financial assistance to help support, stimulate, and market innovative and creative ways to enhance the production of value–added wood products;

(8) To help the Department, in cooperation with appropriate public and private sector entities, develop and expand:

(i) A forest mitigation banking system;

(ii) A carbon credit or carbon sequestration program;

(iii) A clean water credit trading system;

(iv) An environmental services credit trading program; and

(v) A renewable energy credit trading system; and

(9) To help offset administrative costs for providing staff assistance to the Sustainable Forestry Council established under § 5–204 of this title.

(h) The amount of revenues collected under subsection (f)(1) of this section shall be included in the report required under § 16–103 of the Local Government Article.

(i) The amount of the grants under subsection (g)(4) of this section shall be determined by the Department and eligibility for the grants shall be contingent on

each board providing an in–kind match as certified by the Secretary.

(j) On or before June 30 of each year, the Department shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee, in accordance with § 2–1246 of the State Government Article, on the use of funds credited to the Fund, including an identification of and the reasons for those revenues derived from forestry practices on designated lands owned and managed by the Department that were not credited to the Fund.

(k) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(l) Expenditures from the Fund may be made only in accordance with the State budget.

§5–401.

In this subtitle, "roadside tree" means any tree or shrub growing within the right–of–way of any public road.

§5–402.

The Department may plant trees along the roadsides, make rules and regulations governing the planting, care for and protect any roadside tree, and establish one or more State forest nurseries for the propagation of trees for any roadside planting.

§5–403.

(a) If the governing body or the road supervisors of any county of the State, the Department of Transportation, the council of any municipality, or any organization or person applies to the Department to plant, care for, or protect any roadside tree, the Department shall evaluate the application and inform the applicant concerning the advisability of the requested planting, care, or protection. If, in the judgment of the Department, the requested planting, care, or protection is advisable, the Department shall prepare and submit to the applicant a plan for the same, including an estimate of the cost.

(b) Any plan to plant, care for, or protect roadside trees may not become operative until the applicant approves the plan and has guaranteed to the Department the cost of the work. When the applicant approves a plan the Department has prepared, and the applicant has guaranteed payment of the cost in a manner satisfactory to the Department, the Department shall perform, or cause to be performed, the specified planting, care, or protection of roadside trees.

(c) The Department, without being requested as provided in subsection (a) of this section or guaranteed as provided in subsection (b) of this section, may plant, care for, and protect roadside trees and pay for the work out of any unexpended balance of the amount appropriated for the purposes of this subtitle. However, no tree may be planted under the provisions of this section without the consent and approval of the owner of the land on which planted.

(d) Except as provided in subsection (e) of this section, a county or municipality may adopt a local law or ordinance for the planting, care, and protection of roadside trees that is more stringent than the requirements of §§ 5–402 and 5–406 of this subtitle if the local law or ordinance does not conflict with the provisions of §§ 5–402 and 5–406 of this subtitle.

(e) A county or municipality may not adopt a local law or ordinance for the planting, care, and protection of roadside trees that applies to:

(1) The cutting or clearing of public utility rights–of–way or land for electric generating stations licensed under § 7–204, § 7–205, § 7–207, or § 7–208 of the Public Utilities Article, provided that:

(i) Any required certificates of public convenience and necessity have been issued in accordance with § 5–1603(f) of this title; and

(ii) The cutting or clearing of the forest is conducted so as to minimize the loss of forest;

(2) The routine maintenance of public utility rights–of–way; or

(3) The cutting or clearing of public utility rights–of–way or land for new transmission or distribution lines.

(f) A county or municipality that adopts a local law or ordinance in accordance with subsection (d) of this section may issue a stop work order against any person that violates any provision of the local law or ordinance.

§5–404.

(a) Forest wardens and other persons having police powers in the State, in addition to their regular duties, shall enforce the law for the care and protection of roadside trees. In the enforcement of these laws, they possess the same powers as a peace officer to arrest with a warrant.

(b) The Department may authorize a county or municipality to enforce §§ 5–402 and 5–406 of this subtitle.

§5–405.

For his services in making examinations, as provided in § 5-403(a) of this subtitle,

the Department shall pay the forest warden upon presentation and approval of his accounts with vouchers, for services in planting roadside trees, trimming, spraying, or otherwise caring for existing roadside trees, as provided in § 5-403(b) of this subtitle. The applicant who guarantees the cost of work shall reimburse the Department for the services of the forest warden and his helpers upon presentation of the forest warden's accounts with vouchers, and upon the approval of the Department. The applicant shall pay for the forest warden's services in examining conditions serving as a basis for permits applied for under § 5-406 of this subtitle, for issuing permits, and for supervising work authorized by the permits. The Department shall determine the rate to be paid under this section.

§5–406.

(a) Except as provided in subsection (b) of this section, any person who desires to cut down or trim any roadside tree shall apply to the Department for a permit.

(b) (1) A person may remove a tree or its branches without first obtaining a permit from the Department if the tree is unrooted or its branches broken so as to contact telephone, telegraph, electric power, or other wires carrying electric current, or if the tree or its branches endanger persons or property.

(2) A tree may be cut down and removed by an abutting landowner for the landowner's own use without first obtaining a permit if the tree is standing within the right–of–way of a public road which has not been surfaced with either stone, shell, gravel, concrete, brick, asphalt, or other improved surface.

(c) A person may not cut down, trim, mutilate, or in any manner injure any roadside tree, except as authorized by this section, without a permit from the Department.

(d) A county or municipality may not issue a building permit to an applicant for any clearing, construction, or development that will result in the trimming, cutting, removal, or injury of a roadside tree until the applicant first obtains a permit from the Department in accordance with this section.

(e) A person who trims, cuts, removes, or injures a roadside tree in violation of a regulation adopted under § 5–402 of this subtitle or a permit issued under this section or who fails to obtain a permit as required by this section is liable for the imposition of a penalty:

(1) Not exceeding $2,000 for a first offense; and

(2) Not exceeding $5,000 for a second or subsequent offense.

§5–407.

(a) The State Highway Administration may grant to any person the right to place any advertisement, sign, notice, or other writing along or upon the public

highways of the State to be used only in conjunction with direction or danger signals, and subject to the limitations and restrictions imposed at the time the permit is granted. A permit may not be issued unless the need for the direction or danger signal to be erected is clearly demonstrated to the satisfaction of the State Highway Administration. Any person doing an act otherwise prohibited in this section, by virtue of a permit issued by the State Highway Administration, is immune from prosecution.

(b) In Kent and Queen Anne's counties, the respective county boards of education may exhibit or display any advertisement, sign, notice, writing, or other device for the purpose of promulgating the safety of students, on or abutting any road or highway which passes near any school. However, these signs may not be displayed farther than 300 yards from any school and any designation of the donor may not comprise a space of more than 2 square feet on the sign.

(c) A person, without first obtaining the written consent of the owner, may not paint, put, or fix any advertisement, sign, notice, or other writing, other than a notice posted pursuant to law, on or to any stone, tree, fence, stump, pole, building, or other structure which is in or upon either the public highway or property of another, or procure, direct, or induce the painting, fixing, or placing of the advertisement or sign.

(d) For the purpose of enforcing this section, the presence of any advertisement, sign, notice, or other writing, other than a notice posted pursuant to law, upon the public highway or private property adjacent to it constitutes prima facie evidence that it was painted, placed, fixed, or erected at the direction of, or with the consent and approval of, the party or his agent or representative in the State whose name, business, location, or merchandise is advertised thereon.

§5–408.

Any trees grown in State nurseries, not required for roadside planting, may be used for planting on the State forest reserve or furnished to any landowner of the State at not more than the cost of production. The trees shall be planted for conservation purposes according to plans approved by the Secretary under rules and regulations promulgated by the Department.

§5–409.

(a) Any person, his aiders, abettors, and counsellors, who willfully, negligently, recklessly, wrongfully, or maliciously enters upon lands or premises of another without written permission of the owner of the lands or premises, in order to cut, burn, or otherwise injure or destroy, or cause to be cut, burned, or otherwise injured, or destroyed, any merchantable trees or timber on the land is liable to the party injured or aggrieved in an amount triple the value of the trees or timber cut, burned, or otherwise injured or destroyed, plus the costs of any surveys, appraisals, attorney fees, or court fees in connection with the case. The damages are recoverable in a civil action, as in any other case.

(b) At the request of a law enforcement officer, a person on the lands and premises of another engaged in any act specified in subsection (a) of this section shall display the written permission of the owner.

(c) Notwithstanding the provisions of this section, the following shall obtain the permission of an owner before engaging in any act specified in subsection (a) of this section, but are not required to obtain the permission in writing or to display the written permission as provided in subsection (b) of this section:

(1) A public service company, as defined in § 1–101 of the Public Utilities Article; and

(2) An employee of the Department of Public Works or roads board of any county or municipality, or the State Highway Administration, performing roadside maintenance.

§5–410.

The Department may acquire land out of money standing to the credit of the Forest Reserve Fund for the establishment of any State forest nursery to grow forest trees for planting on State reserves and distribution to private landowners to encourage tree planting under the rules and regulations it promulgates.

§5–411.

A county may levy and appropriate money for purposes of tree planting, care of trees, and forest protection, improvement, management, and purchase.

§5–412.

(a) Any person who drives or operates a truck, trailer, or other vehicle upon any public highway, road, or street in the State for the purpose of transporting five or more trees, or 100 pounds or more of boughs, of any species of pine, spruce, fir, hemlock, or other narrow-leafed or broad-leafed evergreen tree or shrub, shall have upon his person during the transporting, a bill of sale for the trees, shrubs, or boughs signed by the owner or custodian of the lands from which they were cut or removed.

(b) The bill of sale shall state the date of sale; number and species of trees or pounds and species of boughs being transported; number of the election district, name of the county and state from which the trees, shrubs, or boughs were cut and removed; and the postal address of the landowner or custodian or whether they have been obtained from a dealer in these goods. The bill of sale or invoice shall show clearly the name and place of business from which the trees or boughs were obtained.

(c) This section does not apply to the transportation of trees, shrubs, or boughs by the owner or custodian of lands from which the trees, shrubs, or boughs were cut or removed or by the agent of the owner or custodian, or to transportation in a truck or trailer licensed to operate or engage in interstate commerce.

§5–413.

If any owner or custodian of land from which any trees, shrubs, or boughs described in § 5-412 of this subtitle are transported within the State are cut or removed, identification of the owner, custodian, or agent shall accompany the shipment.

§5–414.

Any uniformed forest officer, or any law enforcement officer may stop any truck, trailer, or other vehicle engaged in the transporting of the evergreen trees, shrubs, or boughs described in §§ 5-412 and 5-413 of this subtitle, other than a truck or trailer licensed for and engaged in interstate commerce, in order to require the driver or operator to produce the bill of sale or identification of ownership required by those sections. The driver's failure to have and produce upon demand the bill of sale or identification is a violation of this subtitle. However, an accused may not be convicted if he produces, within ten days from the date he is formally charged, the required bill of sale or identification.

§5–415.

(a) In this part the following words have the meanings indicated.

(b) "Licensed tree expert" means a person who has received from the Department a license displaying the person's qualifications to practice as a tree expert.

(c) (1) "Tree expert" means a person who represents to the public that the person is skilled in the science of tree care or removal and who, whether in the business of the person or as the employee of another person and whether under the title of arborist, tree specialist, tree surgeon, tree expert, or otherwise, engages in the business or work of the treatment, care, or removal of trees for compensation by:

(i) Making diagnoses, prescribing, and supervising the treatment for trees; or

(ii) Trimming, pruning, thinning, cabling, shaping, removing, or reducing the crown of trees.

(2) "Tree expert" does not include:

(i) A person engaged in commercial logging or timber harvesting operations as defined in § 5-1601 of this title;

(ii) A person engaged in the installation of underground facilities or any associated site construction; or

(iii) A person who treats, cares for, or removes a tree, as described in paragraph (1) of this subsection, that is 20 feet tall or less.

§5–416.

The Department may examine applicants for licensing as tree experts and pass upon their competence.

§5–417.

(a) (1) A person may not engage in the work or business of a tree expert without a license issued under the provisions of this part.

(2) An employee under the supervision of a licensed tree expert may not be required to have a license in the name of the employee.

(b) A licensed tree expert shall within a time period established by the Department notify the Department electronically of:

(1) Any company that engages in the business or work of the treatment, care, or removal of trees for compensation under the tree expert's license, and any changes to that status; and

(2) The liability and property damage insurance and workers' compensation insurance carried by any company that engages or works under the tree expert's license, and any changes to the insurance.

§5–418.

(a) The Department may examine an applicant for license as a tree expert and pass upon the competence of the applicant. It shall issue a "tree expert" license to any applicant, who:

(1) Pays the fee provided in § 5–419 of this subtitle;

(2) Has attained 18 years of age;

(3) (i) Has had 2 years of approved college education in forestry, arboriculture, horticulture, applied agricultural sciences, or the equivalent education and a minimum of 1 year of experience with a licensed tree expert in Maryland or with an acceptable tree expert company in another state; or

(ii) For at least 3 years immediately preceding the date of application has been engaged continuously in practice as a tree expert with a licensed tree expert in Maryland or with an acceptable tree expert company in another state; and

(4) Has passed the examination given by the Department.

(b) Every licensee shall carry and show proof of liability and property damage insurance, in the form and amount required by the Department at the time it issues the license. The licensee shall maintain the insurance protection for the period the license

is in effect.

§5–419. IN EFFECT

(a) An applicant shall pay to the Department at the time of making application, a fee set by the Department by regulation in an amount not to exceed the costs of processing the application.

(b) (1) A tree expert license shall be renewed in accordance with a timetable and procedure established by the Department by regulation.

(2) A person who holds a license and wishes to renew it shall pay a fee set by the Department by regulation in an amount not to exceed the costs of processing the license renewal.

(3) After September 1, 2017, to qualify for the renewal of a tree expert license, a licensed tree expert shall complete the professional development curriculum established by the Department by regulation.

(c) Fees the Department receives shall be paid into the State Treasury for the Department's use. The Secretary shall prepare an annual report on the number of licenses issued and the receipts and expenses under Part III of this subtitle during each fiscal year.

5–419. // EFFECTIVE SEPTEMBER 30, 2016 PER CHAPTER 20 OF 2011 //

(a) An applicant shall pay to the Department at the time of making application, a fee of $30. An applicant who fails any examination, shall pay an additional fee of $20 for each subsequent examination the applicant takes.

(b) (1) A tree expert license shall be renewed annually. A person who holds a license and wishes to renew it shall pay a $10 annual renewal fee.

(2) After September 1, 2017, to qualify for the renewal of a tree expert license, a licensed tree expert shall complete the professional development curriculum established by the Department by regulation.

(c) Fees the Department receives shall be paid into the State Treasury for the Department's use. The Secretary shall prepare an annual report on the number of licenses issued and the receipts and expenses under Part III of this subtitle during each fiscal year.

§5–420.

The Department shall prepare and conduct examinations as often as necessary, but at least once a year if there are any applicants. A candidate who failed a subject that is part of the examination given may be reexamined in that subject only at any subsequent examination held within 1 year of the date the candidate took the initial

examination, and if the candidate passes that subject the candidate is considered to have passed the examination. The Department, however, may decide to reexamine an unsuccessful candidate in every subject.

§5–421.

(a) (1) The Department may permanently revoke or temporarily suspend the license of any licensed tree expert who:

(i) Is found guilty of any fraud or deceit in obtaining the license, or guilty of negligence of wrongful conduct in the practice of tree culture or care; or

(ii) In the Chesapeake and Atlantic Coastal Bays Critical Area, as defined under § 8–1802 of this article, fails to comply with:

1. The terms of a State or local permit, license, or approval; or

2. Any State or local law, an approved plan, or other legal requirement.

(2) The Critical Area Commission shall notify the Department of any tree expert who fails to comply with any requirement under paragraph (1)(ii) of this subsection.

(b) The Department may promulgate rules of ethics and temporarily suspend for a period not to exceed two years the license of any licensed tree expert who violates the rules of ethics. This power of suspension is in addition to, and not in limitation of, the power to revoke or suspend provided in subsection (a) of this section.

(c) A license issued under this subtitle may not be revoked or suspended until after the licensee has a hearing before the Department. Notice of the cause for suspension or revocation and the hearing date shall be sent to the licensee at the last known address of the licensee by registered or certified mail at least 20 days before the hearing. The nonappearance of the licensee after the required notice has been given, does not prevent holding the hearing.

(d) The Department may reissue any tree expert's license previously revoked under rules and regulations it prescribes.

§5–422.

The Department may issue and grant a license to or otherwise authorize the practice as a tree expert in Maryland by any person who is a lawful holder of a tree expert license under the laws of another state which extends similar privileges to licensed tree experts of this State. The requirements for the license in the state which has granted it must be, in the opinion of the Department, at least equivalent to those provided for in Maryland.

§5–423.

(a) A person may not: (1) solicit, advertise, or represent the person to the public as a tree expert, or assume to practice as a tree expert without having received a license; or (2) after having received the license and subsequently losing it by revocation or suspension continue to practice as a tree expert; or (3) use the title or abbreviation "L.T.E." or any other words, letters, or abbreviations tending to indicate that the person is a licensed tree expert or a tree expert without having received a license, or when the license has been revoked or suspended.

(b) If the owner of a tree employs any person to engage in the practice of a "licensed tree expert" as provided in § 5–415 of this subtitle, the owner is not subject to this penalty.

(c) A person may not advertise that the person can provide tree services, including treatment, care, or removal of trees, unless the advertisement includes:

(1) The license number of the licensed tree expert advertising tree services in one of the following forms: "Licensed Tree Expert No.___" or "L.T.E. No.___"; or

(2) A statement that all tree services are limited to trees 20 feet tall or less.

§5–424.

"Urban and community forestry" means the management of forests and trees in urban and community areas to improve their health, vigor, and composition.

§5–425.

The General Assembly finds and declares that forests and trees are an important and necessary part of the urban and community environment and that the retention, enhancement, and management of these forests and trees by local governments is in the best interest of the citizens of this State.

§5–426.

(a) (1) The Department shall establish and administer an urban and community forestry program to provide State or federal financial assistance, on a matching basis, to:

(i) A county or municipal corporation that implements a local urban and community forestry program within its jurisdiction; or

(ii) A nonprofit corporation that participates in the implementation of a local urban and community forestry program.

(2) The county or municipal corporation may hire an individual to direct

its program with the cooperation of the Department.

(b) The Department's urban and community forestry program shall provide technical assistance to counties, municipal corporations, nonprofit corporations, and individuals for the retention and management of forests and trees. This technical assistance may include:

(1) Street tree inventories;

(2) Technical evaluation of site development plans;

(3) Management recommendations for the retention, protection, and utilization of forests and trees in developments;

(4) Assistance to planning and zoning departments;

(5) Advice on insect and disease control;

(6) Advice to counties and municipal corporations in implementing and conducting their own urban and community forestry program; and

(7) Advice to nonprofit corporations participating in the implementation of an urban and community forestry program.

§5–427.

(a) The governing body of a county or municipal corporation, by appropriate resolution or ordinance, may implement a local urban and community forestry program within its jurisdiction or enter into a cooperative agreement with the Department.

(b) The Department may accept federal funds and provide funds, on a matching basis, to:

(1) Cooperating counties and municipal corporations for the purpose of administering an urban and community forestry program; and

(2) Nonprofit corporations that participate in the implementation and administration of an urban and community forestry program.

(c) Any urban and community forestry program within the Department shall be:

(1) Funded as provided in the budget; and

(2) Consistent with § 5–307 of this title.

§5–428.

The General Assembly finds and declares that:

(1) Forests and trees play an important role in the restoration and enhancement of the Chesapeake Bay and its tributaries; and

(2) The establishment and supplementation of forests and trees along the Chesapeake Bay and its tributaries is in the best interests of the residents of the State.

§5–429.

(a) The Department shall establish a Green Shores Program to promote and cause the planting and maintenance of forested buffers around the Chesapeake Bay and its tributaries.

(b) The Green Shores Program may include:

(1) Providing grants in the form of trees, money, materials, or expertise to local governments, nonprofit corporations, and State agencies to be used for planting or enhancing forested buffers around the Chesapeake Bay and its tributaries;

(2) Educating the public about the benefits of trees and forested buffers, including:

(i) Establishing demonstration forest buffers on public lands;

(ii) Providing educational and promotional materials to schools;

(iii) Providing grants to schools for their own educational programs;

(iv) Developing and disseminating educational and promotional materials to the public; and

(v) Coordinating volunteer efforts; and

(3) Promoting forested buffers on private land by providing:

(i) Technical assistance, such as preparing site plans and coordinating planting arrangements; and

(ii) Economic incentives, including cost-sharing programs.

§5–430.

(a) In order to implement the Green Shores Program, the Department may:

(1) Enter into contractual agreements with other State agencies, local governments, nonprofit corporations, and private citizens who receive payments or grants;

(2) Set priorities by watersheds for the dissemination of grants and payments; and

(3) Adopt regulations.

(b) Any contractual agreement that the Department enters into under the Green Shores Program shall specify the terms of the grant or payment.

§5–433.

In this part, "Program" means the Pamela J. Kelly Tree–Mendous Maryland Program.

§5–434.

The General Assembly declares that it is in the public interest to have a program that encourages the involvement of residents of the State in active stewardship of the State's natural resources by planting native trees.

§5–435.

(a) There is a Pamela J. Kelly Tree–Mendous Maryland Program in the Department.

(b) The Program is established for the purpose of planting native trees and shrubs on public lands, community open spaces, school grounds, and rights–of–way.

(c) The Department shall administer the Program.

(d) The Department may adopt regulations to carry out this part.

§5–436.

(a) The Program shall be funded by donations and grants received by the Department to be used for the Program.

(b) The Department may seek, accept, and expend donations and grants for the implementation and administration of the Program.

(c) All money received for the Program under this section shall be used only for funding the implementation and administration of the Program.

§5–501.

(a) In this subtitle the following terms have the meanings indicated.

(b) "Cutting operation" means the cutting of timber for commercial purposes from five acres or more of land on which loblolly pine (Pinus taeda), shortleaf pine (Pinus echinata), or pond pine (Pinus serotina), singly or together occur and constitute 25 percent or more of the live trees on each acre.

(c) "Diameter" means the distance through the tree at the point of average

thickness as measured from outside the bark to outside of bark at a point on the trunk eight inches above the general ground level.

(d) "Landowner" means the person holding title to the land or possessing the right to contract for the cutting operation thereon.

(e) "Operator" means any person, including a "landowner", who conducts any cutting operation.

(f) "Person" includes the State, any county, municipal corporation or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation or any other entity.

(g) "Pine" means any loblolly (Pinus taeda), shortleaf pine (Pinus echinata), or pond pine (Pinus serotina).

(h) "Seedling" means a young loblolly, shortleaf, or pond pine plant less than six inches in diameter.

(i) "Tree" or "timber" means any tree of a currently commercially valuable species which is six inches or more in diameter.

§5–502.

(a) The General Assembly declares that the maintenance and reproduction of the pine forest resource of the State is in the public interest and provides significant recreational, esthetic, wildlife and environmental benefits as well as wood fiber essential to commerce and industry for the citizens of the State.

(b) The General Assembly finds that the pine forest resources of the State are being harvested at a greater rate than they are being replanted or reproduced. It further finds that unless measures are instituted to ensure that the pine forest resources are sustained, this natural resource will be depleted to the detriment of the citizens of the State. Consequently, it is the intent of this subtitle to require that when commercial cutting operations are conducted in the State measures are taken to ensure that pine forests are reproduced or replanted.

§5–503.

The Department may adopt rules and regulations to administer the provisions of this subtitle.

§5–504.

(a) (1) Except as otherwise provided by this section, upon completion of any cutting operation the operator or landowner shall leave uncut and uninjured at least eight cone-bearing loblolly, shortleaf, or pond pine trees 14 inches or larger in diameter

on each acre cut for the purpose of reseeding. If eight cone-bearing loblolly, shortleaf, or pond pines 14 inches in diameter are not present on any acre, the operator or landowner shall leave uncut and uninjured in place of each cone-bearing loblolly, shortleaf, or pond pine tree of the required diameter, at least two cone-bearing pine trees of the next largest diameter there standing. Trees left uncut pursuant to this section for the purpose of reseeding shall be healthy, windfirm, well-distributed throughout each acre, and with well-developed crowns possessing a sufficient number of cones to reforest the areas affected by the cutting operation.

(2) Cone-bearing pine trees need not be reserved if there are at least 400 loblolly, pond, or shortleaf pine seedlings on each acre which are vigorous, well distributed throughout, and free to grow upon completion of the cutting operation.

(b) Instead of leaving pine trees or seedlings pursuant to subsection (a) of this section, the area where any cutting operation has been conducted may be reforested pursuant to a plan approved by the Department.

§5–505.

(a) A cutting operation may not commence unless seed trees have been reserved or a reforestation plan has been approved by the Department. The reforestation plan shall be prepared by the landowner or his agent and shall be designed to assure the reproduction and maintenance of growth of young, vigorous pine trees.

(b) An operator or landowner proposing to reforest any area of a cutting operation pursuant to an approved plan shall notify the Department at least 24 hours prior to initiation of the cutting operations.

(c) Except as permitted by § 5-507 of this subtitle, the landowner shall not cut or permit to be cut any pine tree required to be reserved for reseeding for three years after completion of the cutting operation and will so bind his successor in title. The reforestation plan shall be accompanied by a statement of the landowner, on a form furnished by the Department that he will not perform any act or permit any act to be performed which prevents reforestation and will so bind his successor in title. The provisions of this subsection do not apply if the landowner places the land in any of the uses permitted in § 5-507 of this subtitle.

(d) The Department shall approve, approve with modifications, or reject any plan submitted to it within 30 days. The determination of the Department shall be in writing setting forth the reasons for approval, approval with modifications, or rejection and shall be forwarded to the operator or landowner.

§5–506.

A person may not cut or permit to be cut any pine tree or seedling required to be reserved for reseeding or planted under a reforestation plan or perform any act or permit any act to be performed which prevents reseeding or reforestation of any area upon which a cutting operation has been conducted.

§5–507.

This subtitle does not apply to the cutting of timber for reservoirs, military installations, agriculture, communication and transmission lines, industrial sites, railroads, residential or recreational purposes, or residential or commercial construction. This subtitle does not apply to commercial cutting operations undertaken pursuant to a contract executed prior to January 1, 1978.

§5–508.

On application of the Department, acting through the Attorney General, the circuit court for the county where a cutting operation is located, by appropriate order, may enforce compliance with or enjoin the violation of any provision of this subtitle or rule or regulation adopted pursuant to it. Enforcement may include the assessment by the court in its discretion of money damages payable by the violator to the Department which is equal to the estimated cost of compliance with this subtitle. The Department may enforce payment of any award in the same manner as other money judgments of the court. Any money the Department collects shall be used for compliance with this subtitle on the land where the violation occurred.

§5–509.

The provisions of Subtitle 13 do not apply to this subtitle.

§5–601.

(a) In this subtitle the following words have the meanings indicated.

(b) "District board" means any district forestry board created under this subtitle.

(c) "Landowners" means any person owning woodlands, located in the State.

(d) "Natural resources" means forests, fish and game, water and waterpower, soils, minerals, and all other similar sources of wealth.

(e) "Woodlands or forest lands" means any land of an area of 3 acres or more held by the same owner and primarily devoted to the growth of forest products.

§5–602.

Forests, timberlands, woodlands, and soil resources of the State are basic assets, and the proper use, development, and preservation of these resources are necessary to protect and promote the health, safety, and general welfare of the people of the State. It is the policy of the State to encourage economic management and scientific development of its forests and woodlands to maintain, conserve, and improve the soil resources of the State so that an adequate source of forest products is preserved for the people. Floods and soil erosion must be prevented and the natural beauty of the State

preserved. Wildlife must be protected, while the development of recreational interest is encouraged and the fertility and productivity of the soil is maintained. The impairment of reservoirs and dams must be prevented, the tax rate preserved, and the welfare of the people of the State sustained and promoted. Where these interests can be served through cooperative efforts of private forest landowners, with the assistance of the State, it is the policy of the State to encourage, assist, and guide private ownership in the management and fullest economic development of privately owned forest lands. Where these public interests cannot be served and adequately protected under private ownership, it is the policy of the State to acquire control of, and title to these lands as rapidly as the financial resources of the State permit.

§5–603.

The Department shall administer forest conservation practices on privately owned forest land and manage publicly owned forest lands. Representatives of the United States Forest Service and the Cooperative Extension Service may meet with the Department in an advisory capacity. The Department shall keep a record of its proceedings. The Department and the district boards shall cooperate with existing public agencies in forest management practices, flood control, recreation, wildlife management, and related activities. The Department shall direct and coordinate the activities of the district boards and hear appeals from orders or decisions of the local boards.

§5–604.

The Department may promulgate rules and regulations to administer this subtitle. The Secretary shall enforce every provision of this subtitle, and offer assistance to any district board. He shall disseminate information concerning minimum rules of forest practice adopted in the forestry districts in the State, maintain inspection of forest management practices necessary to make this subtitle effective, and enforce any rule or regulation the Department adopts.

§5–605.

The Department shall divide the State into convenient districts, having due regard for the character and extent of the timber stand, similarity of forest problems, convenience of administration, and other pertinent factors. It shall establish, by appointment, in each district created, a district forestry board of at least five members. The appointments to the district forestry board shall include, if possible, a person representing each of the major types of forestry and woodworking interests, and at least one person representing farm woodland owners preferably connected with a county farm bureau or grange in the district. If there are any county agricultural agents and county foresters representing areas lying within the district, they shall have the privilege of participating, without a vote, in the board meeting.

The term of membership on the board is three years. A member serves until his successor is appointed and qualified. Within 30 days of their appointment, and

regularly thereafter, the members of the district forestry board shall meet and elect a chairman and vice-chairman to serve for a term of two years. The Department may discontinue district boards for cause at any time. The Department shall employ and assign to each board a forester who, in addition to his other duties, serves as secretary and executive officer of the board. Each member of the board shall receive expenses while engaged in the performance of his official duties. The Department shall determine the compensation of the forester. Any compensation payable to and any expense incurred by a district board shall be paid out of funds made available under the provisions of this subtitle.

§5–606.

(a) The district forestry board shall:

(1) Promote private forestry by assisting landowners in forest management, planting trees, conservation and development of tree crops, and protection of forests from fires, insects, and diseases;

(2) Make available to landowners the services of a forester and advise them with regard to their forest and tree crop problems;

(3) Assist the county assessors in their appraisal of forest lands for tax purposes;

(4) Disseminate forest conservation information and collect data concerning forest conservation problems of the State;

(5) Secure the cooperation and assistance of the United States and any of its agencies and State agencies in conservation of forest resources of the State;

(6) Assist private owners of forest land by advice as to the construction of flood control measures, seeding and planting of waste slopes, abandoned or eroded lands, and development of wildlife by planting food or cover producing trees, bushes, and shrubs;

(7) Receive and pass on proposed work plans for cutting forest lands;

(8) Maintain an office, keep a record of its transactions, and promptly file copies of its decisions and orders with the Department;

(9) Employ personnel, in addition to the district forester, as the Department approves; and

(10) Perform all acts necessary to attain the objectives of this subtitle.

(b) Any board or its agent may:

(1) Hold meetings and demonstrations in regard to conservation of natural

resources;

(2) Enter into agreements with landowners within its county or district for a specified period of years;

(3) Cooperate with other government agencies to achieve better forest growth and promulgate conservation measures, including meeting at least annually with agricultural advisory boards as provided under § 2–504.1 of the Agriculture Article in order to encourage the promotion and retention of agricultural land and forest land in their respective jurisdictions;

(4) Develop comprehensive forest management plans for conservation of soil resources and for control and prevention of soil erosion within the county or district;

(5) Enforce rules and regulations made by the Department. Each local board may suggest tentative rules and regulations of forest practice to accomplish objectives set forth in this subtitle and to carry out policies established by the Department. The board shall publish the tentative rules and regulations in one or more newspapers having a wide circulation in the area they cover, together with a notice of a public hearing which the board shall hold on them. The final draft of these rules and regulations shall be presented to the Department for approval. The board may summon witnesses for hearings on infraction of its rules and regulations and initiate a prosecution for violation of its rules. It shall forward copies of any proceedings and rulings to the Department and make an annual report of its proceedings and actions to the Department; and

(6) Promulgate safeguards for proper forest land use, such as those intended to:

(i) Provide for adequate restocking, after cutting, of trees of desirable species and condition;

(ii) Provide for reserving for growth and subsequent cutting, a sufficient growing stock of thrifty trees of desirable species to keep the land reasonably productive; and

(iii) Prevent clear–cutting, or limit the size of a tract to be clear–cut in areas where clear–cutting will seriously interfere with protection of a watershed, or in order to maintain a suitable growing stock to insure natural reproduction. However, any rule dealing with clear–cutting shall establish a procedure by which any operator of forest land may secure a permit to clear–cut particular lands upon proof that he has a bona fide intention of devoting the land to other than forest use; that the lands are appropriate for the proposed use; and that devoting the lands to the new use will not seriously interfere with the protection of the watershed.

(c) Subject to the approval of the Secretary, each board may impose fees for the purpose of offsetting its costs incurred in carrying out the requirements of this section, unless an equivalent amount of funds is provided to each board under § 5–307 of this

title.

§5–607.

The forester shall:

(1) Make plans for management and reforestation of forest, woodlot, and tree crop orchards;

(2) Assist landowners of the district in marketing their forest products;

(3) Hold meetings of county or local forest fire wardens, lookouts, guards, fire fighters, and others to instruct them in methods of forest fire prevention and extinction;

(4) Enlist the cooperation of landowners in protection of their forests from fire, insects, and disease;

(5) Make an annual written report of his activities to the Secretary;

(6) Assist the State Extension Forester in carrying out the Farm Forestry Extension Program;

(7) Assist forest landowners in formation and execution of soil conservation practices;

(8) Keep accurate records of any forest management plan;

(9) Assist in management of community or municipally owned forests;

(10) Assist assessors in appraisal of woodlands; and

(11) Advise and assist in planting food-bearing trees and shrubs for the benefit of wildlife.

§5–608.

(a) (1) (i) Any person engaged in a forest products business shall have a forest product operator's license issued by the Department.

(ii) The license is secured from the Department for every type of forest products manufacturing plant.

(iii) Before any sawmill or other plant is erected for the manufacture of lumber or other forest products or when the location of any manufacturing plant is to be changed, the location shall be reported to the Department prior to erection of the plant or the change of location.

(2) An applicant for a license shall:

(i) Submit to the Department an application on the form that the Department provides;

(ii) Demonstrate compliance with the Maryland Workers' Compensation Act under Title 9 of the Labor and Employment Article; and

(iii) Pay to the Department a fee set by the Department in an amount not to exceed the costs of carrying out this section.

(3) The term of a license is 1 year.

(b) Each person to whom this subtitle applies shall:

(1) Leave conditions favorable for regrowth. Any forest land on which cuttings are made shall be left by the operator in a favorable condition for regrowth, in order to maintain sufficient growing stock to supply raw materials for industry and furnish employment for forest communities continuously, if possible, or without long interruption;

(2) Leave young growth. As far as feasible, every desirable seedling and sapling shall be protected during logging operations. Except where unavoidable in logging, immature trees may not be cut for any purpose except to improve the spacing, quality, and composition or conditions for restocking, or to obtain timber or wood for home use;

(3) Arrange for restocking land after cutting by leaving trees of desirable species of suitable size singly, or in groups, well distributed and in a number to secure restocking. If the board approves, however, clear–cutting may be performed;

(4) Maintain adequate growing stock after partial cutting or selective logging. Rules and regulations of the Department, defining standards of forest practice to obtain and maintain adequate growing stock in the different forest types, may vary with different forest types of the State;

(5) Conduct timber harvesting operations in accordance with the sediment and erosion control standards under Title 4 of the Environment Article;

(6) Accurately report to the Department the quality, quantity, and species of firewood sold or delivered in accordance with Title 11 of the Agriculture Article;

(7) Comply with the terms of any applicable federal, State, or local permit, license, or approval;

(8) Complete and submit to the Department an annual timber consumption report; and

(9) Comply with the standards of practice adopted by the Department.

(c) (1) The Department may suspend or revoke the license of a forest product operator for failure to comply with this subtitle.

(2) Before suspending or revoking a license under this subsection, the Department, in accordance with Title 10, Subtitle 2 of the State Government Article, shall:

(i) Send by registered or certified mail written notice of the basis of the suspension or revocation to the license holder at the last known address of the license holder; and

(ii) Hold a hearing on the license suspension or revocation if the license holder requests the hearing within 2 weeks after receiving the written notice.

(3) A person aggrieved by a final decision of the Department in a contested case relating to a license suspension or revocation under this subsection may appeal as authorized under §§ 10–222 and 10–223 of the State Government Article.

(d) The provisions of this section do not apply to cutting firewood and timber for domestic use for the owner or his tenant, but apply to all cutting not specifically excepted.

(e) In a civil action before a court of competent jurisdiction, a person who suffers damages as a result of a violation of this section by a license holder may recover court costs and reasonable attorney's fees.

(f) The Department may adopt regulations to implement this section.

§5–609.

The Department may accept for the State any appropriation of money for any forest conservation purpose made out of the federal treasury by any act of Congress. The Department is the forest authority for the expenditure and administration of the funds. The Treasurer of the State is the custodian of money the State receives from appropriations for forest conservation purposes made by any act of Congress. He may receive and provide for the proper custody of the money and make disbursements upon order of the Department.

§5–610.

This subtitle does not apply to clearing woodlands for reservoirs, military, naval, agricultural, communication and transmission lines, industrial sites, railroads, residential, or recreational purposes; nor does it apply to maple tree camps or to the business of gathering maple sugar or syrup.

§5–701.

(a) A forest or park warden shall enforce every forest and park law, rule, and

regulation of the State and protect State forest reserves, State parks, scenic preserves, parkways, historic monuments, and recreational areas.

(b) The forest or park warden shall report any violation of law to the Secretary as soon as possible, assist in apprehending and convicting offenders, and make an annual report to the Secretary on forest conditions in the forest or park warden's immediate neighborhood.

(c) If any forest or park warden sees a forest fire, or is requested by a fire company to assist with a fire plow or provide incident command expertise at the scene, the forest or park warden shall:

(1) Go immediately to the fire and employ those persons and means as the forest or park warden deems necessary to extinguish the fire;

(2) Keep an itemized account of all expenses thus incurred and send the account immediately to the Secretary;

(3) Control and direct any person and apparatus engaged in extinguishing forest fires;

(4) Summon inhabitants of the county over the age of 18 years, if able, to assist in extinguishing fires, and also require use of personal property needed for this purpose; and

(5) Use the members of the Junior Forest Fire Fighters Service between the ages of 14 and 18 years inclusive, either paid or unpaid, provided they have the written consent of their parents or guardians.

(d) Any person summoned who is physically able, but who refuses or neglects to assist, or allow the use of man power, equipment, or other material required, is liable to a penalty of $10.

(e) An action for trespass may not lie against a forest or park warden or anyone working under the forest or park warden's direction, for entering on any person's land to extinguish a fire, plow furrows, tear down fences, or start a back fire to check a fire that may be approaching.

§5–702.

Expenses incurred in fighting or extinguishing any fire under the direction of the Secretary or a forest warden are equally borne by the county in which the fire occurred and by the State. The county shall pay them in full upon receipt of an itemized account, with vouchers approved by the Secretary. The State's share shall be refunded by the Department out of any money standing to the credit of the State Forest and Park Fund, upon presentation of the accounts, together with evidence that the county has paid the sum in full. Nothing in this subtitle relieves the owner or lessee of lands upon which fires may burn, or be started, from the duty of extinguishing the fires so far as may lie

within his power. An owner or lessee, or his employee may not receive any compensation from the State or county for fighting fires upon his or his employer's lands.

§5–703.

The Secretary shall furnish notices, printed in large letters, calling attention to the dangers of forest fires, and to forest fire and trespass laws, and their penalties. The Secretary shall distribute the notices to forest wardens who shall post them in conspicuous places on State forest reserves and along highways in forest-covered country. It is unlawful for any person to tear down or deface any forest fire warning notice.

§5–704.

(a) Any individual or corporation that willfully, maliciously, or with intent, sets on fire, or causes to be set on fire, any woods, brush, grass, grain, or stubble is guilty of a misdemeanor and upon conviction is subject to a fine not less than $250 nor exceeding $2,000, or imprisonment for not less than 30 days nor exceeding five years, or both with costs imposed in the discretion of the court.

(b) An individual or corporation may not carelessly or negligently set on fire, or cause to be set on fire any woods, brush, grass, grain, or stubble. Setting a fire contrary to the provisions of this subsection is prima facie proof of carelessness or neglect within the meaning of this subsection. The landowner from whose land the fire originated also is liable in a civil action for damages for injury resulting from the fire, and for the cost of fighting and extinguishing the fire, unless the landowner can prove to the satisfaction of the court before which the case is tried that the injury complained of was suffered without any negligence on the part of the owner or the owner's agents.

(c) Any person who discovers a forest or brush fire not under the control of some person shall extinguish it or report it to the local fire warden.

(d) The provisions of this section do not contravene other provisions of law relating to the liability for fires of railroad companies.

§5–705.

Any person who causes any fire by violating § 5-704(a) or (b) or § 5-712 of this subtitle is liable to the State and county where the fire occurs in an action for debt to the full amount of all expenses incurred by the State or county in fighting and extinguishing the fire.

§5–706.

The State's Attorneys of the several counties shall prosecute any violator of Part I of this subtitle.

§5–707.

(a) Between October 1 and April 15, every person who operates a railroad in the State shall establish a means to prevent a forest fire along the parts of its tracks adjacent to which the Department finds a fire hazard exists or probably may be caused by failure to take precautions. If the Department believes other precautionary means are insufficient, the person shall clear a safety strip of a width not exceeding 100 feet, as the Department determines, measured horizontally from the outer rail. The safety strip shall be cleared by removing all dead wood, fallen leaves, withered grass, and other flammable material, except fences, buildings, and manufactured products, from the ground embraced within the width prescribed. This subsection does not prevent the person from piling and storing along its right–of–way any materials necessary for construction, maintenance, or operation of its railroad.

(b) By September 1 of each year, the Department shall notify the person who operates a railroad in the State of the parts of its tracks where a fire hazard exists or probably may be caused to exist by failure to take precautions, or of the necessity for a safety strip.

(c) Subject to the provisions of subsection (d) of this section, the person may clear the safety strips of flammable material without liability for trespass. However, they may not remove or damage any fence, building, merchantable timber, or living trees as the owner designates without compensating him.

(d) (1) The Department shall obtain written permission of the actual owner of any property involved in clearing safety strips for the annual clearing prescribed by the provisions of subsection (a) of this section. The notice requesting written permission shall be made either by registered or certified mail directed to the last known address of the property owner of record, or by personal service on him. (2) If the owner of record is not served by either of these methods, the Department shall publish a notice of the annual clearing by the first day of September of each year at least once in two papers of general circulation in the county where all or a major portion of the property lies. The notice shall quote the provisions of this section. (3) If the owner does not file an objection to the clearing with the Department within 15 days after the mailing, personal service, or publication of notice, the owner shall be deemed to give consent to the clearing, and to entry on his property for this purpose. (4) If the owner refuses his permission, or if he timely files an objection, the Department may serve on him, by personal service or registered or certified mail, a written order for the owner to clear the safety strips within the time prescribed in subsection (a) of this section in the manner the Department directs. Any owner who fails to comply with the order within the prescribed time is liable to the fine provided for in § 5–714 of this subtitle.

§5–708.

The Department and its authorized agents may enter at their risk, and without liability for trespass, any railroad or other land in order to ascertain conditions relative to enforcement of any provision of Part II of this subtitle.

§5–709.

Every landowner shall clear the safety strips in accordance with the terms of Part II of this subtitle.

§5–710.

Any person owning property within 100 feet of the tracks of any railroad operating within the State when the distance is measured horizontally from the outer rail, who cuts or permits cutting trees or other crops on its property shall dispose of every tree top, brush, and other flammable material caused by the cutting so that the flammable material does not remain within 100 feet of the tracks for more than 30 days after cutting.

§5–711.

Every engine or boiler, operated in, through, or near forest or brush which does not burn oil as fuel, shall be provided with any appliance approved by the Department to prevent escape of fire and sparks. Any person who violates this section is guilty of a misdemeanor and upon conviction in a court of competent jurisdiction is subject to a fine of at least $10 and not exceeding $100.

§5–712.

Compliance with the provisions of Part II of this subtitle is not a bar to recovery of any damage for which any complying person would or might otherwise be liable.

§5–713.

Any act or part of an act inconsistent with the provisions of this subtitle is repealed to the extent of the inconsistency.

§5–714.

Any person who violates any provision of § 5-707, § 5-709, or § 5-710 of this subtitle upon conviction is subject to a fine at the rate of $100 per mile, or any fraction, measured along the tracks for each day the flammable material remains on the ground.

§5–720.

(a) (1) In this section the following words have the meanings indicated.

(2) "Burning ban" means a complete ban on all open air burning that is declared by the Secretary or the Governor as a result of prolonged or unusual conditions conducive to the easy starting and spread of fire.

(3) "Open air burning" means a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected

to a stack or chimney.

(4) "Public officer" means:

(i) The authorized agents of the Department; or

(ii) Any police officer who is authorized to enforce the laws of the State or of a political subdivision of the State.

(b) (1) Subject to paragraph (2) of this subsection, a person may not start or allow open air burning in an area in which a burning ban imposed by the Secretary or the Governor is in effect.

(2) This subsection does not apply to:

(i) The supervised burning of buildings or solid, liquid, or gaseous fuels conducted under the direct control and supervision of qualified instructors at a training center operated by a fire department; or

(ii) Any other supervised burning conducted under the direct control and supervision of:

1. Qualified fire instructors; or

2. In Wicomico County, Worcester County, or Somerset County, a fire chief, captain, or fire line officer of a fire department that has jurisdiction over the area where the supervised burning occurs.

(c) On reasonable suspicion of open air burning on privately owned property in an area in which a burning ban is in effect, a public officer may enter on the privately owned property of any person to extinguish the fire or to enforce the provisions of this section.

§5–801.

(a) The Governor, on behalf of the State, may execute a compact in substantially the following form, with one or more of the states of Delaware, New Jersey, Ohio, Pennsylvania, Virginia, and West Virginia. The General Assembly signifies in advance its approval and ratification of this compact:

Article I

The purpose of this compact is to promote effective prevention and control of forest fires in the Middle Atlantic region of the United States by the development of integrated forest fire plans, by the maintenance of adequate forest fire fighting services by the member states, and by providing for mutual aid in fighting forest fires among the compacting states of the region and with states which are party to other regional forest fire protection compacts or agreements.

Article II

This compact shall become operative immediately as to those states ratifying it whenever any two or more of the states of Delaware, Maryland, New Jersey, Ohio, Pennsylvania, and Virginia and West Virginia which are contiguous have ratified it and Congress has given consent thereto.

Article III

In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control shall act as compact administrator for that state and shall consult with like officials of the other member states and shall implement cooperation between such states in forest fire prevention and control.

The compact administrators of the member state shall organize to coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact.

The compact administrators shall formulate and, in accordance with need, from time to time, revise a regional forest fire plan for the member states.

It shall be the duty of each member state to formulate and put in effect a forest fire plan for that state and take such measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the compact administrators.

Article IV

Whenever the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling or preventing forest fires, it shall be the duty of the state forest fire control agency of that state to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home.

Article V

Whenever the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of such state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the powers of arrest), duties, rights, privileges and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

All liability, except as otherwise provided hereinafter, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and maintenance of employees and equipment incurred in connection with such request; provided, that nothing herein contained shall prevent any assisting member state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving member state without charge or cost.

Each member state shall provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in case employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

For the purposes of this compact the term "employee" shall include any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws thereof.

The compact administrators shall formulate procedures for claims and reimbursement under the provisions of this article, in accordance with the laws of the member states.

Article VI

Nothing in this compact shall be construed to authorize or permit any member state to curtail or diminish its forest fire fighting forces, equipment, services or facilities, and it shall be the duty and responsibility of each member state to maintain adequate forest fire fighting forces and equipment to meet demands for forest fire protection within its borders in the same manner and to the same extent as if this compact were not operative.

Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control and extinguishment in such state.

Nothing in this compact shall be construed to affect any existing or future cooperative relationship or arrangement between the United States Forest Service and a member state or states.

Article VII

The compact administrators may request the United States Forest Service to act as the primary research and coordinating agency of the Middle Atlantic Interstate Forest Fire Protection Compact in cooperation with the appropriate agencies in each state, and the United States Forest Service may accept the initial responsibility in preparing and presenting to the compact administrators its recommendations with

respect to the regional fire plan. Representatives of the United States Forest Service may attend meetings of the compact administrators.

Article VIII

The provisions of Article IV and V of this compact which relate to mutual aid in combating, controlling or preventing forest fires shall be operative as between any state party to this compact and any other state which is party to a regional forest fire protection compact in another region; provided, that the legislature of such other state shall have given its assent to such mutual aid provisions of this compact.

Article IX

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the Governor of such state takes action to withdraw therefrom. Such action shall not be effective until six months after notice thereof has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.

(b) When the Governor has executed the compact on behalf of the State and caused a verified copy to be filed with the Secretary of State, and when it has been ratified by one or more of the states named in subsection (a) of this section, then the compact becomes operative and effective as between this State and the other state. The Governor may take the necessary action to complete the exchange of official documents between this State and any other state which ratifies the compact.

(c) The Secretary, or someone designated by him, shall act as compact administrator for the State and perform the functions required under subsection (a) of this section.

(d) The Department shall take the necessary action to integrate the State forest fire plan with the regional forest fire plan formulated by the compact administrators, and adjust and expand the plan as necessary to comply with subsection (a) of this section.

§5–901.

(a) In this subtitle the following terms have the meanings indicated.

(b) "Annual program" means a schedule of acquisition or development for one fiscal year.

(c) (1) "Capital renewal", except as provided in subsection (l)(5) of this section, means renewal of a capital project for which an improvement is necessary to ensure the physical integrity of:

(i) A facility;

(ii) Fixed equipment; or

(iii) An existing physical improvement.

(2) "Capital renewal" does not include:

(i) Preventive, routine, or operational maintenance projects instituted to ensure:

1. The aesthetic appeal of a project;

2. The general daily upkeep of a project; or

3. The maintenance of grounds surrounding a project; or

(ii) Preventive, routine, or operational road maintenance projects except for those park or recreation area road maintenance projects identified in the Governor's operating budget or the consolidated capital budget.

(d) "Funds available under this program" means the proceeds of Program Open Space and the annual apportionment of allocation of the Land and Water Conservation Fund to the State by the United States Department of Interior, National Park Service.

(e) "Governmental agency" means the Department of Recreation and Parks of a local governing body which currently provides or is charged by the local governing body with providing public outdoor recreation and open space areas.

(f) "Land trust" has the meaning stated in § 3-2A-01(d) of this article.

(g) "Local governing body" means the Maryland-National Capital Park and Planning Commission and the governing body of any county or Baltimore City.

(h) "Local projects" means acquisition or development of projects sponsored by the local governing bodies or their units, and in the case of Baltimore City it also means operation and maintenance of projects as provided in subsection (l) of this section.

(i) "Municipal corporation" means the incorporated towns of the State as defined in Article XI-E of the Maryland Constitution.

(j) "Subdivision" means one of the 23 counties of the State or Baltimore City.

(k) "Targeted areas" means those resource areas facing the most intense or immediate development pressure as identified and recommended for State acquisition efforts under the Maryland Land Preservation and Recreation Plan.

(l) "Total project cost" means every direct cost attributable to a particular project, including the cost of:

(1) Materials;

(2) Equipment;

(3) Other capital expenditures;

(4) Acquisition of land including any incidental cost relating to acquisition of interests in real property, such as the cost of surveys, appraisals, title search, and legal fees, if the total projects which are reimbursed for incidental costs are limited to the fee schedules approved by the Board of Public Works for the incidental costs, which schedules shall be contained in regulations adopted by the Department of Natural Resources, with the approval of the Board of Public Works, in accordance with Title 10, Subtitle 1 of the State Government Article; or

(5) For Baltimore City operation and maintenance of any recreational facilities owned and operated by the City, if the amount of the funds expended does not exceed the proportion of the allocation to Baltimore City which is derived from current revenues, as distinguished from proceeds of bond issues.

§5–902.

(a) The General Assembly declares that there is need for a program to make funds available to State agencies and any subdivision to:

(1) Expedite acquisition of outdoor recreation and open space areas before escalating cost of land prevents its purchase for public use and before potential areas are devoted to some other use; and

(2) Accelerate development and capital renewal of needed outdoor recreation facilities, including the provision of public access to the facilities.

(b) This program is known as Program Open Space and carries out the recommendations of the 1968 Legislative Council committee on recreational areas. By enacting this program, the General Assembly intends to provide funds to the State and its subdivisions to enable them to acquire land for outdoor public recreation and open space use and develop and provide public access to the land for public recreation.

(c) (1) To effectuate the purposes of this section, the General Assembly has established a transfer tax funding program under Title 13, Subtitle 2 of the Tax – Property Article.

(2) In addition to or in lieu of the funding under paragraph (1) of this subsection, Program Open Space funding may be provided in the State Consolidated Capital Bond Funding Program or in a separate bond enabling act.

(3) In any fiscal year for which funding for Program Open Space is provided through the State Consolidated Capital Bond Funding Program or other bond enabling act, except as otherwise expressly provided under the bond enabling act through which the funding is provided:

(i) The debt allocations shall be provided to the Department of Natural Resources and the Department shall allocate funds among local governing

bodies according to the apportionment formula described in § 5–903 of this subtitle; and

(ii) For fiscal years 2011 through 2013 only, the allocations provided under § 5–903 of this subtitle of the funds distributed to Program Open Space under § 13–209 of the Tax – Property Article shall be adjusted to reduce the amount that would otherwise be allocated for any purpose by the amount of funding provided for that purpose under the bond enabling act.

§5–903.

(a) (1) Of the funds distributed to Program Open Space under § 13–209 of the Tax – Property Article, up to $3,000,000 may be transferred by an appropriation in the State budget, or by an amendment to the State budget under Title 7, Subtitle 2 of the State Finance and Procurement Article, to the Maryland Heritage Areas Authority Financing Fund established under Title 13, Subtitle 11 of the Financial Institutions Article to be used for the purposes provided in that subtitle.

(2) (i) 1. Of the remaining funds not appropriated under paragraph (1) of this subsection:

A. One half of the funds shall be used for recreation and open space purposes by the Department and the Historic St. Mary's City Commission; and

B. 20% of the funds or $21,000,000, whichever is greater, shall be appropriated to the Forest and Park Service in the Department to operate State forests and parks.

2. Except as otherwise provided in this section, any funds the General Assembly appropriates to the State under this subsection shall be used only for land acquisition projects.

(ii) At least $1,500,000 of the State's share of funds available under subparagraph (i)1A of this paragraph for this program shall be utilized to make grants to Baltimore City for projects which meet park purposes. The grants shall be in addition to any funds Baltimore City is eligible to receive under subsection (b) of this section, and may be used for acquisition or development. In order for Baltimore City to be eligible for a State grant, the Department shall review projects or land to be acquired within Baltimore City, and upon the Department's recommendation, the Board of Public Works may approve projects and land including the cost. Title to the land shall be in the name of the Mayor and City Council of Baltimore City. The State is not responsible for costs involved in the development or maintenance of the land.

(iii) 1. A portion of the State's share of funds available under subparagraph (i)1A of this paragraph for this program not to exceed $8,000,000 for each fiscal year may be transferred by an appropriation in the State budget to the Rural Legacy Program under Subtitle 9A of this title.

2. In each fiscal year, up to $2 million of the funds transferred under this subparagraph to the Rural Legacy Program may be used to purchase zero coupon bonds for easements.

3. Sums allocated to the Rural Legacy Program may not revert to the General Fund of the State.

(iv) The Department may acquire real property under subparagraph (i)1A of this paragraph based on an offer by the State that is less than the lowest approved appraisal for the property.

(v) For each of fiscal years 2010 through 2015, $1,217,000 of the State's share of funds available under subparagraph (i)1A of this paragraph may be appropriated in the budgets of the Department, the Department of General Services, and the Department of Planning for expenses necessary to administer this Program.

(b) (1) The General Assembly shall appropriate the remaining funds not appropriated under subsection (a) of this section to assist local governing bodies in acquisition and development of land for recreation and open space purposes, including the provision of public access to the land.

(2) Except as provided in paragraph (3) of this subsection, funds appropriated under paragraph (1) of this subsection for development of land for recreation and open space purposes may be used for indoor or outdoor recreation and open space purposes, including the construction of indoor or outdoor recreational facilities such as aquatic, golf, community, and nature centers.

(3) An indoor recreational facility funded under paragraph (1) of this subsection shall:

(i) If the facility is 7,500 square feet or greater, meet or exceed the current version of the U.S. Green Building Council's LEED Green Building Rating System Silver rating, however, the facility is not required to be certified through the LEED certification process; and

(ii) Incorporate, to the maximum extent practicable, the nonstructural site design practices in the Maryland Stormwater Design Manual, incorporated by reference in COMAR 26.17.02.

(c) (1) A committee, appointed by the Governor, shall prepare and adopt an apportionment formula relating to the percent of the total funds each subdivision will receive. The committee consists of two members of the Senate, three members of the House of Delegates, and four members of the public at large.

(2) The Secretary of the Department of Planning and the Secretary shall serve as advisers to the committee.

(3) The committee shall meet at least annually to review and update the

apportionment formula. In determining the allocation formula, the committee shall take into account for each subdivision:

(i) Current population;

(ii) Projected population; and

(iii) Other factors it deems desirable.

(4) In determining the apportionment for any year the committee may consider under–utilization of available funds and may transfer or advance unused allocations that have not been utilized within a given period. The committee may reallocate funds, subject however to the policy that over the 10–year period any subdivision shall be allocated in the aggregate the funds it would have been entitled to receive if able to utilize them.

(5) Before adopting an apportionment formula and before allocating funds for any year, the committee shall notify the governing bodies of every affected subdivision of its intended action and, after reasonable notice, afford an opportunity for hearings on the apportionment or allocation.

(d) Any funds previously or subsequently appropriated or reimbursed to the Department from the Land and Water Conservation Fund of the United States Department of the Interior, National Park Service shall be used to supplement the acquisition and development program of the Department and of other eligible State agencies and local government bodies.

(e) (1) The Department may, with the approval of the Board of Public Works, use acquisition funds to make matching or refundable grants to land trusts for the acquisition of interests or rights in real property for recreational or open space purposes.

(2) Subject to the availability of funds and in accordance with other provisions of this article regarding open space and wildland areas, the Department may enter into agreements with a land trust for the State to acquire title to or an interest or right in property owned by the land trust or property on which the land trust holds an option or a contract to purchase.

(3) An agreement under this subsection shall be subject to approval by the Board of Public Works under § 1–109(c) of this article.

(f) (1) Subject to the limitation under paragraph (2) of this subsection, the Department may use acquisition funds to:

(i) Stabilize the structural integrity of improvements existing on land at the time of acquisition;

(ii) Eliminate hazards to health and safety, including treatment and

removal of hazardous materials;

(iii) Protect water quality by implementing environmental improvements, including shore erosion control measures and vegetated buffers; and

(iv) Provide public access to the recreational and open space uses of the acquired land.

(2) The costs to perform any of the activities described in paragraph (1) of this subsection may not exceed 10 percent of the purchase price of the land.

(3) The Department may use acquisition funds to enhance public access to existing recreational and open space sites.

(g) (1) Any amount appropriated in the State budget, and for each subsequent fiscal year, up to 25 percent of the State's share of funds that would be available under the program if 100 percent of the funds not required under § 13–209(b) of the Tax – Property Article were available for distribution as provided in § 13–209(d)(3) of the Tax – Property Article may be used for capital improvements on land owned by the State for the use of the Department, the Maryland Historical Trust for museums operated by the Trust, or the Historic St. Mary's Commission, if the improvements are:

(i) Approved in the State budget; and

(ii) Compatible with:

1. Any master plan developed for the land; and

2. The natural features of the land.

(2) (i) For the fiscal year commencing July 1, 1996, up to 12.5% of the State's share of funds available for capital improvements may be used to operate State forests and parks, but only if the funds expended for operating costs do not exceed the portion of the State allocation available under this subsection that is derived from current revenues, as distinguished from proceeds of bond issues.

(ii) For the fiscal year commencing July 1, 1997, up to $1,000,000 of the State's share of funds available for capital improvements may be used to operate State forests and parks, but only if the funds expended for operating costs do not exceed the portion of the State allocation available under this subsection that is derived from current revenues, as distinguished from proceeds of bond issues.

(iii) For the fiscal year commencing July 1, 1998, and all subsequent fiscal years, up to $1,200,000 of the State's share of funds available for capital improvements may be used to operate State forests and parks, but only if the funds expended for operating costs do not exceed the portion of the State allocation available under this subsection that is derived from current revenues, as distinguished from

proceeds of bond issues.

(iv) The only wages that can be paid with the portion of the State's share of funds authorized under subparagraphs (ii) and (iii) of this paragraph are the wages of employees in the State forests and parks.

(3) If the General Assembly amends the Budget Bill to strike out an improvement or operating costs under this subsection submitted by the Governor, the Governor may consider reallocating the funds through a supplemental budget for the same fiscal year:

(i) To finance specific alternative land acquisition, development projects, or operating costs; or

(ii) To the Advance Option and Purchase Fund established under § 5–904(b) of this subtitle.

(h) In allocating the State's share of funds under this section, the Secretary shall consider the following land conservation priorities, notwithstanding other priorities specified in this title:

(1) Conserving working landscapes, as defined in § 5–101 of this title;

(2) Protecting and restoring forests from threats, including catastrophic wildfires, hurricanes, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, and development; and

(3) Conserving land that drains into a reservoir in the State.

§5–903.1.

(a) In this section, "Fund" means the Program Open Space Contingency Fund.

(b) There is a Program Open Space Contingency Fund.

(c) The Fund is a continuing, nonlapsing, revolving fund not to exceed $1,000,000 that consists of the amount of appropriations for a capital project:

(1) In excess of the amount needed for the capital project; and

(2) Allocated to the Fund by the Governor.

(d) The Fund may be used to:

(1) Supplement an existing appropriation for a capital project; and

(2) Undertake critical maintenance projects.

(e) (1) The Department shall evaluate each request for an expenditure from

the Fund.

(2) The Department may request the Board of Public Works to authorize an expenditure from the Fund if:

(i) All reasonable attempts to reduce the cost of the capital project have been made;

(ii) No practical alternative exists for securing funding to complete the capital or critical maintenance project; and

(iii) The requested funding does not increase the scope of the capital project.

(3) Prior to seeking approval from the Board of Public Works, the Department of Natural Resources and the Department of Budget and Management shall:

(i) Provide written notice to the budget committees on the planned use of the funds; and

(ii) Allow 45 days for review and comment by the budget committees unless the additional funds necessary do not exceed 20% of the original appropriation for any project and in the judgment of the Department of Natural Resources and the Department of Budget and Management that the additional funds are necessary to prevent a work stoppage on the project.

(4) If the Board of Public Works authorizes an expenditure from the Fund, the amount specified by the Board of Public Works may be transferred from the Fund to the Program Open Space account to supplement the specified authorization.

(f) On or before January 1 of each year, the Secretary of Natural Resources shall report to the General Assembly, subject to § 2-1246 of the State Government Article, on the moneys:

(1) Deposited in the Fund;

(2) Authorized for expenditure from the Fund; and

(3) Expended from the Fund.

(g) Money in the Fund shall be deposited with the State Treasurer.

§5–904.

(a) (1) Each year the Department, in consultation with the Department of Planning, shall prepare a list of recommended State projects for funding under this program for the next fiscal year.

(2) In preparing the list, the Department shall give priority to properties in targeted areas.

(3) Prior to submitting the list to the Department of Budget and Management for inclusion in the budget, the legislators from the district within which the Department is proposing a State acquisition project shall be given an opportunity to review and comment on the project.

(4) The list shall be submitted to the General Assembly in a manner similar to other capital projects as provided in Title 3, Subtitle 6 of the State Finance and Procurement Article.

(5) (i) The Department, for each project recommended under this subsection, shall consider whether it is feasible to provide public access to the recreational and open space site.

(ii) When considering whether it is feasible to provide public access to a site under this paragraph, the Department may consider:

1. The availability of funds available under this program or from other sources to provide public access to the site;

2. Public safety and liability issues if public access were provided to the site;

3. Whether the site was acquired as a part of a larger recreational and open space project that is not yet completed and ready for public access; and

4. The existence of a contractual commitment on the site that would limit public access for a period of time, including a home, agricultural, or hunting lease.

(b) (1) There is an Advance Option and Purchase Fund.

(2) A portion of funds available under this program for State projects may be appropriated in the State budget for the Advance Option and Purchase Fund.

(3) (i) The Department may use funds available in the Advance Option and Purchase Fund to obtain options to purchase lands in targeted areas or to otherwise purchase land.

(ii) Notwithstanding the provisions of § 10-306 of the State Finance and Procurement Article, any moneys received by the State as consideration for property acquired under this subtitle shall be deposited in the Advance Option and Purchase Fund.

(4) Funds available in the Advance Option and Purchase Fund shall be

allocated in the following order of priority:

(i) First to obtain an option on any parcel of land in a targeted area in advance of purchase, or to purchase a specific tract of land in a targeted area; and

(ii) Then to purchase property on which an option has been obtained or any other parcel of land.

(5) (i) Before the Department makes an expenditure from the Advance Option and Purchase Fund, the Department shall submit the proposed expenditure with complete supporting documentation to the budget committees of the General Assembly for review and comment by those committees.

(ii) The budget committees have 45 days after receipt of the documentation to submit comments to the Board of Public Works.

(6) Any expenditure of funds from the Advance Option and Purchase Fund is subject to the approval of the Board of Public Works.

(c) (1) There is a Bay Access Areas Fund.

(2) A portion of the funds available under this program for State projects may be appropriated in the State budget for the Bay Access Areas Fund.

(3) The Department may use funds available in the Bay Access Areas Fund to:

(i) Purchase sites that provide public access to a body of water; or

(ii) Enhance public access to a body of water on an existing recreational and open space site.

(4) In purchasing sites under this subsection, the Department shall give preference to sites that:

(i) 1. Are directly on the bay; or

2. Are on a tributary of the bay and are near the bay;

(ii) Are near a population center;

(iii) Are readily accessible by the public; and

(iv) Would fulfill a need for public water access identified in the Maryland Land Preservation and Recreation Plan or a local land preservation and recreation plan.

(5) (i) Before the Department makes an expenditure from the Bay Access Areas Fund, the Department shall submit the proposed expenditure with

complete supporting documentation to the budget committees of the General Assembly for review and comment by those committees.

(ii) The budget committees have 45 days after receipt of the documentation to submit comments to the Board of Public Works.

(6) Any expenditure of funds from the Bay Access Areas Fund is subject to the approval of the Board of Public Works.

(d) (1) The Department and the Maryland Environmental Trust, with the approval of the Board of Public Works, may:

(i) Use State project funds under Program Open Space to contribute towards, or reimburse the Department of Transportation for, a portion of the costs of acquiring any fee titles, restrictive covenants, or conservation easements for which the Department of Transportation spends federal funds for transportation enhancements, as defined in Title 23, United States Code, §§ 101(a) and 133; and

(ii) Acquire the fee titles, restrictive covenants, or conservation easements from the Department of Transportation or any of its agents.

(2) State project funds under Program Open Space may be used to contribute toward, or reimburse the Department of Transportation for, a portion of the costs of acquiring any fee titles, as specified in paragraph (1) of this subsection, only for acquisitions that are contained in the most current consolidated transportation plan of the State.

(e) (1) Regarding any proposed acquisition of real property for the use of the Department after June 30, 1995, the Department may submit to the Board of Public Works for approval at the same time as the acquisition, a plan for subsequent disposition of any portion of the real property.

(2) When disposing of property pursuant to a plan approved under paragraph (1) of this subsection, the Department shall impose any restrictive covenants or conservation easements on the property that the Department deems necessary to protect natural features or to assure that uses of the property will be compatible with any adjacent property held by the Department. Prior to disposing of the property, the Department shall notify and consider any comments from the local jurisdiction in which the property is located. Right of first refusal to purchase the property from the Department belongs first to the municipal corporation in which the property is located, if any, and second to the county in which the property is located.

(3) Property conveyed pursuant to a plan for disposition approved under paragraph (1) of this subsection is not excess real property under § 5-310 of the State Finance and Procurement Article.

§5–905.

(a) (1) On or before May 1 of each year, the Department shall notify each local governing body of its allocation of local acquisition and development funds for the next fiscal year within the limits imposed by the formula developed for the apportionment of the annual appropriations for Program Open Space.

(2) (i) By the first of July each year, a participating local governing body shall submit an annual program of proposed acquisition and development projects, together with a list of projects submitted by any municipal corporation to the local governing body and not included in the local governing body's annual program, to the Department of Planning for review and to the Department for approval.

(ii) A municipal corporation may submit an annual program through its local governing body.

(iii) A subdivision, for each proposed project under this subsection, shall consider whether it is feasible to provide public access to the proposed project.

(iv) When considering whether it is feasible to provide public access to a proposed project under this paragraph, a subdivision may consider:

1. The availability of funds available under this program or from other sources to provide public access to the proposed project;

2. Public safety and liability issues if public access were provided to the site;

3. Whether the site for the proposed project was acquired as a part of a larger recreational and open space project that is not yet completed and ready for public access; and

4. The existence of a contractual commitment on the site for a proposed project that would limit public access for a period of time, including a home, agricultural, or hunting lease.

(3) (i) Upon review by the Department of Planning and approval by the Department and the Board of Public Works, the allocated funds shall be encumbered for the purposes of §§ 7–305(d)(3) and 8–128(c) of the State Finance and Procurement Article, and the annual program shall become the basis for a grant agreement for the total allocation to each of the local governing bodies.

(ii) Prior to approval of a local annual program, or any revision thereof, the Department shall provide the legislators from the district within which any part of the local jurisdiction is located the opportunity to review and comment on the annual program or its revisions.

(4) Any program may be revised by the local governing body and the

revised program, after the Department of Planning reviews and the Department approves it, shall be substituted for the original program in the grant agreement.

(5) (i) In accordance with the Department's regulations, upon receipt of evidence from the local governing body of a county or municipal corporation that funds have been spent on a project that is approved in the grant agreement, the Department shall cause the requested amount of funds from the local governing body's allocation to be reimbursed to the local governing body.

(ii) Any municipal corporation may submit evidence of expenditures for approved projects through its local governing body to the Department.

(b) (1) Except as provided in subsection (c)(1) of this section and except in Baltimore City, at least one half of a local governing body's annual apportionment shall be used for acquisition projects. Local matching funds are not required for acquisition projects. If the local governing body is unable to obtain federal funds pursuant to § 5–906 of this subtitle, for an approved local acquisition project, the total cost of the project shall be defrayed out of the local governing body's annual apportionment of State funds for open space. In Baltimore City any portion of the annual apportionment may be used either for acquisition or development.

(2) A local governing body shall prepare a local land preservation and recreation plan with acquisition goals based upon the most current population data available from the Department of Planning and submit it to the Department and to the Department of Planning for joint approval according to the criteria and goals set forth in guidelines prepared by the Department and the Department of Planning. A local governing body shall revise its local land preservation and recreation plan at least every 5 years and submit the revised local plan to the Department and to the Department of Planning for joint approval 1 year prior to the revision of the Maryland Land Preservation and Recreation Plan. Prior to approval of a revised local plan, the Department shall provide the legislators from the district within which any part of the local jurisdiction is located the opportunity to review and comment on the revised local plan.

(3) Subject to the approval of the Department, a local governing body may use part of its acquisition funds for initial or periodic updating of local land preservation and recreation plans. The amount that may be used by a subdivision for planning purposes in the local land preservation and recreation plan shall not exceed $25,000 for any one fiscal year. Local matching funds are not required for planning or updating the local land preservation and recreation plan.

(4) If federal funds are provided on any acquisition project, the State shall provide 100 percent of the difference between the total project cost and the federal contribution.

(5) (i) A local governing body shall use part of its funds reserved for acquisition for a local advance option and purchase fund. The funding level of the

local advance option and purchase fund shall be determined on an annual basis and submitted as part of the annual program under subsection (a) of this section. The local advance option and purchase fund may be used to obtain an option on any parcel of land identified by the local governing body as facing intense development pressure within that county in advance of purchase or to purchase specific tracts of land.

(ii) Funds available in a local advance option and purchase fund shall be allocated in the following order of priority:

1. First to obtain an option on any parcel of land identified by the local governing body as facing intense or immediate development pressure within that county in advance of purchase, or to purchase a specific tract of land identified by the local governing body as facing intense development pressure within that county; and

2. Then to purchase property on which an option has been obtained or any other parcel of land.

(6) (i) A local governing body may use part of its funds reserved for acquisition for a local land trust grant fund.

(ii) A local land trust grant fund may be used to:

1. Make matching or reimbursable grants to land trusts for the acquisition of interests or rights in real property for recreational or open space purposes; or

2. Acquire, under an agreement with a land trust, title to or an interest or right in property owned by a land trust or property on which the land trust holds an option or a contract to purchase.

(iii) As a condition to any agreement under which a local government agrees to acquire title to or an interest or rights in property owned by a land trust or property on which the land trust holds an option or a contract to purchase, a perpetual conservation easement on the land shall be donated.

(iv) A project may not receive funds from a local land trust grant fund unless:

1. The project is approved in the local governing body's grant agreement; or

2. The Department and the Board of Public Works approve the project as being in conformity with criteria governing land acquired under a local grant from Program Open Space.

(v) The Department may approve a grant from a local land trust grant fund conditional upon modifying its terms.

(7) (i) Except as provided in subparagraph (iii) of this paragraph, if any portion of an annual apportionment to a local governing body is not encumbered within 5 years of the allocation, the unencumbered funds shall revert to the Department, to be held by the Department in a special account until the beginning of the next fiscal year.

(ii) At the beginning of the next fiscal year, the funds held in the special account under subparagraph (i) of this paragraph shall be added to the funds appropriated under § 5–903(b) of this subtitle to assist local governing bodies in acquisition and development of land for recreation and open space purposes.

(iii) If a local governing body demonstrates to the Department that unencumbered funds have been designated for a specified purpose, subparagraph (i) of this paragraph does not apply to the funds.

(c) (1) (i) One half of any local governing body's annual apportionment shall be used for acquisition or development projects provided that up to 20 percent of the funds authorized for acquisition or development projects under this subparagraph may be used for capital renewal as defined in § 5–901 of this subtitle.

(ii) If the Department and the Department of Planning certify that acquisition goals set forth in the current, approved local land preservation and recreation plan have been met and that such acreage attainment equals or exceeds the minimum recommended acreage goals developed for that jurisdiction under the Maryland Land Preservation and Recreation Plan, a local governing body may use up to 75 percent of its future annual apportionment for development projects for a period of 5 years after attainment, provided that up to 20 percent of the funds authorized for use for development projects under this subparagraph may be used for capital renewal.

(iii) If a county determines that it qualifies for the additional funds for development and capital renewal projects under subparagraph (ii) of this paragraph, before the due date for all local governing bodies to submit revised local land preservation and recreation plans, that county may submit an interim local land preservation and recreation plan:

1. Prior to the submission under subsection (b)(2) of this section; and

2. In addition to the submission required under subsection (b)(2) of this section.

(2) The State shall provide 100 percent of the total project cost of each approved local acquisition project or, if federal funds are provided, 100 percent of the difference between the total project cost and the federal contribution.

(3) (i) Except as provided in subparagraph (iii) of this paragraph, if the local governing body is unable to obtain federal funds pursuant to § 5–906 of this subtitle, for each approved local development project the State shall provide:

1. 75 percent of the total project cost; or

2. If the Department has certified pursuant to paragraph (1) of this subsection that acquisition goals have been met, 90 percent of the total project cost.

(ii) Except as provided in subparagraph (iii) of this paragraph, if federal funds are provided on any development project cost, the State shall provide 50 percent of the difference between the total project cost and the federal contribution. Subject to the limitation that total State funds, when added to every other available fund, may not exceed 100 percent of a project's cost, the minimum State contribution to a project shall be 25 percent. If the federal funds are less than 50 percent of the total project cost, the State shall provide an amount equal to the difference between the federal contribution and:

1. 75 percent of the total project cost; or

2. If the Department has certified pursuant to paragraph (1) of this subsection that acquisition goals have been met, 90 percent of the total project cost.

(iii) 1. Subject to the requirement in subsubparagraph 3 of this subparagraph, if a local governing body uses its funds appropriated under § 5–903(b)(1) of this subtitle to build a recreational facility within a priority funding area, as defined in § 5–7B–02 of the State Finance and Procurement Article, the State shall provide 90 percent of the total project cost.

2. Subject to subsubparagraph 4 of this subparagraph, if a local governing body uses its funds appropriated under § 5–903(b)(1) of this subtitle to construct an indoor recreational facility that is not ancillary and necessary for outdoor recreation, and will be located outside of a priority funding area, as defined in § 5–7B–02 of the State Finance and Procurement Article, the State shall provide 50 percent of the total project cost.

3. The State shall provide 90 percent of the total project cost under subsubparagraph 1 of this subparagraph if the local governing body agrees to limit the amount of impervious surface on the land acquired within a priority funding area, as defined in § 5–7B–02 of the State Finance and Procurement Article, to no more than 10 percent of the land.

4. The 50% funding limit under subsubparagraph 2 of this subparagraph does not apply if the Department determines that:

A. The indoor recreational facility is designed to serve multiple priority funding areas, as defined in § 5–7B–02 of the State Finance and Procurement Article, or multiple census designated places within a priority funding area;

B. The indoor recreational facility contains equipment or

facilities, including a swimming pool, that cannot be supported in multiple locations; and

C. The applicable local government planning and zoning agency has verified that the location of the indoor recreational facility is consistent with the local government's comprehensive plan.

(d) If land is donated to local governing bodies during the fiscal year, 75 percent of the appraised value the Department approves may be applied as a portion of, or all of, the local governing body's share of the project's cost for the projects referred to in § 5–904 of this subtitle.

(e) If federal funds are received for any approved local project after it was funded by the State in accordance with subsection (b) of this section or § 5–904 of this subtitle, the applicant shall reimburse the State in an amount equal to the federal contribution. The reimbursement shall be reserved for other projects approved for the applicant up to the limit of the share allocated to the local governing body.

§5–906.

(a) Each local project shall conform to a comprehensive plan the local governing body approves and have the approval of official planning agencies having jurisdiction, including comprehensive planning agencies.

(b) Every acquisition and development project funded by the State in whole or in part shall meet needs identified in the Maryland Land Preservation and Recreation Plan prepared and revised every 5 years by the Department in consultation with the Department of Planning and local governments. The document shall identify and recommend for State acquisition efforts those resource areas facing the most intense or immediate development pressure. These resource areas shall be designated as targeted areas. The document and any changes to it shall be distributed to every local governing body.

(c) The Department shall administer the local projects portion of Program Open Space and promulgate and adopt rules and regulations governing submission of applications and allowable project costs.

(d) As provided in § 5-905(a) of this subtitle, beginning on December 1, 1973, local projects shall not be considered or approved for a grant until the annual program of the subdivision has been submitted.

(e) The applicant shall certify on each application that:

(1) The project conforms to the annual program of the local governing body as provided for in § 5-905(a) of this subtitle;

(2) A governmental agency is charged to manage and administer an outdoor public recreation and open space program;

(3) Funds are available or will be available within 12 months of the date of submission of the application to pay the local share of the project cost;

(4) The value or interest in the land proposed for acquisition has been established by qualified appraisers;

(5) The applicant has applied for federal funds and has received notification of federal approval or disapproval, or the applicant has applied for federal funds and has not received notification of a grant approval or disapproval within 120 days of submission of an official federal grant application, or has verified that the project is not eligible for federal funds;

(6) The Department's rules and regulations have been complied with;

(7) Land acquired or developed under a State grant from Program Open Space may not be converted, without written approval of the Secretary, the Secretary of the Department of Budget and Management, and the Secretary of the Department of Planning from outdoor public recreation or open space use to any other use. Any conversion in land use may be approved only after the local governing body replaces the land with land of at least equivalent area and of equal recreation or open space value; and

(8) (i) For any conversion of land acquired or developed under a State grant from Program Open Space as provided in paragraph (7) of this subsection, the appraised monetary value of the land proposed for acquisition shall be equal to or greater than the appraised monetary value of the land to be converted, under the proposed new use of the converted land.

(ii) The State shall consider these funds in excess of the encumbered Program Open Space funds to the local jurisdiction.

§5–907.

No land may be acquired for any State park in excess of the number of acres approved by the General Assembly for the park. Approval of the General Assembly shall be required for any revision to the Maryland Land Preservation and Recreation Plan prior to the initiation of any action to obtain additional land for any State park.

§5–908.

(a) In this section, "Fund" means the Fair Hill Improvement Fund.

(b) There is a Fair Hill Improvement Fund in the Department, to be used for the operation, maintenance, development, and improvement of the Fair Hill facilities at Fair Hill, Maryland.

(c) Any money obtained by the Department from Fair Hill shall be credited to the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) Any investment earnings of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund.

(3) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

§5–908.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Commission" means the Somers Cove Marina Commission.

(3) "Fund" means the Somers Cove Marina Improvement Fund.

(4) "Unencumbered" means not pledged for use by the State for Somers Cove Marina before the creation of the Commission.

(b) (1) (i) There is a Somers Cove Marina Commission.

(ii) The Commission is a body politic and corporate and an instrumentality of the State.

(2) The Commission consists of the following members:

(i) Two members from Somerset County, appointed by the Board of County Commissioners of Somerset County, one of whom shall be a member of the Somerset County business community;

(ii) Two members from the City of Crisfield, appointed by the Mayor of Crisfield, one of whom shall be a member of the Somerset County business community; and

(iii) Three members appointed by the Secretary, one of whom shall be a current slip holder at Somers Cove Marina.

(3) (i) The term of a member is 4 years.

(ii) A member may not serve more than 2 consecutive terms.

(iii) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(iv) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(4) A member is not entitled to compensation except for reimbursement

for expenses as provided in the budget of the Commission.

(5) (i) The Commission shall elect a chair and a vice chair of the Commission from among its members.

(ii) The Commission shall appoint a secretary–treasurer who need not be a member of the Commission.

(iii) A secretary–treasurer who is not a member of the Commission may not vote on matters before the Commission.

(6) (i) The Commission shall meet at least every 2 months, as determined by the chair.

(ii) At least 10 days before each meeting, written notice shall be given to each member of the Commission.

(7) Five members of the Commission are a quorum.

(8) A majority vote of the members present at a meeting having a quorum is needed for the Commission to act.

(9) (i) The Secretary may remove a member of the Commission for any reason upon a majority vote of the members of the Commission.

(ii) If a member is removed, a new member shall promptly be appointed by the individual or body that appointed the removed member.

(c) (1) The Secretary shall:

(i) Appoint an Executive Director;

(ii) Consult with the Commission in conducting the annual performance evaluation of the Executive Director; and

(iii) Review and make determinations on requests for approval of leases and contracts submitted to the Secretary by the Executive Director in accordance with subsection (d) of this section.

(2) The Executive Director:

(i) Shall administer the Fund;

(ii) On or before May 1 of each year, and after consulting with the Commission, shall prepare operating and capital budgets for the subsequent fiscal year and submit the budgets to the Commission for review and approval;

(iii) Shall supervise the marina manager;

(iv) May execute leases of land, buildings, or facilities at Somers Cove Marina and execute contracts for events or concessions at Somers Cove Marina in accordance with subsection (c) of this section;

(v) Subject to the approval of the Secretary, and in cooperation with the Commission, shall develop an annual master plan for the operations, maintenance, development, and improvement of Somers Cove Marina that improves services to the general boating public;

(vi) Shall administer, in cooperation with the Commission, all unencumbered grants;

(vii) 1. Shall employ a staff to operate and maintain Somers Cove Marina, and set the staff's compensation; and

2. Shall, except for the marina manager, employ staff as employees of the Commission; and

(viii) Shall be an employee of the State and serve at the pleasure of the Secretary.

(3) (i) The marina manager shall be an employee of the State.

(ii) The marina manager is responsible for the day–to–day operations of the marina.

(4) On approval of and subject to the conditions that the Department may require, Commission staff who are not employees of the Department may use vehicles or equipment of the Department.

(d) (1) A lease of land, a building, or other facility at the Somers Cove Marina or a contract for an event or concession at the Somers Cove Marina shall conform to the annual master plan approved under subsection (c)(2)(v) of this section.

(2) A lease of land, a building, or a facility or a contract for an event or concession that is executed by the Executive Director:

(i) May not be for a term of more than 5 years or be renewed for more than an additional 5 years; and

(ii) Shall be reviewed and approved by the Commission and Office of the Attorney General.

(3) A lease entered into before the creation of the Commission shall remain in effect for the duration of the term of the lease.

(4) (i) The Executive Director may not execute a lease or contract for nonboating related improvements or goods at the marina without the approval of the

Secretary.

(ii) Within 30 days after receiving a request for approval of a lease or contract, the Secretary shall provide the Executive Director with an initial response that may include a process or plan of action for addressing the merits of the request.

(e) On approval of and subject to the conditions that the Secretary may require, the Department may transfer any vehicle, equipment, or other inventory to the Commission.

(f) (1) Except as provided in paragraph (6) of this subsection, the Executive Director shall procure goods, services, and capital improvement, design, and maintenance projects in accordance with the requirements of this subsection.

(2) For goods, services, and capital improvement, design, and maintenance projects with an expected value of $1,000 to $5,000, the Executive Director shall:

(i) Make a written or telephone request for bids;

(ii) Evaluate the bids; and

(iii) Award the contract to the responsible bidder that submits the responsive bid that is the lowest bid price.

(3) For goods, services, and capital improvement, design, and maintenance projects with an expected value of $5,000 to $200,000, the Executive Director shall:

(i) Advertise the solicitation in a local newspaper and on the Somerset County website;

(ii) Issue invitations for bids to all known prospective vendors;

(iii) Tabulate and evaluate the bids;

(iv) Select for award the responsible bidder who submits the responsive bid that is the lowest bid price; and

(v) Submit the proposed award to the Commission for review and approval.

(4) The Executive Director shall procure goods, services, and capital improvement, design, and maintenance projects with an expected value exceeding $200,000 in accordance with Division II of the State Finance and Procurement Article.

(5) For goods, services, and capital improvement, design, and maintenance projects funded by the proceeds from State bonds, the Executive

Director shall submit the proposed award to the Board of Public Works for approval.

(6) For an emergency procurement that the Executive Director determines to be necessary to avoid or mitigate serious damage to public health, safety, or welfare, the Executive Director shall:

(i) Obtain as much competition as possible under the circumstances; and

(ii) After awarding the procurement contract, submit to the Commission and the Secretary a written report that gives the justification for the use of the emergency procurement procedure.

(7) The Executive Director shall adopt a procurement policy that includes provisions for minority– and women–owned business participation.

(8) This subsection does not apply to procurement in support of enterprise activities for the purpose of direct resale or remanufacture and subsequent resale.

(g) (1) The Commission shall:

(i) Adopt an operating budget to use the Fund to implement the master plan;

(ii) Adopt a capital budget that may use funds from Somerset County, the City of Crisfield, the State, and other sources to implement the master plan;

(iii) 1. Apply for grants from the Waterway Improvement Fund in accordance with Title 8, Subtitle 7 of this article; and

2. Subject to the Secretary's approval, receive approved grant amounts at the time of acceptance of a bid or bids for waterway improvement work;

(iv) Assess slip and other fees and charges at Somers Cove Marina as necessary in order to implement the master plan;

(v) Set policy and provide general oversight of marina operations; and

(vi) Adopt rules and regulations necessary for the conduct of its own affairs.

(2) The Commission may:

(i) Accept gifts, contributions, or loans of money, supplies, goods, and services, and accept appropriations, allotments, and loans of money from:

1. The State or federal government;

2. A federal corporation;

3. A unit or instrumentality of the federal government; or

4. A political subdivision or instrumentality of the State;

(ii) Exercise a power usually possessed by a private corporation in performing similar functions unless to do so would conflict with State law; and

(iii) Do all things necessary to carry out the mandates and powers expressly provided by this section.

(h) There is a Somers Cove Marina Improvement Fund in the Commission, to be used for the operation, maintenance, development, and improvement of the Somers Cove Marina facilities in Crisfield, Maryland.

(i) Any money obtained by the Commission from Somers Cove Marina shall be credited to the Fund.

(j) (1) The Commission shall:

(i) Maintain the Fund in a bank account separate from State funds;

(ii) Transfer any unencumbered moneys in the Fund run by the Department to the Commission's Fund; and

(iii) Reimburse the State for the salary of the marina manager.

(2) Moneys of the Fund are:

(i) Not moneys of the State within the meaning of Article VI of the Maryland Constitution; and

(ii) Subject to audit by the State, including the Department and the Legislative Auditor.

(3) Moneys pledged for use by the State for Somers Cove Marina before the creation of the Commission shall be used for the same purpose as originally pledged.

(k) On or before October 1 of each year, the Commission shall provide to the Department an accounting of revenues and expenses from Somers Cove Marina for the previous fiscal year.

(l) (1) On November 1, 2011, the Department and the Commission shall begin to evaluate the Commission's work so that the Department and the Commission may make findings and recommendations concerning the Commission's ability to:

(i) Operate, maintain, develop, and improve Somers Cove Marina in an effective manner; and

(ii) Afford or assume the costs of operating, maintaining, developing, and improving Somers Cove Marina, including the salaries of:

1. The Executive Director; and

2. Employees of the State who remain working at Somers Cove Marina.

(2) On November 1, 2013, based on the evaluation undertaken in accordance with paragraph (1) of this subsection, the Department and the Commission shall report their findings and recommendations, in accordance with § 2–1246 of the State Government Article, to the General Assembly.

§5–909.

(a) In this section, "Fund" means the Natural Resources Property Maintenance Fund.

(b) The Natural Resources Property Maintenance Fund is created within the Department to be used for the maintenance, repair, and management of property owned by the Department.

(c) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(3) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

§5–910.

The State may not acquire a tract of land in Allegany County of over 100 acres for preservation of open spaces unless the County Commissioners of Allegany County approve the purchase. This requirement does not apply to open space and outdoor recreation areas which have previously been authorized for acquisition by the legislature.

§5–9A–01.

(a) The General Assembly declares that:

(1) Sprawl development and other modifications to the landscape in Maryland continue at an alarming rate, consuming land rich in natural resource, agricultural, and forestry value, adversely affecting water quality, wetlands and habitat, threatening resource-based economies and cultural assets, and rending the fabric of rural life;

(2) Current State, county, and local land conservation programs help to limit the effect of sprawl development but lack sufficient funding and focus to preserve key areas before escalating land values make their protection impossible or the land is lost to development; and

(3) A grant program that leverages available funding, focuses on preservation of strategic resources, including those resources threatened by sprawl development, streamlines real property acquisition procedures to expedite land preservation, takes advantage of innovative preservation techniques such as transferable development rights and the purchase of development rights, and promotes a greater level of natural and environmental resources protection than is provided by existing efforts, will establish a rural legacy for future generations.

(b) (1) A Rural Legacy Program is established to enhance natural resource, agricultural, forestry, and environmental protection as provided in subsection (a) of this section while maintaining the viability of resource-based land usage and proper management of tillable and wooded areas through accepted agricultural and silvicultural practices for farm production and timber harvests.

(2) The Program provides funds to the local governments and land trusts to purchase interests in real property from willing sellers, including easements, transferable development rights, and fee estates, focused in designated Rural Legacy Areas.

(3) The Program shall encourage partnerships among the federal, State, and local governments, and nonprofit land trust organizations and encourage local land conservation initiatives.

(4) The Program is administered by a Rural Legacy Board in the Department of Natural Resources, an advisory committee, and existing State staff.

(c) The Program is funded:

(1) Pursuant to § 13-209 of the Tax - Property Article and § 5-903(a)(2)(iii) of this title; and

(2) By the proceeds from the sale of general obligation bonds as provided in § 5-9A-09 of this subtitle.

(d) When negotiating and awarding grants, the Board shall encourage sponsors to utilize zero coupon bonds in the implementation of the Rural Legacy Plan in order to reduce the utilization of general obligation bonds in funding the grants.

§5–9A–02.

(a) In this subtitle the following words have the meanings indicated.

(b) "Application" means an application to the Rural Legacy Board to designate

a Rural Legacy Area.

(c) "Board" means the Rural Legacy Board.

(d) "BPW" means the Maryland State Board of Public Works.

(e) "Grant agreement" means an agreement between the Board and a sponsor to implement a Rural Legacy Plan in a designated Rural Legacy Area.

(f) "Land trust" means a qualified conservation organization that:

(1) Is a qualified organization under § 170(h)(3) of the Internal Revenue Code and regulations adopted under § 170(h)(3); and

(2) Has executed a cooperative agreement with the Maryland Environmental Trust.

(g) "Priority funding area" means an area designated as a priority funding area under § 5-7B-02 of the State Finance and Procurement Article.

(h) "Program" means the Rural Legacy Program established by this subtitle.

(i) "Rural Legacy Area" means a region within or outside a metropolitan area designated by the Board as rich in a multiple of agricultural, forestry, natural, and cultural resources.

(j) "Rural Legacy Plan" means a plan accepted by the Board for acquisition of easements and fee interests in Rural Legacy Areas.

(k) "Sponsor" means a local government, group of local governments, or a land trust.

§5–9A–03.

(a) There is a Rural Legacy Board established in the Department of Natural Resources to administer the Rural Legacy Program.

(b) The Board consists of the following members:

(1) The Secretary of Agriculture;

(2) The Secretary of Natural Resources; and

(3) The Secretary of the Department of Planning.

(c) The Secretary of Natural Resources shall serve as Chairman of the Board.

(d) (1) The Department of Natural Resources shall provide staff to the Board.

(2) The Department of Agriculture and the Department of Planning may provide additional staff.

§5–9A–04.

(a) The Board has and may exercise all powers necessary to carry out the purposes of this subtitle.

(b) (1) The Board may adopt regulations to implement the purposes of this subtitle, including procedures for expediting acquisitions and purchasing and selling transferable development rights and using the proceeds related to purchasing and selling transferable development rights in accordance with this subtitle and local law.

(2) The authority granted under this subsection may not be construed to permit adoption of a regulation applicable to land that is not subject to an easement under this subtitle.

(c) (1) The Board shall establish a method for appraisal of real property interests acquired under this subtitle.

(2) Any method for appraisal established by the Board may not include a value for any resource used or reserved by the owner for private economic benefit.

(d) The Board and sponsors may enter into agreements with other governmental agencies, including the Maryland Agricultural Land Preservation Foundation and the Maryland Environmental Trust, for the purpose of establishing partnerships to carry out this Program.

§5–9A–05.

(a) A sponsor may file an application to designate a Rural Legacy Area in accordance with a schedule established by the Board. A local government may not apply for or approve an application for a Rural Legacy Area designation inside another jurisdiction's boundaries without that jurisdiction's approval.

(b) (1) The application shall describe the proposed Rural Legacy Area, include a Rural Legacy Area Plan, identify existing protected lands, state the anticipated level of initial landowner participation in the Program and the amount of the grant requested, and comply with the criteria set forth below.

(2) To qualify for additional funds appropriated above the level appropriated in fiscal year 2000 as provided for in § 12-1007(d) of the Public Safety Article, an application shall include a certification that the local jurisdiction has not adopted any local amendments to the Maryland Building Rehabilitation Code.

(c) The Board shall evaluate and compare applications in accordance with the following criteria in order to select those that best carry forward the goals and objectives of the Program set forth in § 5-9A-01 of this subtitle:

(1) The significance of the agricultural, forestry, and natural resources proposed for protection, including:

(i) The degree to which proposed fee or easement purchases will protect the location, proximity, and size of contiguous blocks of lands, green belts or greenways, or agricultural, forestry, or natural resource corridors;

(ii) The nature, size, and importance of the land area to be protected, such as farmland, forests, wetlands, wildlife habitat and plant species, vegetative buffers, or bay or waterfront access; and

(iii) The quality and public or economic value of the land;

(2) The degree of threat to the resources and character of the area proposed for preservation, as reflected by patterns and trends of development and landscape modifications in and surrounding the proposed Rural Legacy Area;

(3) The significance and extent of the cultural resources proposed for protection through fee simple purchases, including the importance of historic sites and significant archaeological areas;

(4) The economic value of the resource-based industries or services proposed for protection through land conservation, such as agriculture, forestry, recreation, and tourism;

(5) The overall quality and completeness of the Rural Legacy Plan, including:

(i) The degree to which existing planning, zoning, and growth management policies contribute to land conservation and the protection of cultural resources;

(ii) The degree to which the proposed plan is consistent with the applicable local comprehensive plan, including protection of sensitive areas and mineral resources;

(iii) How well existing or new conservation programs are coordinated with the proposed acquisition plan;

(iv) How well the plan will maximize acquisition of real property interests in contiguous blocks of land within the Rural Legacy Area while providing for protection of isolated acquisitions important to the plan;

(v) Provisions for protection of resources, such as voluntarily granted or purchased easements, fee estate purchases, or gifts of lands;

(vi) How the sponsor plans to manage, prioritize, and sequence easement and land acquisitions;

(vii) Methodology for prioritizing and valuing or appraising easements;

(viii) Proposed titleholders for easement or fee estate acquisitions; and

(ix) The quality of the proposed stewardship program for holding and monitoring of easement restrictions in perpetuity;

(6) The strength and quality of partnerships created for land conservation among federal, State, and local governments and land trusts for implementing the plan, including:

(i) Financial support;

(ii) Dedication of staff and resources; and

(iii) Commitment to and development of local land conservation policies, such as changes in zoning and use of transferable development rights;

(7) The extent to which federal or other grant programs will serve as a funding match; and

(8) A sponsor's ability to carry out the proposed Rural Legacy Plan and the goals and objectives of the Program.

(d) The Board:

(1) Shall review applications and may request additional information from a sponsor;

(2) Shall submit applications to appropriate State agencies and to the advisory committee established by this subtitle and consider any recommendations made regarding the applications; and

(3) May negotiate the terms of an application and proposed Rural Legacy Area and plan with a sponsor.

(e) (1) A sponsor shall assure adequate public participation in the development of an application and provide the Board with a summary of that participation.

(2) (i) If an application proposes a Rural Legacy Area be located within 1 mile of the boundary of a municipal corporation, the municipal corporation shall have 45 days to review and comment on the application before the application is submitted to the Board.

(ii) The sponsor shall submit to the Board with the completed application a summary of the comments from the municipal corporation.

(f) (1) A land trust shall consult with a local government prior to filing an application.

(2) The Board may not approve or amend an application without local government approval.

(g) The right of public access may not be required under a conservation easement.

(h) A land trust may not hold exclusive title to real property interests acquired under this subtitle.

(i) An easement acquired under this subtitle is perpetual and may not be extinguished or released.

(j) (1) With the approval of a landowner, funds under this Program may be used to purchase a development right as part of an easement or fee estate acquisition. A development right shall be held by the titleholder and the Board and may be sold only within the same jurisdiction pursuant to local law.

(2) In a county with a locally adopted transferable development rights program and with the approval of the county, funds under this Program may be used to purchase transferable development rights in the county in accordance with the locally adopted transferable development rights program.

(3) The right to resell the development right shall be stated in the instrument of purchase.

(4) The Rural Legacy Board shall maintain records concerning:

(i) Real property from which transferable development rights are purchased; and

(ii) Real property to which rights are resold and transferred.

(5) The county shall provide to the Board information relating to the records required in paragraph (4) of this subsection.

(6) Transferable development rights may be resold only to owners or option purchasers of real property located in priority funding areas, including municipalities, within the county in which the rights were purchased.

(7) (i) The proceeds associated with the resale of transferable development rights shall be distributed only as described in this paragraph.

(ii) Fifty percent of the proceeds shall be used by the local government in which the development using transferable development rights is located to fund capital projects in the county or municipal corporation which is

receiving transferable development rights. Funds shall be distributed to the municipal corporation if the receiving area is within the corporate limits of a municipal corporation.

(iii) Fifty percent of the proceeds shall be returned to the Rural Legacy Program for use in the county in which the proceeds were generated.

(iv) Proceeds may not be used for operating expenses.

(k) All easement acquisitions must be recorded among the land records where the real property is located.

(l) State or local condemnation authority may not be used to acquire real property interests under this Program.

(m) Funds may be used for the protection of historic sites or significant archeological areas that otherwise meet the goals of this Program only if the sponsor is acquiring real property interests through a fee simple purchase.

(n) A land or mineral owner who participates in this Program may reserve mineral rights for extraction in accordance with applicable law and the terms of the easement or fee acquisition.

(o) In its determination under subsection (c) of this section, the Rural Legacy Board may not make its determination solely on the basis of whether a county has adopted a transferable development rights program authorizing Rural Legacy Board purchases and sales of transferable development rights.

§5–9A–06.

(a) The Board may designate a Rural Legacy Area and accept a Rural Legacy Plan in accordance with the criteria set forth in this subtitle and the overall goals and objectives of the Program.

(b) (1) The Board may award a grant to a sponsor of a designated Rural Legacy Area in an amount determined by the Board and pursuant to the terms of a grant agreement.

(2) A portion of the grant may be used to pay for:

(i) Administrative costs, not to exceed 3% of the grant amount; and

(ii) Program compliance costs for monitoring easements, as stated in the grant agreement.

(3) The Board may establish time limitations on the use of grant funds.

(c) (1) The Board's actions in subsections (a) and (b) of this section are subject

to approval by the Board of Public Works.

(2) BPW approval encumbers the grant funds.

(d) The Board shall encourage local governments to reflect rural legacy plans in their comprehensive land use plans as updated and revised.

§5–9A–07.

(a) The Board and the sponsor of a designated Rural Legacy Area shall execute a grant agreement.

(b) The sponsor shall comply with the terms of the grant agreement, carry out the Rural Legacy Plan, and adhere to regulations adopted by the Board.

(c) If a sponsor violates any provision of the grant agreement or ceases to meet the requirements of this subtitle, the Board may exercise any remedy provided by the agreement or by law.

(d) (1) The sponsor shall submit to the Board for approval contracts for easement or fee estate acquisitions.

(2) The Board may accept a contract subject to approval by the Board of Public Works.

(e) Upon BPW approval, the State shall pay the sponsor for the acquisition.

(f) The sponsor shall submit an annual report to the Rural Legacy Board.

(g) The Board shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly before November 1 of each year on:

(1) The financial status of the Program for the preceding fiscal year, including the amount of grants encumbered and disbursed;

(2) The number of applications received;

(3) The number and location of Rural Legacy Areas designated; and

(4) The Program's progress in contributing to land preservation efforts.

§5–9A–08.

(a) (1) There is an Advisory Committee to the Board in the Department of Natural Resources.

(2) The Committee is established to review applications for Rural Legacy Areas, make recommendations for Rural Legacy Area designations to the Board, and consider such other matters as requested by the Board.

(b) The Committee has 11 members as follows:

(1) A trustee of the Maryland Agricultural Land Preservation Foundation;

(2) A trustee of the Maryland Environmental Trust;

(3) A representative of the agriculture industry;

(4) A representative of a nonprofit land conservation organization;

(5) A representative of a nonprofit environmental organization;

(6) A representative of the forest industry;

(7) A representative of a county government department of parks and recreation;

(8) A representative of a business organization;

(9) A private land owner;

(10) A representative of the mineral resources industry; and

(11) A representative of a municipal corporation.

(c) (1) Committee members are appointed by the Governor with the advice and consent of the Senate.

(2) The terms of members are staggered as required by the terms provided for members of the Committee on July 1, 1997.

(3) The Governor shall solicit nominees from industries and groups which are represented on the Committee.

(4) The members shall represent geographically and ethnically diverse areas.

(d) (1) The term of membership is 3 years.

(2) A person may not serve more than two consecutive terms.

(e) The Governor shall designate the chairperson of the Committee.

(f) The Department of Natural Resources, in cooperation with the Department of Agriculture and the Department of Planning, shall provide staff support for the Committee.

§5–9A–09.

The Governor shall include in the annual capital budget an amount not less than $5 million for this Program.

§5–9B–01.

(a) In this subtitle the following words have the meanings indicated.

(b) "Application" means an application by a local government to the Board of Public Works to fund the purchase of an interest in real property under a local land preservation program.

(c) "Program" means a local land preservation program established in accordance with this subtitle.

(d) "Sponsor" means a local government.

§5–9B–02.

(a) The General Assembly declares that:

(1) It is State public policy to improve, conserve, and manage the quality of the waters of the State and protect, maintain, and improve the quality of water for public supplies, propagation of wildlife, fish and aquatic life, and domestic, agricultural, industrial, recreational, and other legitimate beneficial uses;

(2) It is also the policy of the State to preserve valuable open space in its natural, agricultural, or forestry use, which will not only help contain sprawl development but will also improve the water quality of the Chesapeake Bay and its tributaries by limiting point and nonpoint sources of pollution and help meet a goal of the Chesapeake Bay agreement permanently to protect 20% of the Chesapeake Bay watershed by 2010;

(3) The promotion of water quality in this State is closely related to the promotion of land preservation, requiring integration and coordination of the planning for the development and use of the water and associated land resources and inviting innovative solutions for protection of watersheds, including acquisition of land and easements for water quality protection and preservation of natural resources; and

(4) New funding sources designed to improve water quality and land preservation should be made available in the form of matching grants to local governments so as to leverage and fully utilize all available moneys and create incentives that will encourage local governments to develop their own funding for water quality protection and land conservation and preservation projects.

(b) (1) A county or municipal corporation may adopt a local land preservation program to enhance natural resource, agricultural, forestry, and environmental

protection and park and recreational uses as provided in subsection (a) of this section while maintaining the viability of resource-based land usage and proper management of tillable and wooded areas through accepted agricultural and silvicultural practices for farm production and timber harvests.

(2) A program shall provide funds to the local government units to purchase interests in real property from willing sellers, including easements, transferable development rights, and fee estates.

(3) A program shall encourage partnerships among the federal, State, and local governments, and nonprofit land trust organizations and encourage local land conservation initiatives.

(4) Each program shall be administered in accordance with local law adopted under the authority of this subtitle.

(c) (1) A program shall be funded by a continuing, dedicated, and clearly identified local or private funding source, not derived from State funds, that is adopted in accordance with State or local law. Funding under the program may not be used by the local government to supplant existing or planned local funds dedicated to land preservation.

(2) Subject to availability of funds under § 5-9B-05 of this subtitle, a program shall also be eligible for State funding each year that equally matches locally provided funding.

(3) Commencement of State funding under paragraph (2) of this subsection is also subject to the attainment of a specified number of counties participating and a specified population of participating counties.

(d) The local governing body may adopt regulations to implement a local land preservation program under this subtitle, including procedures for expediting acquisitions and purchasing and selling transferable development rights and using the proceeds related to purchasing and selling transferable development rights in accordance with local law.

(e) (1) The local governing body shall establish a method acceptable to the Department for appraising the value of conservation easements acquired under this subtitle. The local governing body shall use the method used by the county under Program Open Space for appraising fee simple interests in property acquired under this subtitle.

(2) Any method for appraisal established by a local governing body may not include a value for any resource used or reserved by the owner for private economic benefit.

(f) A local governing body may enter into agreements with other governmental units, including the Rural Legacy Board, the Maryland Agricultural Land Preservation

Foundation, and the Maryland Environmental Trust, for the purpose of establishing partnerships to carry out a local land preservation program.

§5–9B–03.

(a) The sponsor shall submit applications to appropriate State and local units and consider any recommendations made regarding the applications.

(b) An easement acquired under this subtitle is perpetual and may not be extinguished or released.

(c) (1) In a county with a locally adopted transferable development rights program and with the approval of the county, funds under a program may be used to purchase transferable development rights in the county in accordance with the locally adopted transferable development rights program.

(2) The right to resell the development right, if any, shall be stated in the instrument of purchase.

(3) Transferable development rights may be resold only to owners or option purchasers of real property located in priority funding areas, including municipal corporations, within the county in which the rights were purchased.

(d) All easement acquisitions must be recorded among the land records where the real property is located.

§5–9B–04.

(a) A sponsor that applies for funding to implement a local land preservation program under this subtitle shall:

(1) Develop a plan to guide the conservation of property in the jurisdiction under the program;

(2) Ensure that each application is consistent with the approved local land preservation and recreation plan for the county, to guide the acquisition of property interests listed in the application; and

(3) Submit the application, description of properties and easements to be acquired, together with a description of consistency with the plan and any conditions placed on the conveyance of the property, to the Department of Natural Resources for review.

(b) A sponsor may satisfy the requirements of subsection (a)(1) of this section with materials developed under or in conjunction with:

(1) The comprehensive plan for the jurisdiction reviewed and revised under § 1–416 or § 3–303 of the Land Use Article;

(2) The local land preservation and recreation plan under § 5–905 of this title;

(3) An approved local agricultural land preservation program under § 2–512 of the Agriculture Article, for the Maryland Agricultural Land Preservation Program;

(4) An approved annual program submitted by the sponsor under Program Open Space;

(5) An approved rural legacy area and grant agreement under the Rural Legacy Program under Subtitle 9A of this title;

(6) The GreenPrint Program under Subtitle 15A of this title; or

(7) Another acquisition plan prepared by, jointly funded, or accepted by the Department for the protection of local or State land preservation or recreational goals.

§5–9B–05.

(a) A sponsor may submit funding requests for acquisition of property under its local land preservation program to the Department of Natural Resources for evaluation and submission to the Board of Public Works under this section.

(b) The Department shall:

(1) Review local programs and applications for funding submitted by sponsors for consistency with the local plans under § 5-9B-04(a) of this subtitle;

(2) Submit applications reviewed under paragraph (1) of this subsection to the Board of Public Works for funding, along with the Department's recommendation on the application; and

(3) Coordinate applications received with available remaining funding.

(c) (1) Applications for funding under this section in a fiscal year shall be received at a date determined by the Department and reviewed using criteria established by the Department under § 5-9B-06(a)(2) of this subtitle.

(2) Applications recommended for approval by the Department shall be forwarded to the Board of Public Works with a favorable recommendation in accordance with the criteria.

§5–9B–06.

(a) The Department of Natural Resources shall:

(1) Provide technical support and assistance to local governments in the

development of local land preservation programs, including mapping, and identification of smaller parcels that may be aggregated for protection under local land preservation programs;

(2) Adopt criteria for distributing available State funding to local land preservation programs in accordance with the purposes of this subtitle;

(3) Assist sponsors to coordinate land preservation efforts in their regions under local land preservation and recreation plans with related efforts under Program Open Space, the Rural Legacy Program, the Heritage Area Program, the Agricultural Land Preservation Program, and the GreenPrint Program; and

(4) Consult with other federal, State, and local units and private land trusts in order to facilitate conservation efforts under this subtitle.

(b) The purposes of the criteria adopted under subsection (a) of this section include:

(1) Preservation of open space;

(2) Containment of sprawl development; and

(3) Improvement of water quality in the Chesapeake Bay and other watersheds of the State.

(c) The criteria shall be based on:

(1) The current population of participating jurisdictions and adjacent areas;

(2) Projected population growth in those areas;

(3) The sensitivity of surface and ground waters in and derived from those areas to degradation from point and nonpoint source pollution; and

(4) Giving higher priority to applications for the protection of lands and land uses that provide the highest level of protection for water quality.

(d) The criteria shall be used at the start of each fiscal year to allocate funding available to local programs in participating local governments in order to provide for appropriate and timely deliberation and review of eligible proposals for acquisition by each participating local government.

(e) The Department may initially establish allocations of available funding based on the funding that is made available to each participating local government under Program Open Space in the same proportion that the local government receives Program Open Space funding in relation to the Program Open Space allocations of all participating local governments.

§5–9C–01.

In this subtitle, "Program" means the Community Parks and Playgrounds Program.

§5–9C–02.

(a) The General Assembly declares that:

(1) It is State public policy to both restore existing park and green space systems and create new park and green space systems in the municipal corporations of the State and Baltimore City; and

(2) Funding sources in the form of flexible grants shall be made available to the governing bodies of municipal corporations and Baltimore City to:

(i) Rehabilitate, expand, improve, or maintain existing parks;

(ii) Purchase land to create new parks;

(iii) Develop new parks;

(iv) Purchase and install playground equipment in urban neighborhoods and rural areas throughout the State; or

(v) Be used for environmentally oriented parks and recreation projects.

(b) (1) There is a Community Parks and Playgrounds Program to provide flexible grants to the governing bodies of municipal corporations and Baltimore City for the purposes set forth in subsection (a) of this section.

(2) The Department's Program Open Space shall administer the Program.

(c) The Secretary shall adopt regulations to carry out this subtitle.

§5–9C–03.

The Program may be funded:

(1) From the General Fund of the State; and

(2) By the proceeds from the sale of State general obligation bonds.

§5–1001.

(a) The Department having acquired the land, rights-of-way, and easements for the purpose of protecting and maintaining a walking trail across the State, now generally known as the Appalachian Trail, may provide shelters and other facilities on

it. Any unit of the State, or any political subdivision, may transfer to the Department land or rights in land for these purposes, on terms and conditions agreed upon, or enter into an agreement with the Department providing for establishment and protection of the trail. The Department may enter into cooperative agreements with agencies of the federal government or private organizations to provide for the maintenance of the trail.

(b) The trail shall be held, developed, and administered primarily as a footpath and its natural scenic beauty preserved as far as feasible. However, the Department may permit other uses of the trail and associated land acquired by the State, by the owner of adjoining land, or others, in a manner and at seasons as will not substantially interfere with primary use of the trail.

(c) This section does not limit the right of the public to pass over any existing public road which is a part of the trail, nor prevent the Department from performing work necessary for forest fire prevention and control, pest and disease control, and removal of damage caused by natural disaster. The Department may grant temporary or permanent rights-of-way across lands acquired under this section under terms and conditions deemed advisable. No person who has granted a right-of-way for the trail across his land, or his successor in title, is liable to any user of the trail for injuries suffered on that portion of the trail unless the injuries were caused by the willful or wanton misconduct of the person, or his successor in title, who has been granted a right-of-way.

§5–1002.

Gathland State Park, in Frederick and Washington counties, shall be developed by the State for purposes of public education and recreation, as funds are available.

§5–1003.

The lands between the mud flats at Brooklyn and the Liberty Reservoir on either side of the Patapsco River, in Anne Arundel, Carroll, Howard, and Baltimore counties, within a distance of 1 mile on either side from the medial line of the river, or either of its branches, having been purchased by the State, shall be held by the State as a State park under the protection and administration of the Department which shall exercise the same power of making rules and regulations and managing the land as any other State park. The territory acquired is subject to all the general laws passed by the legislature not inconsistent with this section.

§5–1004.

(a) (1) The lands between Viers Mill Road and Georgia Avenue described in the 1980 Highway Needs Inventory as the right-of-way reserved for the Rockville facility in Montgomery County, being owned by the State, shall be:

(i) Designated as the Matthew Henson State Park; and

(ii) Held by the State as a State park under the protection and

administration of the Department.

(2) Matthew Henson State Park shall also include:

(i) The land identified in the Aspen Hill Master Plan as Significant Parcel 13, with the exception of any land that was the subject of a lease between any person and an agency of the State government on or before June 5, 2002; and

(ii) The State-owned land bordering on the northeast portion of Significant Parcel 13 in the Aspen Hill Master Plan.

(3) Except as provided in subsection (c) of this section, the Department shall exercise the same power of adopting regulations and managing Matthew Henson State Park as is done for any other State park.

(b) (1) Any land acquired under subsection (a) of this section is subject to all of the public general laws enacted by the General Assembly that are not inconsistent with this section. However, the provisions of this section prevail over any other State law enacted before July 1, 1989.

(2) If specifically authorized by an act of the General Assembly, a part of the Matthew Henson State Park may be used for transportation purposes.

(c) (1) Subject to the availability of local, State, or federal funds, including any necessary matching funds, and subject to the provisions of paragraph (2) of this subsection:

(i) A hiker/biker or other recreational trail may be constructed within Matthew Henson State Park; and

(ii) A public pavilion, named in honor of Senator Idamae Garrott, may be constructed within Matthew Henson State Park.

(2) Prior to the construction of a hiker/biker or other recreational trail or pavilion in Matthew Henson State Park, the Department of Natural Resources or other appropriate governmental agency shall:

(i) Review all studies concerning the environmental impact and trail alignment options prepared for the Montgomery County Planning Board;

(ii) Determine that construction, including the location and method of construction, is consistent with the environmentally sensitive nature of the Park and is in the public interest; and

(iii) Obtain the approval of the Montgomery County Planning Board, the Montgomery County Council, and the County Executive.

§5–1005.

(a) The 1,310 acres of land in Baltimore County delineated on maps filed in the office of the Secretary as Black Marsh, being owned by the State shall be:

(1) Designated as the North Point State Park; and

(2) Held by the State as a State park under the protection and administration of the Department.

(b) Any use that may occur in the North Point State Park shall be subject to all applicable laws, including the applicable sections of the Critical Areas Law under Title 8, Subtitle 18 of this article.

(c) If the Department uses pest management controls in the North Point State Park, it shall give priority consideration to the use of natural controls as an alternative to other pest management controls.

§5–1006.

The tract of land in Washington County on which is situated Old Fort Frederick, together with other additional land adjacent thereto which has been acquired by the State is under the control of the Department, and shall be used in the execution of those plans adopted by it for reforestation of the State.

§5–1007.

The Department may accept the use of land to be used for auxiliary State forest reserves and enter into agreements with the owners as necessary. The land is subject to all laws, rules, and regulations governing State forest reserves. However, no money appropriated to the Department may be used or expended on auxiliary State forests for permanent improvements or for any purpose other than supervision, opening of trails, the building of temporary structures to make the land available for campers and visitors, and protection of the land from fire and trespass.

§5–1008.

Notwithstanding any law or regulation to the contrary, youth groups registered with the Secretary shall be admitted to any Maryland State park free of any admission or overnight camping charge. This exemption shall apply only when the group is participating in official activities under adult supervision. For the purpose of this section, "youth group" includes, but is not limited to, boy scouts, girl scouts, 4-H members, and other affiliated groups. The Secretary may restrict admittance under this section when a given park is being used to capacity by the public.

§5–1009.

A person 62 years old or older who possesses a Maryland Golden Age Pass, issued

by the Maryland Park Service, may camp overnight in any State park at one-half of the established fee Monday through Thursday, excluding holidays.

§5–1010.

(a) The General Assembly finds that:

(1) In order to provide the public with access to the use, enjoyment, and appreciation of the outdoor areas of Maryland, it is declared to be the public policy of this State to provide the means and procedures for establishing and expanding a network of recreational and scenic trails;

(2) Abandoned railroad corridor property is a unique source of land corridors that are, in many cases, suitable for recreational trails;

(3) Railroad corridor property is being abandoned at a high rate and is often sold in segments, thereby fragmenting the original corridors and leaving unconnected segments which may be suitable for acquisition for recreational trail use;

(4) The preservation of abandoned rail corridor property for use as recreational trails is in the public interest; and

(5) A systematic and continuing statewide program of acquiring abandoned railroad corridor property is needed to preserve this unique and irreplaceable source of recreational trails.

(b) (1) The Department shall maintain liaison with, provide factual data to, and work with the Department of Transportation, the State Railroad Administration, the Department of Planning, other agencies, and local governments to determine the suitability for trail purposes of railroad corridor property proposed for abandonment.

(2) The Department may conduct feasibility studies and appraisals of railroad corridor property proposed for abandonment.

(3) The Department may acquire railroad corridors pursuant to the National Trails Systems Act, 16 U.S.C. § 1241 et seq., as amended.

(c) (1) If, under the provisions of § 7-901 of the Transportation Article, the Department of Transportation acquires railroad corridor property considered suitable for use as recreational trails, the Department may request interim use of the property for public recreational use.

(2) The Department may lease a corridor from the Department of Transportation and sublease it to a local government subject to all the terms and conditions of the original lease.

(3) Any lease of railroad corridor property by the Department for interim use for public recreation shall be subject to restoration or reconstruction for railroad

purposes, and the interim use may not be considered as an abandonment of the use of the railroad corridor for railroad purposes.

(4) Prior to undertaking the development of a railroad corridor property for recreational use the Department shall conduct a public hearing in the affected county. The hearing shall be advertised in a newspaper of general circulation in the affected county for 3 consecutive weeks.

§5–1101.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Charge" means price or fee asked for services, entertainment, recreation performed, or products offered for sale on land or in return for invitation or permission to enter or go upon land.

(2) "Charge" does not include:

(i) The sharing of game, fish, or other products of recreational use;

(ii) Benefits to the land arising from the recreational use; or

(iii) Contributions in kind or services to promote the management or conservation of resources on the land.

(c) "Educational purpose" includes:

(1) Nature study;

(2) Farm visitations for purposes of learning about the farming operation;

(3) Practice judging of livestock, dairy cattle, poultry, other animals, agronomy crops, horticultural crops, or other farm products;

(4) Organized visits to farms by school children, 4–H clubs, FFA clubs, and others as part of their educational programs;

(5) Organized visits for purposes of participating in or observing historical reenactments as part of an educational or cultural program; and

(6) Observation of historical, archaeological, or scientific sites.

(d) (1) "Land" means land, roads, paths, trails, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to realty.

(2) "Land" does not include any structure or equipment provided by a unit of local government for the purpose of public recreation.

(e) "Off–highway vehicle" or "OHV" means a motor–assisted or motor–driven

vehicle that is:

(1) Designed for or capable of cross–country travel on or directly over land, snow, or other natural terrain; and

(2) Not intended for use on public roads.

(f) "Owner" means the owner of any estate or other interest in real property, whether possessory or nonpossessory, including the grantee of an easement.

(g) "Recreational purpose" means any recreational pursuit.

§5–1102.

(a) The purpose of this subtitle is to encourage any owner of land to make land, water, and airspace above the land and water areas available to the public for any recreational and educational purpose by limiting the owner's liability toward any person who enters on land, water, and airspace above the land and water areas for these purposes.

(b) This subtitle does not: (1) create a duty of care or ground of liability for injury to persons or property, (2) relieve any person using the land of another for any recreational or educational purpose from any obligation which he might have in the absence of this subtitle to exercise care in using the land and in his activities on the land, or from the legal consequences of his failure to employ care.

§5–1103.

Except as specifically recognized by or provided in § 5-1106 of this subtitle, an owner of land owes no duty of care to keep the premises safe for entry or use by others for any recreational or educational purpose, or to give any warning of a dangerous condition, use, structure, or activity on the premises to any person who enters on the land for these purposes.

§5–1104.

Except as specifically recognized by or provided in § 5-1106 of this subtitle, an owner of land who either directly or indirectly invites or permits without charge persons to use the property for any recreational or educational purpose or to cut firewood for personal use does not by this action:

(1) Extend any assurance that the premises are safe for any purpose;

(2) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed; or

(3) Assume responsibility for or incur liability as a result of any injury to the person or property caused by an act of omission of the person.

§5–1105.

Unless otherwise agreed in writing, the provisions of §§ 5–1103 and 5–1104 of this subtitle are applicable to any duty and liability of an owner of land leased to the State or any of its political subdivisions for any recreational or educational purpose.

§5–1105.1.

The provisions of §§ 5-1103 and 5-1104 of this subtitle are:

(1) Applicable to a unit of local government as an owner of land; and

(2) In addition to any other common law or statutory defenses or immunities available to a unit of local government or other owner.

§5–1106.

The provisions of this subtitle do not limit in any way any liability which otherwise exists for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity; or for injury suffered where the owner of the land charges the person who enters or goes on the land for recreational or educational use. However, if land is leased to the State or any of its political subdivisions, any consideration the owner receives for the lease is not a charge within the meaning of this section.

§5–1107.

Whenever the owner desires, he may post in conspicuous places notices informing the public that the land is private. The landowner, by written consent, may grant permission to enter on the land.

§5–1108.

(a) To facilitate a method of providing written consent, the Secretary shall distribute permission cards, to be available to the public and to landowners.

(b) One side of the card shall read:

PERMISSION TO ENTER

I hereby grant the person named on the reverse side permission to enter my property, subject to the terms of the agreement, on the following dates:

Signed _____

(Landowner)

(c) The reverse side shall read:

AGREEMENT

In return for the privilege of entering on the private property for any recreational or educational purpose as defined in the Natural Resources Article § 5-1101, I agree to adhere to every law, observe every safety precaution and practice, take every precaution against fire, and assume all responsibility and liability for my person and my property, while on the landowner's property.

Signed _____

§5–1109.

(a) If a landowner agrees to the use of a defined part of the landowner's real property for the use of cross–country skiing or for the use of an OHV, any person who uses the part of the real property impliedly consents to adhere to every law, to observe every safety precaution and practice, to take every precaution against fire, and to assume all responsibility and liability for the person's safety and property while cross–country skiing or using an OHV on the landowner's real property.

(b) The provisions of § 5–1108(b) and (c) of this subtitle apply when a landowner leases any defined part of the landowner's real property for the use of cross–country skiing or for the use of an OHV.

(c) The Department shall adopt regulations to permit cross–country skiing or OHV use on those defined parts of a landowner's real property on which cross–country skiing or OHV use is allowed under this section.

§5–1201.

(a) In this subtitle the following words have the meanings indicated.

(b) In this subtitle, "open space" or "open area" means any space or area characterized by great natural scenic beauty, or whose existing openness, natural condition, and present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or maintain or enhance the conservation of natural or scenic resources.

(c) "State wildlands" means wildlands owned by the State and includes the following three types:

Type 1. A primitive area which by its size or location is in effect untouched by urban civilization, and can offer the experience of solitude and self-reliance. Since lands at the higher elevations are important for protection of watersheds, are ecologically vulnerable if unwisely altered by human interference, and may be uneconomic for logging or construction, they may be suitable for this classification.

Type 2. A unit of importance for all the natural sciences, especially ecology, and with outstanding value for education, research, and appreciation of natural processes. Preservation in the desired natural condition is the prevailing purpose of these

holdings. Visitation shall be regulated to ensure this preservation on a permanent basis.

Type 3. An area which is not of ecological or primitive stature, but which has the appearance of being in an untouched natural state or is capable of attaining that appearance if held and managed for this purpose.

(d) "Wildlands" means limited areas of land or water which have retained their wilderness character, although not necessarily completely natural and undisturbed, or have rare or vanishing species of plant or animal life or similar features of interest worthy of preservation for use of present and future residents of the State. This may include unique ecological, geological, scenic, and contemplative recreational areas on State lands.

§5–1202.

(a) Acquisition of interests or rights in real property for preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced. Any county, city, the Maryland-National Capital Park and Planning Commission, and the Department may acquire, by purchase, any intervivos or testamentary gift, or lease, the fee or any lesser interest, or development right, necessary to achieve this end. Any county, city, the Maryland-National Capital Park and Planning Commission, and the Department also may purchase or acquire by contract or gift the fee to any property for the purpose of conveying or leasing the property back to its original owner or other person under covenants or other contractual arrangements which limit future use of the property in accordance with the purposes of this section. The county or city may not acquire any fee or any lesser interest in real property for these purposes by purchase or contract requiring a monetary consideration exceeding $500, unless the governing body of the county or city after a public hearing adopts a resolution or formal order declaring the public purpose or use. However, no owner whose property is being used for farming is subject to any condemnation or other land acquisition proceeding for the purposes of this section, by the county, city, Maryland-National Capital Park and Planning Commission, or the Department, if the owner has granted a scenic easement to the Department, Commission, or political subdivision.

(b) If any county, city, or the Maryland-National Capital Park and Planning Commission purchases open spaces and areas under the Outdoor Recreation Land Loan of 1968, the Board of Public Works shall pay a portion of the purchase cost if the Secretary has approved the acquisition and costs, and the acquisition complies with the provisions of the Outdoor Recreation Land Loan of 1968.

(c) (1) A landowner may offer a recreational access easement to the Department of Natural Resources and the Department may execute such an easement. The recreational access easements shall provide for access to all or a portion of the landowner's property for recreational activities. The terms of access (including but not limited to time, seasons, and the number of individuals), the location and amount of

land and water, and the type of permitted recreational activities, shall be specified by the landowner.

(2) The Department shall in executing a recreational access easement agreement consider the terms specified by the landowner and the unmet demands for specific recreation activities in the area.

(3) The value and content of the easement shall be by mutual agreement between the landowner and the Department and approved by the Board of Public Works. The Department may accept the easement by donation, however, if purchase is required. Funding shall be provided through Program Open Space as appropriated pursuant to § 5-903 of this title.

(4) A landowner's initial agreement shall be executed for a term of one year, and all extensions shall be executed for a period of not less than three years.

(5) Liability provisions of Subtitle 11 of this title shall be applicable to those lands for which recreational access easements have been contracted.

§5–1202.1.

For purposes of this subtitle, the Hart-Miller-Pleasure Island chain in Baltimore County is an open area.

§5–1202.2.

(a) In this section the following words have the meanings indicated.

(1) "Grantee in interest" means the Maryland Environmental Trust.

(2) "Spoil", "Baltimore County tributary spoil", "redeposit", and "Baltimore Harbor" have the meanings indicated in § 5-1101(a) of the Environment Article.

(b) Within 15 days after July 1, 1981 the State shall grant an easement to the Hart-Miller-Pleasure Island chain to the grantee in interest. The easement shall be for purposes consistent with the covenants required by this subsection and enforcement of these purposes.

(1) The grantee in interest shall covenant to allow the redeposit of spoil and the redeposit of Baltimore County tributary spoil to take place at the Hart-Miller-Pleasure Island chain, subject to the limitations provided in §§ 5-1101 through 5-1104 of the Environment Article;

(2) Where not inconsistent with the covenant described in paragraph (1) of this subsection, the grantee in interest shall covenant to preserve and maintain the Hart-Miller-Pleasure Island chain as an open area by prohibiting development except that which is necessary for proper recreational use and the construction of any dikes

necessary for the dumping of spoil;

(3) The grantee in interest shall covenant that if the Hart-Miller-Pleasure Island chain is ever used for purposes inconsistent with the preservation and maintenance of the island chain as an open area, or with any of the covenants described in this subsection, the easement shall cease;

(4) The grantee in interest shall covenant to allow the State to establish and maintain park and recreational facilities on the Hart-Miller-Pleasure Island chain and to assist the State in making these facilities available to the public for recreational and educational purposes;

(5) The grantee in interest shall covenant to allow the Hart-Miller-Pleasure Island Citizens Oversight Committee established under § 5-1104 of the Environment Article to:

(i) Monitor the redeposit of spoil and Baltimore County tributary spoil at the Hart-Miller-Pleasure Island chain in accordance with § 5-1104(c) of the Environment Article; and

(ii) Hear and dispose of complaints lodged by individuals affected by the redeposit of spoil and Baltimore County tributary spoil.

(6) The grantee in interest shall covenant that if, during the life of its easement to the Hart-Miller-Pleasure Island chain, the grantee in interest ceases to exist, the easement shall cease.

§5–1203.

(a) In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the State, leaving no lands designated for preservation and protection in their natural condition, it is the policy of the General Assembly to secure for the people of present and future generations the benefits of an enduring resource of State wildlands. For this purpose there is established a State wildlands preservation system composed of areas in the State designated by the General Assembly as "wildland areas". The wildland areas shall be administered for the use and enjoyment of the people of Maryland in a manner that will leave them unimpaired for the future use and enjoyment as wildlands, to provide for their protection, preservation of their wildland character, and for gathering and dissemination of information regarding their use and enjoyment as wildlands. A State land may not be designated as "wildland areas" except as provided for in this section or by a subsequent act.

(b) Pursuant to the provisions of subsection (a) of this section that property in Garrett County containing approximately 2,879 acres and described as follows is a Type 1 State wildland and shall be named the "Big Savage Mountain Wildland":

Beginning at a point, said point being the intersection of the south side of High

Rock Tower Road and a point located 200 feet west of the Big Savage Mountain Hiking Trail and running then in a generally southwest direction, 200 feet west of the Big Savage Mountain Hiking Trail to a point located at the waters of the Savage River Reservoir, then running generally in a northerly direction with the waters of the Savage River Reservoir, the Savage River and the existing Savage River State Forest boundary to a point of intersection of the Savage River and the southern margin of the right of way of Savage River Road and running then with the southern and eastern right of way of the Savage River Road to the Savage River State Forest boundary, then running along said boundary in an easterly direction to corner 533, then leaving the said Savage River State Forest boundary and running due east to a point on the eastern right of way of Westernport Road, then running along said right of way in an easterly and southern direction to a point of intersection with the Savage River State Forest boundary, then running with the said State forest boundary south 71 degrees 26 minutes east to corner 549, then running south 43 degrees 51 minutes west 142.34 feet more or less to corner 548, south 58 degrees 36 minutes west 369.37 feet more or less to corner 547, south 50 degrees 31 minutes west 891.50 feet more or less to corner 546, south 75 degrees 49 minutes west 561.89 feet more or less to corner 545, north 89 degrees 04 minutes west 802.50 feet more or less to corner 544, south 51 degrees 58 minutes west 689.27 feet more or less to corner 543, south 50 degrees 28 minutes east 263.62 feet more or less to corner 542, south 33 degrees 54 minutes west 2254.17 feet more or less to corner 541, south 55 degrees 15 minutes east 2120.20 feet more or less to corner 762, south 44 degrees 05 minutes west 2152.35 feet more or less to corner 543, south 34 degrees 04 minutes east 109.55 feet more or less to corner 760, north 65 degrees 00 minutes west 2346.20 feet more or less, south 33 degrees 06 minutes 36 seconds west 1155.00 feet more or less, south 33 degrees 06 minutes 36 seconds west 1155.00 feet more or less, south 67 degrees 45 minutes 07 seconds west 2310.00 feet more or less, south 35 degrees 45 minutes 15 seconds west 1814.05 feet more or less, south 64 degrees 58 minutes 32 seconds west 170.61 feet more or less, south 69 degrees 11 minutes 55 seconds west 309.12 feet more or less, south 52 degrees 13 minutes 20 seconds west 1485.37 feet more or less, south 28 degrees 22 minutes 40 seconds west 485.81 feet more or less, north 55 degrees 08 minutes 05 seconds west 1647.37 feet more or less, south 42 degrees 36 minutes 43 seconds west 1980.00 feet more or less, south 54 degrees 47 minutes 33 seconds west 1764.85 feet more or less, south 39 degrees 09 minutes 09 seconds west 881.58 feet more or less, south 43 degrees 00 minutes 42 seconds west 1874.10 feet more or less, north 31 degrees 05 minutes 39 seconds west 426.38 feet more or less, north 77 degrees 38 minutes 27 seconds east 127.57 feet more or less, north 02 degrees 35 minutes 21 seconds west 304.92 feet more or less, south 85 degrees 01 minutes 09 seconds west 99.69 feet more or less, north 12 degrees 50 minutes 27 seconds west 228.86 feet more or less, north 08 degrees 52 minutes 27 seconds west 294.03 feet more or less, north 14 degrees 47 minutes 17 seconds west 220.31 feet more or less, north 18 degrees 31 minutes 27 seconds west 581.85 feet more or less, north 22 degrees 23 minutes 34 seconds west 64.59 feet more or less, north 44 degrees 19 minutes 16 seconds west 47.15 feet more or less, north 56 degrees 11 minutes 54 seconds west 56.85 feet more or less, north 83 degrees 40 minutes 13 seconds west 59.71 feet more or less, south 82 degrees 39 minutes 44 seconds west 173.13 feet more or less, south 70 degrees 52 minutes 36 seconds west 230.44 feet more or less, south

68 degrees 49 minutes 26 seconds west 215.02 feet more or less, south 50 degrees 08 minutes 57 seconds west 57.56 feet more or less, south 10 degrees 11 minutes 09 seconds west 375.33 feet more or less, south 17 degrees 13 minutes 09 seconds west 159.93 feet more or less, south 59 degrees 02 minutes 20 seconds west 243.02 feet more or less, south 78 degrees 48 minutes 32 seconds west 362.31 feet more or less, south 53 degrees 24 minutes 39 seconds west 22.32 feet more or less, south 16 degrees 40 minutes 14 seconds west 203.65 feet more or less, south 22 degrees 10 minutes 00 seconds west 181.30 feet more or less, south 14 degrees 34 minutes 13 seconds west 109.41 feet more or less, south 10 degrees 30 minutes 48 seconds west 16.69 feet more or less, south 58 degrees 58 minutes 03 seconds west 1002.96 feet more or less, south 31 degrees 37 minutes 33 seconds west 554.57 feet more or less, south 31 degrees 37 minutes 33 seconds west 109.02 feet more or less, south 02 degrees 20 minutes 57 seconds west 168.04 feet more or less, south 27 degrees 19 minutes 33 seconds west 151.56 feet more or less, south 04 degrees 55 minutes 20 seconds west 80.66 feet more or less, south 60 degrees 24 minutes 56 seconds east 372.83 feet more or less, south 54 degrees 58 minutes 14 seconds west 360.83 feet more or less, south 59 degrees 53 minutes 31 seconds west 53.19 feet more or less, south 30 degrees 55 minutes 55 seconds west 500.38 feet more or less to a point, said point having the coordinate value 690973.93 north, 716355.17 east (Maryland State plane grid system NAD83), then running with the said State forest boundary south 42 degrees 50 minutes 49 seconds west 307.64 feet, south 43 degrees 44 minutes 44 seconds west 301.50 feet, north 43 degrees 14 minutes 23 seconds west 35.01 feet, south 46 degrees 32 minutes 42 seconds west 782.09 feet, south 68 degrees 44 minutes 44 seconds west 308.42 feet, south 57 degrees 47 minutes 05 seconds west 445.08 feet, south 57 degrees 47 minutes 05 seconds west 445.08 feet, north 89 degrees 12 minutes 55 seconds west 826.58 feet, south 79 degrees 47 minutes 05 seconds west 635.83 feet, south 17 degrees 40 minutes 41 seconds west 2937.00 feet, south 45 degrees 57 minutes 03 seconds east 1023.00 feet, north 89 degrees 02 minutes 57 seconds east 693.00 feet, north 47 degrees 02 minutes 57 seconds east 1386.00 feet, north 47 degrees 46 minutes 34 seconds east 800.00 feet, north 47 degrees 46 minutes 34 seconds west 1291.64 feet, north 49 degrees 13 minutes 30 seconds east 4692.22 feet to a planted stone marked "BP 129", said stone being corner 582, said point having the coordinate value 691489.38 north, 719880.96 east (Maryland State plane grid system NAD83) and then running, south 62 degrees 00 minutes east 1600.00 feet more or less, then running north 40 degrees 00 minutes east 200 feet more or less to a point lying 50 feet west of the High Rock Lookout Tower site, then circling the tower counterclockwise to the south no closer than 50 feet to the tower to a point east of the tower site and south of the existing High Rock Tower Road, and then running with the south side of the High Rock Tower Road to the point of beginning.

Saving and excepting the Potomac Edison transmission line that lies 1,500 feet more or less north of Warnick Point and runs in a southeasterly direction to intersect the Savage River State Forest boundary.

(b–1) Pursuant to the provisions of subsection (a) of this section, that property in Garrett County containing approximately 650 acres and described as follows is a Type 1 State wildland and shall be named the "High Rock Wildland":

Beginning at a stone marked "BP 129" and witnessed by a pipe stamped 582, said stone also being a corner of the Savage River State Forest boundary on the western slope of Big Savage Mountain and then running north 38 degrees 18 minutes east 3703.31 feet to a stone marked "BP 128" and witnessed by a pipe stamped 581 and then running north 54 degrees 23 minutes east 5500.00 feet more or less to a point on the southeast side of Pine Swamp Road, then running in a northeasterly direction along the southeast side of said road to the south side of its intersection with Westernport Road, then running with the southwest side of Westernport Road in a southeasterly direction 5400.00 feet more or less to a point on the 2700 foot contour line, then running generally with said contour line south 49 degrees west 3500.00 feet more or less to a point northeast of the High Rock Tower Road, then running in a westerly direction 200 feet north and parallel to said road 2100.00 feet to a point lying northwest of the High Rock Tower site, then running south 40 degrees west 200.00 feet more or less, then running north 62 degrees west 1600 feet more or less to the beginning.

(c) (1) Pursuant to the provisions of subsection (a) of this section that property in Worcester County containing approximately 2,090 acres and described as follows is a Type 2 wildland and shall be named the "Cypress Swamp Wildland":

Parcel 1:

Beginning with the main part at a point on the north side of the Hickory Point Road, said point lying approximately 5,200 feet west of the Cederhall Road; and proceeding clockwise, then with the north side of the Hickory Point Road westerly, then northerly in a long curve approximately 9,600 feet, then leaving the road and with the Pocomoke State Forest boundary northerly about 1,200 feet to the south margin of the Pocomoke River (Point A), then with the south shore generally easterly approximately 7,500 feet upstream, then with the Pocomoke State Forest boundary and adjoining private land southeasterly approximately 4,700 feet and then southwesterly 7,750 feet to the beginning point.

Parcel 2:

A second and separate part of this wildland begins at a point on the south margin of the Pocomoke River, the point being approximately 3,300 feet generally westerly downstream from Point A, then with the Pocomoke State Forest boundary and adjacent private land in a clockwise direction generally southerly approximately 800 feet, thence westerly 1,150 feet, then northwesterly approximately 1,900 feet to the south shore of the Pocomoke River, then with the south shore northerly, then easterly and then southerly approximately 4,800 feet to the beginning point.

Parcel 3:

All that lot, tract, or parcel of land situate, lying and being in the Costen Election District of Worcester County, located on the Pocomoke River and being more particularly described in that certain patent of "Lankfords Discovery", dated May 5, 1905, among the records of the Hall of Records of the State of Maryland which by deed

dated August 25, 1986 and recorded in the land records of Worcester County in Liber 1210, Folio 489 was conveyed by the Nature Conservancy to the State of Maryland, for the use of the Department of Natural Resources, and described as follows:

Beginning at a marked cypress standing on the east bank of the Pocomoke River about a half mile above the town of Rehoboth, and running thence, north 41 degrees 45 minutes 00 seconds east, 280.50 feet, then running north 53 degrees 00 minutes 00 seconds east, 140.25 feet to the edge of a small gut, then running south 21 degrees 39 minutes 00 seconds east, 4,174.50 feet to a point on the head of a small gut, then running south 29 degrees 00 minutes 00 seconds east, 3,349.50 feet to an old water hole, then running south 61 degrees 00 minutes 00 seconds west, 462.00 feet, to a point on the northwest side of Parting Creek, then running south 79 degrees 15 minutes 00 seconds west, 49.50 feet, then running south 47 degrees 00 minutes 00 seconds west, 231.00 feet, then running south 51 degrees 30 minutes 00 seconds west, 420.75 feet to a point on the east side of the Pocomoke River, then running along the east bank of the Pocomoke River in a northerly direction 8,400.00 feet more or less to the point of beginning.

Parcel 4:

All that part of a lot, tract, or parcel of land situate, lying and being in the Costen Election District of Worcester County, and conveyed by the Nature Conservancy to the State of Maryland to the Department of Natural Resources on July 20, 1978, and in Liber 1633, Folio 93, of the land records of Worcester County, and described as follows:

Beginning at a hickory tree, said tree being the point of beginning of a survey by Harold W. Hampshire, dated May 15, 1978, running thence with the 1st, 2nd, 3rd, 4th, and 5th lines of said survey, the following viz: north 82 degrees 04 minutes 10 seconds west 1,592.44 feet, to the edge of the marsh, then running north 33 degrees 55 minutes 26 seconds west 2,338.27 feet, to a cedar post, then north 09 degrees 50 minutes 06 seconds west 339.27 feet, to a cedar post, then south 74 degrees 23 minutes 34 seconds east 2,414.55 feet, to a concrete post, then south 77 degrees 37 minutes 08 seconds east 1,254.53 feet, to a concrete post, then running in a southerly direction 1,684.05 feet, to the point of beginning.

Parcel 5:

All that part of a lot, tract, or parcel of land situate, lying and being in the First Election District of Worcester County, and conveyed by the Chesapeake Corporation Foundation to the State of Maryland to the Department of Natural Resources on March 18, 1998, and in Liber 2498, Folio 79, of the land records of Worcester County, and described as follows:

Beginning for the same at a point, said point being the northeasterly corner of the herein described land, said point also being on the southerly shore of the Pocomoke River, said point also being the northwesterlymost corner of the lands now or formerly of the State of Maryland Department of Natural Resources known as "Cypress Swamp"

in a deed recorded in the land records of Worcester County in Liber 633, Folio 93, and from said place of beginning running by and with the State of Maryland Department of Natural Resources land the following courses and distances, south 08 degrees 55 minutes 37 seconds east 65 feet more or less to a cedar post found, then continuing south 08 degrees 55 minutes 37 seconds east 304.26 feet to a cedar post found, then south 06 degrees 00 minutes 14 seconds west 1,174.93 feet to a tall iron pipe found, then south 22 degrees 20 minutes 41 seconds west 956.74 feet to a concrete monument found, then north 77 degrees 37 minutes 08 seconds west 290.79 feet to the side of a 16 foot right of way as described in a deed recorded in the land records of Worcester County in Liber 633, Folio 93, then continuing north 77 degrees 37 minutes 08 seconds west 963.80 feet to a concrete monument found, then north 74 degrees 22 minutes 53 seconds west 2,414.97 feet to a cedar post found, then south 09 degrees 49 minutes 25 seconds east 157.06 feet to a metal fence post set and the lands now or formerly of John C. Rice, III described by a deed recorded in the land records of Worcester County in Liber 1844, Folio 489, then by and with said John C. Rice land north 78 degrees 27 minutes 16 seconds west 386.42 feet to a metal fence post set and the lands now or formerly of the State of Maryland Department of Natural Resources known as "Lankford's Discovery" as described in a deed recorded in the land records of Worcester County in Liber 1210, Folio 489, then by and with the State of Maryland Department of Natural Resources land north 12 degrees 05 minutes 27 seconds west 4,000.96 feet to a large marked pine tree found on the southeasterly shore of the aforesaid Pocomoke River and other lands of the State of Maryland Department of Natural Resources known as "Otter Run" as described in a deed recorded in the land records of Worcester County in Liber 424, Folio 637, then by and with the State of Maryland Department of Natural Resources land the following courses and distances, south 46 degrees 32 minutes 31 seconds east 1,909.05 feet, then north 04 degrees 12 minutes 29 seconds east 1,138.50 feet, then north 24 degrees 42 minutes 29 seconds east 121 feet more or less to the shore of the aforesaid Pocomoke River and the many meanderings thereof generally then by the following courses and distances, south 07 degrees 01 minutes 58 seconds west 379.50 feet, then south 12 degrees 11 minutes 02 seconds 397.50 feet, then south 39 degrees 39 minutes 30 seconds east 743.21 feet, then south 64 degrees 09 minutes 03 seconds east 1,542.01 feet, then south 73 degrees 24 minutes 30 seconds east 684.11 feet to the place of beginning; containing 305.680 acres of land as per a survey recorded in the plat records of Worcester County, Maryland in Plat Book RHO 153, Folio 68, and together with a 16 foot right of way which leads from the herein described land to the public road known as Hickory Point Road, said right of way being more particularly described in a deed recorded in the land records of Worcester County, Maryland in Liber 633, Folio 93.

(2) Notwithstanding any other provision of this subtitle, the existing stand of planted pine trees in Parcel 5 described as follows may be harvested by the Department using mechanical or motorized equipment, and the area then reforested or allowed to naturally revert to a forested condition: beginning at a point, said point having the coordinate value 140229.23 north, 1702780.67 east (Maryland State plane grid system NAD83), and then running south 26 degrees 08 minutes 28 seconds east 1050.60 feet, south 80 degrees 41 minutes 01 seconds east 1073.80 feet, south 02

degrees 54 minutes 25 seconds west 203.47 feet, south 11 degrees 17 minutes 41 seconds west 943.12 feet, north 86 degrees 53 minutes 59 seconds west 1239.82 feet, north 58 degrees 40 minutes 59 seconds west 1005.83 feet, north 07 degrees 30 minutes 40 seconds east 720.85 feet, south 80 degrees 21 minutes 59 seconds east 567.10 feet, north 32 degrees 13 minutes 55 seconds west 974.04 feet, north 71 degrees 02 minutes 02 seconds east 650.67 feet to the point of beginning, containing 68 acres more or less.

(d) (1) Pursuant to the provisions of subsection (a) of this section that property situated in Worcester County containing approximately 3,029 acres and described as follows is a Type 2 State wildland and shall be named the "Pocomoke River Wildland":

Parcel 1:

Beginning with the first part at a point on the west bank of Corkers Creek where it joins the Pocomoke River and proceeding clockwise, then generally southerly with said west bank approximately 6,200 feet to the rear line of the clearing for the forest manager's residence, then leaving the creek and with said rear line southwesterly 400 feet to a forest road, then with said forest road and with its meanders, northwesterly then southerly and then northwesterly approximately 11,500 feet to the Pocomoke State Forest boundary, and with it northwesterly about 2,200 feet to the Pocomoke River, then with the south bank thereof to the beginning point.

Parcel 2:

A second and separate part of this wildland begins at a point on the south bank of the Pocomoke River at the western boundary of a part of the Pocomoke River Wildlife Management Area, the point lying approximately 400 feet west of Mattaponi Landing and running with the wildlife management area boundary and adjacent private land southerly about 300 feet to the Blades Road, then with the road about 2,400 feet to the State wetland boundary, then following the State wetland boundary with its meanders generally southwesterly approximately 6,500 feet to the western boundary of the Tarr tract and the lands conveyed from William Cropper to the State of Maryland, to the use of the Maryland Department of Natural Resources by a deed dated June 16, 1993 and recorded in land records of Worcester County, Maryland in Liber 1948, Folio 501, then running within said conveyed lands the following courses and distances, south 52 degrees 21 minutes west 981.05 feet, south 81 degrees 48 minutes east 859.32 feet, south 39 degrees 12 minutes west 474.43 feet, south 1 degree 41 minutes west 350.84 feet, south 55 degrees 26 minutes east 563.62 feet, south 6 degrees 7 minutes east 580.90 feet, south 55 degrees 32 minutes west 637.99 feet, south 10 degrees 37 minutes east 167.90 feet, south 47 degrees 17 minutes west 182.48 feet to a point lying within the lands conveyed from Levin C. Beauchamp to the State of Maryland for the use of the Game and Inland Fish Commission by a deed dated May 19, 1996 and recorded in the land records of Worcester County, Maryland in Liber 204, Folio 512 and shown on plat EWR 1/38, then south 47 degrees 17 minutes west 182.48 feet, south 3 degrees 35 minutes east 165.35 feet, south 71 degrees 54 minutes east 635.00 feet to a point, south 71 degrees 54 minutes 635.0 feet, south 22 degrees 18 minutes east 366.5 feet, north 57 degrees 56 minutes east 912.92 feet, south 42 degrees 49 minutes east 245.25

feet, south 30 degrees 35 minutes west 773.52 feet to a point lying within the lands conveyed from William Cropper to the State of Maryland, to the use of the Maryland Department of Natural Resources by a deed dated June 16, 1993 and recorded in land records of Worcester County, Maryland in Liber 1948, Folio 501, then north 64 degrees 32 minutes west 239.90 feet, south 51 degrees 40 minutes west 282.70 feet to a point, south 58 degrees 43 minutes east 1092.30 feet to a point lying within the lands conveyed from Levin C. Beauchamp to the State of Maryland for the use of the Game and Inland Fish Commission by a deed dated May 19, 1996 and recorded in the land records of Worcester County, Maryland in Liber 204, Folio 512, then north 66 degrees 2 minutes east 304.75 feet, south 75 degrees 58 minutes east 722.96 feet to a point, south 15 degrees 2 minutes west 710.04 feet to a concrete monument found at the end of the 16th line described in the aforementioned conveyance from Levin C. Beauchamp to the State of Maryland for the use of the Game and Inland Fish Commission, then running by and with the 16th line reversed south 42 degrees 33 seconds east 650.76 feet, then south 57 degrees 28 minutes west 1271.84 feet, north 59 degrees 21 minutes west 1942.26 feet to a point, north 59 degrees 21 minutes west 1942.26 feet, north 14 degrees 18 minutes east 542.85 feet, north 49 degrees 16 minutes west 980.02 feet, north 79 degrees 31 minutes east 566.44 feet, north 62 degrees 39 minutes west 336.76 feet, south 58 degrees 0 minutes west 291.91 feet, south 7 degrees 51 minutes east 301.95 feet, south 52 degrees 54 minutes east 530.16 feet, south 13 degrees 40 minutes east 1580.05 feet to a point, lying in the 2nd line described in the aforementioned conveyance from Levin C. Beauchamp to the State of Maryland for the use of the Game and Inland Fish Commission, then running by and with the 2nd line reversed south 67 degrees 57 seconds west 336.06 feet to the end of the first line, then running by and with the 1st line reversed north 29 degrees 50 minutes east 5,280 feet to a point on the southerly side of the Pocomoke River, then running by and with the 75th line reversed easterly by and with the Pocomoke River in an easterly direction 2,300 feet more or less to a gut and the end of the 74th line, then running with the 74th line reversed by and with a gut in a southerly direction 1,360 feet more or less to the end of the 73rd line, then running by and with the 73rd line reversed north 61 degrees 25 minutes east 902.50 feet to a point, said point being the southeast corner of a 16 acre parcel of land conveyed to Elton D. Ardis by a deed dated August 1, 1950 and recorded in land records of Worcester County, Maryland in Liber CWN 35, Folio 501 and shown on plat EWR 1/38, then running in a northeasterly direction a distance of 990 feet more or less to a point on the southerly side of the Pocomoke River, then running and binding with the southerly side of the Pocomoke River in a generally northeasterly direction a distance of 14,640 feet more or less to the point of beginning.

Parcel 3:

A third and separate part of this wildland begins at a point on the north bank of the Pocomoke River and the west bank of Corbin Branch, and proceeding then clockwise with the north bank and with its meanders generally southwesterly approximately 10,500 feet to the mouth of Milburn Branch, then with the north bank of the branch and with its meanders generally northwesterly about 1,800 feet to a forest road, then along this road and other interconnecting forest roads and with their windings northeasterly approximately 10,000 feet to the east bank of Corbin Branch, then with the east bank

generally southerly about 1,000 feet again to the Pocomoke River and the beginning point.

Parcel 4 (Shad Tract, Parcel A):

Beginning at the intersection of Corker's Creek and a ditch running in a northeasterly direction, said point also being on the boundary line of Shad Landing State Park and then running, along said ditch in a northeasterly direction to its intersection with the Pocomoke River, then running along the south bank of the Pocomoke River to Corker's Creek, then running with Corker's Creek to the point of beginning.

Parcel 5 (Shad Tract, Parcel B):

Beginning at a concrete monument, said monument being the beginning of a tract of land which by deed dated October 14, 1988 and recorded in Liber 1486, Folio 530 of the Land Records of Worcester County, was conveyed by Lavara Van De Graf, personal representative of the Estate of Evelyn W. Jones, and the Nature Conservancy, to the State of Maryland, for the use of the Department of Natural Resources, and running, along the boundary line of Shad Landing State Park 2,200.00 feet more or less, to a point on the northeast side of the road leading to Shad Landing, then running along the northeast side of said road in a northwest direction 1,300.00 feet more or less, to the south bank of the Pocomoke River, then running by and with the meanderings of the Pocomoke River in a generally northerly direction to the end of the 4th line of the aforesaid conveyance from Lavara Van De Graf, then running, south 11 degrees 15 minutes 00 seconds west 660.00 feet to a point, south 18 degrees 45 minutes 00 seconds east 1,065.90 feet to a point, south 21 degrees 45 minutes 00 seconds east 226.38 feet to an iron pipe, south 65 degrees 00 minutes 00 seconds east 165.66 feet to the point of beginning.

Parcel 6 (Van De Graf Tract):

All that lot, tract, or parcel of land, situate, lying and being in the second election district of Worcester County located on the Pocomoke River and being more particularly described in a deed dated October 14, 1988 and recorded in Liber 1486, Folio 530 of the land records of Worcester County, which was conveyed by Lavara Van De Graf, personal representative of the Estate of Evelyn W. Jones and the Nature Conservancy, to the State of Maryland, for the use of the Department of Natural Resources and described as follows: beginning at a concrete monument at the intersection of the northwesterly line of a tract of land now or formerly owned by Robert J. Reilly and the northeast line of Shad Landing State Park, and then running north 65 degrees 00 minutes 00 seconds west 165.66 feet to an iron pipe, then north 21 degrees 45 minutes 00 seconds west 226.38 feet to an iron pipe, then north 18 degrees 45 minutes 00 seconds west 1,065.90 feet, then north 11 degrees 15 minutes 00 seconds east 660.00 feet, then running with the meanderings of the Pocomoke River in a northerly direction 6,065.00 feet more or less to an iron pipe, then south 52 degrees 03 minutes 37 seconds east 471.90 feet to an iron pipe, then south 80 degrees 03 minutes 37 seconds east 1,223.64 feet to an iron

axle, then south 27 degrees 48 minutes 26 seconds west 192.46 feet to an iron pipe, then south 55 degrees 00 minutes 00 seconds east 33.00 feet to an iron pipe, then south 33 degrees 00 minutes 00 seconds west 429.00 feet to an iron pipe, then south 50 degrees 00 minutes 00 seconds west 198.00 feet to an iron pipe, then south 20 degrees 00 minutes 00 seconds west 396.00 feet to an iron pipe, then south 55 degrees 00 minutes 00 seconds west 165.00 feet to an iron pipe, then south 49 degrees 00 minutes 00 seconds west 264.00 feet to an iron pipe, then south 37 degrees 00 minutes 00 seconds west 330.00 feet to an iron pipe, then north 56 degrees 00 minutes 00 seconds west 427.02 feet to an iron pipe, then south 08 degrees 00 minutes 00 seconds west 709.50 feet to an iron pipe, then south 19 degrees 45 minutes 00 seconds east 550.44 feet to a concrete monument, then south 76 degrees 38 minutes 23 seconds west 592.40 feet to a concrete monument, then south 76 degrees 38 minutes 38 seconds west 94.00 feet to an iron pipe, then south 56 degrees 08 minutes 23 seconds west 675.78 feet to an iron pipe, then north 45 degrees 33 minutes 46 seconds west 728.29 feet to an iron pipe, then south 43 degrees 45 minutes 12 seconds west 2160.38 feet to the point of beginning.

Parcel 7 (Tract A):

Beginning at the southeast intersection of River Road and a road on the eastern boundary line of Milburn Landing State Park, then running along the boundary of Milburn Landing State Park 3,000.00 feet more or less, to a point, then leaving the park boundary and running along the northwest side of said road 500.00 feet more or less, to the center of Milburn Branch, then running in a southeasterly direction along said creek in a southerly direction to its confluence with the Pocomoke River and the boundary line of Pocomoke State Forest, then running along the Pocomoke River in a southwesterly direction 1,000.00 feet more or less, to a point, then running in a northwesterly direction 400.00 feet to a point on the east side of a drive, then running along said drive in a northerly direction 1,000.00 feet more or less, to a point, then leaving said road and running, north 18 degrees 30 minutes 00 seconds west 1,060.00 feet more or less, to a point, then running north 12 degrees 30 minutes 00 seconds east 1,000.00 feet more or less, to a point, on the south side of River Road, then running along the south side of River Road to the point of beginning.

Parcel 7 (Tract B):

Beginning at a point on the southeast side of River Road at its intersection with the northeast boundary line of Pocomoke State Forest, then running in a southeasterly direction along said State forest boundary 1,300.00 feet more or less, to a point, then running in a southwesterly direction at a right angle to the Pocomoke State Forest boundary 375.00 feet more or less, then running parallel to the State forest boundary line in a northwesterly direction 1,300.00 feet to the south side of River Road, then running along the south side of River Road to the point of beginning.

Parcel 8:

Beginning at a point in the intersection of Corker's Creek and a ditch running in a northwesterly direction, said point being in the northeastern boundary of Pocomoke

State Forest and the Shad Landing State Park boundary line, then with said ditch in a northeasterly direction 700.00 feet more or less, then leaving said ditch and running in a southeasterly direction 850.00 feet to a State park loop road at a campground, then running along said road 4,000.00 feet more or less, to a point opposite a 90 degree bend in said road, then leaving the park road and running in a southwesterly direction 650.00 feet more or less, to Corker's Creek, then running along Corker's Creek in a northwesterly direction to the point of beginning.

Parcel 9:

Beginning at a point, said point being at the end of the 2nd line of a tract of land which by deed dated February 13, 1985 and recorded in Liber 1064, Folio 24 of the Land Records of Worcester County, was conveyed by Charles Timmons to the State of Maryland for the use of the Department of Natural Resources, then running with the 3rd, 4th, and 5th line of said tract of land and with the State forest boundary, south 43 degrees 15 minutes 28 seconds east 500.00 feet to an angle iron, then south 68 degrees 22 minutes 28 seconds east 460.72 feet to an angle iron, then south 46 degrees 44 minutes 49 seconds west 199.59 feet to an angle iron, then leaving said conveyance and running, south 42 degrees 07 minutes 00 seconds east 185.00 feet to an iron bar, then south 36 degrees 04 minutes 00 seconds east 317.00 feet to an iron bar, then north 53 degrees 23 minutes 00 seconds east 363.00 feet to an iron bar, then south 12 degrees 37 minutes 00 seconds east 250.00 feet more or less, to a point, then running, south 57 degrees 30 minutes 00 seconds east 2,100.00 feet more or less, to a point on the northwest side of a road, then running with the north side of said road in a southwesterly direction 450.00 feet to a point, then leaving said road and running, north 74 degrees 00 minutes 00 seconds west 1,200.00 feet to an iron bar, then running with the lines of a conveyance from Charles Timmons to the State of Maryland (Liber 788, Folio 390), north 41 degrees 07 minutes 00 seconds west 935.12 feet crossing over an iron bar at 156 feet, then running, south 79 degrees 55 minutes 00 seconds west 231.00 feet to a point, then running north 40 degrees 52 minutes 00 seconds west 264.00 feet to a point, then running north 60 degrees 49 minutes 00 seconds west 264.00 feet to a point, then running north 27 degrees 45 minutes 00 seconds east 82.50 feet to a point, then south 65 degrees 53 minutes 00 seconds west 132.00 feet to a point, then running north 84 degrees 37 minutes 00 seconds west 563.00 feet more or less, to an iron pipe, then running, north 18 degrees 00 minutes 00 seconds east 550.00 feet more or less, to the south side of the Pocomoke River, then running with said river to the point of beginning.

Parcel 10:

Beginning at the end of the 5th line of a tract of land surveyed by G. Oliver Morrell for John and Elisabeth Mohr on November 30, 1960, said tract of land conveyed by John and Elizabeth Mohr to the State of Maryland for the use of the Department of Natural Resources by a deed dated April 22, 1987, and recorded in Liber 1304, Folio 124 of the land records of Worcester County, and then running, north 29 degrees 59 minutes 00 seconds west 303.60 feet, then running north 72 degrees 22 minutes 40 seconds west 859.32 feet, then running north 60 degrees 03 minutes 10 seconds east

988.68 feet, then running north 38 degrees 32 minutes 20 seconds east 722.70 feet, then running south 83 degrees 05 minutes 50 seconds east 1,049.40 feet, then running south 79 degrees 59 minutes 30 seconds east 205.26 feet, then running north 39 degrees 09 minutes 30 seconds east 332.64 feet, then running north 87 degrees 34 minutes 50 seconds east 333.30 feet, then running south 54 degrees 43 minutes 30 seconds east 201.30 feet to a pipe, then running in a northeasterly direction with the south side of the marsh 5,500.00 feet more or less, to an old road, then running with the southwest side of said road in a southeasterly direction 1,000.00 feet more or less, to the intersection of a State forest road, then running with the northwest side of said road in a southwesterly direction 8,000.00 feet to the point of beginning.

Parcel 11:

All those six (6) tracts of land, situate, lying and being in the Second Election District of Worcester County, Maryland, and located south of Porter's Crossing Road where it crosses the Pocomoke River.

Tracts 1, 2, and 3 are described as follows:

Beginning at a point on the west bank of the Pocomoke River at the point of intersection with Porter's Crossing Road, then running with the south side of Porter's Crossing Road in a westerly direction 1,203.40 feet more or less to a point, then running south 51 degrees 47 minutes 09 seconds west 426.84 feet to a concrete monument, then running south 88 degrees 25 minutes 03 seconds west 290.70 feet to a concrete monument, then running north 68 degrees 41 minutes 15 seconds west 129.73 feet to a concrete monument, then running south 79 degrees 15 minutes 20 seconds west 771.33 feet to a concrete monument, then running north 41 degrees 44 minutes 29 seconds west 420.79 feet to a concrete monument, then running north 36 degrees 52 minutes 07 seconds west 320.18 feet to a concrete monument, then running north 89 degrees 02 minutes 27 seconds west 277.60 feet to a concrete monument, then running north 82 degrees 57 minutes 18 seconds west 467.51 feet to a concrete monument, then running south 48 degrees 38 minutes 24 seconds west 233.48 feet to a concrete monument, then running south 56 degrees 03 minutes 45 seconds west 176.63 feet to a concrete monument, then running south 55 degrees 16 minutes 03 seconds east 259.02 feet to a concrete monument, then running south 06 degrees 18 minutes 33 seconds west 462.51 feet to a concrete monument, then running south 72 degrees 50 minutes 46 seconds west 24.38 feet to a concrete monument, then running north 77 degrees 50 minutes 18 seconds west 68.72 feet to a concrete monument, then running south 48 degrees 29 minutes 23 seconds west 1,696.22 feet to a concrete monument, then running south 41 degrees 10 minutes 49 seconds east 301.16 feet to a concrete monument, then running south 11 degrees 01 minutes 02 seconds west 247.59 feet to a concrete monument, then running south 06 degrees 59 minutes 09 seconds east 159.93 feet to a concrete monument, then running south 15 degrees 40 minutes 49 seconds west 429.34 feet to a concrete monument, then running south 47 degrees 07 minutes 49 seconds east 711.02 feet to a concrete monument, then running south 00 degrees 19 minutes 05 seconds west 130.74 feet to a concrete monument, then running south 22 degrees 51 minutes 02 seconds west 36.50 feet to a concrete monument, then running south 22 degrees 51

minutes 02 seconds west 67.75 feet to a point, then running south 48 degrees 05 minutes 53 seconds east 166.09 feet to a concrete monument, then running south 25 degrees 20 minutes 40 seconds east 360.65 feet to a concrete monument, then running south 07 degrees 24 minutes 41 seconds east 483.19 feet to a concrete monument, then running south 45 degrees 55 minutes 44 seconds west 282.71 feet to a concrete monument, then running south 34 degrees 03 minutes 58 seconds west 592.74 feet to a concrete monument, then running north 52 degrees 59 minutes 51 seconds west 879.12 feet to a concrete monument, then running south 45 degrees 02 minutes 46 seconds west 216.82 feet to a concrete monument, then running south 45 degrees 02 minutes 46 seconds west 185.17 feet to a point, then running south 42 degrees 08 minutes 00 seconds east 2305.00 feet to the Pocomoke River, then running with the west side of said river in a northeasterly direction 11,310.00 feet to the point of beginning.

Tracts 4 and 5 are described as follows: beginning at a point, said point having Maryland State plane grid coordinates north 144,202.33 and east 1,273,168.00; and running from said point of beginning, south 04 degrees 55 minutes 46 seconds east 234.14 feet, then running north 57 degrees 55 minutes 46 seconds west 122.75 feet, then running north 39 degrees 55 minutes 46 seconds west 429.00 feet, then running north 17 degrees 55 minutes 46 seconds west 92.69 feet, to a point in the southerly line of Porter's Crossing Road, then running with the southerly line of said road 477.31 to the point of beginning.

Beginning at a point on the east bank of the Pocomoke River and on the south side of Porter's Crossing Road, said point having Maryland State plane grid coordinates north 146,120.03 and east 1,270,174.10; and running with the east bank of the river, south 15 degrees 49 minutes 14 seconds west 67.98 feet, then running south 05 degrees 39 minutes 08 seconds west 139.17 feet, then leaving the river and running south 07 degrees 05 minutes 11 seconds east 90.00 feet, then running south 51 degrees 50 minutes 58 seconds east 27.00 feet, then running south 12 degrees 55 minutes 46 seconds west 215.00 feet, then running south 89 degrees 55 minutes 46 seconds east 222.00 feet, then running south 69 degrees 10 minutes 46 seconds east 792.00 feet, then running parallel with an old mill ditch the following courses: south 39 degrees 55 minutes 46 seconds east 99.00 feet, then running south 05 degrees 55 minutes 46 seconds east 165.00 feet, then running south 75 degrees 55 minutes 46 seconds east 165.00 feet, then running south 50 degrees 55 minutes 46 seconds east 594.00 feet, then running north 88 degrees 04 minutes 14 seconds west 495.00 feet, then running south 74 degrees 10 minutes 46 seconds west 132.00 feet, then running south 44 degrees 55 minutes 46 seconds east 99.00 feet, then running south 17 degrees 55 minutes 46 seconds east 132.00 feet, then running south 53 degrees 55 minutes 46 seconds east 78.54 feet, then running north 45 degrees 04 minutes 14 seconds east 102.68 feet, to a point on the south side of Porter's Crossing Road, then running with said road in a northwesterly direction 1,369.89 feet more or less, to a point, then leaving said road and running, south 51 degrees 01 minutes 51 seconds west 297.98 feet to an iron pipe, then running north 13 degrees 12 minutes 26 seconds west 173.90 feet, then running north 17 degrees 59 minutes 52 seconds east 260.50 feet, to the south side of Porter's Crossing Road, then running with said road northwesterly 1,558.97 feet to the point of beginning.

Saving and excepting all portions of the Pocomoke River.

Tract 6 is described as follows:

Beginning for the same at a point located on the northern side of the existing wooden bridge where Porter's Crossing Road crosses the centerline of the Pocomoke River at the beginning of line 1 as shown on a plat entitled "Boundary Survey Lands of Joyce D. Quillen" recorded in the land records of Worcester County, Maryland in Plat Book S.V.H. 225 Folio 34, then running by and with the north side of Porter's Crossing Road in a westerly direction a distance of 1,156.00 feet to an iron rod with cap set, then north 39 degrees 48 minutes 31 seconds east a distance of 573.54 feet to an iron rod with cap set, then north 45 degrees 54 minutes 32 seconds east 309.54 feet to an iron rod with cap set, then north 44 degrees 33 minutes 31 seconds east 238.92 feet to an iron pipe found, then north 27 degrees 13 minutes 31 seconds east 105.60 feet to an iron rod with cap set, then north 0 degrees 27 minutes 37 seconds west 49.73 feet to an iron pipe found, then north 37 degrees 27 minutes 58 seconds west 271.09 feet to an angle iron found, then north 8 degrees 26 minutes 27 seconds west 435.58 feet to an iron rod with cap set, then south 89 degrees 33 minutes 31 seconds west 122.86 feet to an iron rod with cap set, then north 0 degrees 33 minutes 52 seconds west 24.00 feet to an iron rod with cap set, then north 89 degrees 33 minutes 31 seconds east 616.73 feet to an iron rod with cap set, then north 21 degrees 17 minutes 58 seconds east 938.62 feet to an iron rod with cap set, then north 74 degrees 40 minutes 31 seconds east 214.50 feet to an iron rod with cap set, then south 63 degrees 4 minutes 29 seconds east 544.50 feet to a concrete monument found, then north 55 degrees 50 minutes 31 seconds east 167.14 feet to a concrete monument found, then south 77 degrees 19 minutes 29 seconds east 629.02 feet to the centerline of the Pocomoke River, then by and with the centerline of the Pocomoke River a distance of 4,172 feet, more or less to the point of beginning, containing 89.92 acres of land more or less.

Being the same parcel of land situate, lying and being in the Second Election District of Worcester County, Maryland, and being located on and binding upon the north side of Porter's Crossing Road, conveyed by The Nature Conservancy to the State of Maryland, to the use of the Department of Natural Resources by deed dated July 26, 2012 and recorded among the land records of Worcester County, Maryland in Liber S.V.H. 5944, Folio 272.

(2) Within the part of Pocomoke River Wildland lying north of the Pocomoke River and east of Milburn Landing area, Pocomoke River State Park, safety zone signs may be posted to protect the State park camping area in hunting seasons.

(e) If a county or State road is the boundary of any area designated a wildland pursuant to subsection (a) of this section, the county or State is exempt from the requirement to obtain approval from the General Assembly for activities within the wildland, which are 200 feet of the road edge, if they are necessary for the maintenance or improvement of the roadway for public safety. These activities are subject to normal review, permit, and approval actions as required by law.

(e–1) Notwithstanding any other provision of this Part II of this subtitle, the designation of an area as a wildland may not be construed to preclude:

(1) The normal maintenance of an electrical transmission line, distribution line, telephone line, natural gas line, or other above ground or underground line, or of any easement held in conjunction with such line, in the manner such line or easement is normally maintained; or

(2) The upgrading or expansion of any electrical transmission line, distribution line, telephone line, natural gas line, or other above ground or underground line if the person responsible for the line had the right, subject to any required approval, to upgrade or expand the line in the designated area immediately before the designation of the area as wildlands.

(f) Any activities related to the maintenance of existing public drainage within Worcester County is exempt from the requirement to obtain approval from the General Assembly. These activities are subject to normal review, permit, and approval actions as required by law.

(g) Pursuant to the provisions of subsection (a) of this section, that property situated in Frederick County containing approximately 4,397 acres and designated as follows, is a Type 1 State wildland, and shall be named, "The Cunningham Falls State Park Wildland".

Beginning for the first of two parts at a point approximately 420 feet southwesterly of the intersection of Maryland Route 77 and Catoctin Hollow Road, that point lying on the east side of the latter road at the southern margin of Big Hunting Creek. Thence proceeding downstream with the southern margin and the meanders of the creek, southeasterly approximately 100 feet, thence northeasterly approximately 1,000 feet, thence southeasterly approximately 460 feet, then southerly approximately 200 feet, thence southeasterly approximately 1,700 feet, thence southerly approximately 1,400 feet, thence easterly approximately 1,350 feet to bridge carrying Maryland Route 77 over Big Hunting Creek. Thence leaving the creek and running with southern margin of the right–of–way of Maryland Route 77 still easterly 1,600 feet, southerly approximately 1,700 feet and easterly 2,500 feet. Then leaving Maryland Route 77 and running with the boundary of Cunningham Falls State Park southwesterly approximately 200 feet, westerly 700 feet, southerly approximately 750 feet, easterly 700 feet, southerly approximately 200 feet, westerly 1,200 feet, southerly 300 feet, westerly approximately 1,250 feet, northerly 250 feet, westerly approximately 1,550 feet, southwesterly approximately 400 feet to a cleared power line right–of–way. Thence leaving the State park boundary running with the northern margin of the power line generally westerly approximately 3,200 feet to private land; leaving power line and with the private land northeasterly approximately 950 feet, westerly approximately 300 feet southwesterly in two courses 950 feet again to the power line. Then leaving private land and running again with the northern margin of the power line approximately 1,050 feet, then leaving the power line and cutting across State park property generally northerly in three courses 1,200 feet to the east

margin of Catoctin Hollow Road. Then running with the road approximately 4,500 feet to the beginning containing approximately 535 acres.

Beginning for a second and separate part at a point, said point being the beginning of the ninth line in a deed recorded among the land records of Frederick County, Maryland in Liber 9503, Folio 92 from the Commissioners of Thurmont to the State of Maryland, Department of Natural Resources, said point having the coordinate value north 669865.75, east 1187614.44 (Maryland State plane grid system NAD83), and running north 13 degrees 57 minutes 48 seconds east 225.71 feet, north 59 degrees 30 minutes 14 seconds west 231.00 feet, north 23 degrees 29 minutes 46 seconds east 1453.50 feet, then running with the southern margin of the power line, generally easterly approximately 6,600 feet, then southerly approximately 1,750 feet to a common corner of the Commissioners of Thurmont property and the property of the State of Maryland, then running north 40 degrees 13 minutes 44 seconds west 905.55 feet to a point, said point having the coordinate value north 708716.84, east 1189592.00 (Maryland State plane grid system NAD83), then running with the common boundary of the Commissioners of Thurmont property and the property of the State of Maryland the following 7 courses: south 78 degrees 53 minutes 49 seconds west 1573.18 feet, south 37 degrees 54 minutes 37 seconds west 813.35 feet, south 57 degrees 52 minutes 54 seconds east 836.04 feet, south 82 degrees 23 minutes 06 seconds east 2524.79 feet, south 21 degrees 15 minutes 08 seconds east 874.60 feet, north 84 degrees 44 minutes 51 seconds west 132.00 feet, south 20 degrees 15 minutes 09 seconds west 132.00 feet to a point, said point having the coordinate value north 706064.64, east 1190263.74 (Maryland State plane grid system NAD83), then leaving the said conveyance from the Commissioners of Thurmont to the State of Maryland, Department of Natural Resources and then running across State park property generally southerly approximately 3,550 feet, southwesterly approximately 2,050 feet, southerly approximately 2,100 feet to a point, said point being the beginning of the fourth line of parcel one in a deed recorded among the land records of Frederick County, Maryland in Liber 9493, Folio 163 from Trout Run LLC to the State of Maryland, Department of Natural Resources, said point having the coordinate value north 669865.75, east 1187614.44 (Maryland State plane grid system NAD83), then running with said conveyance, north 51 degrees 21 minutes 37 seconds east 337.42 feet, north 55 degrees 44 minutes 15 seconds east 244.77 feet, north 85 degrees 56 minutes 58 seconds east 274.44 feet, south 68 degrees 02 minutes 15 seconds east 260.49 feet, south 51 degrees 50 minutes 38 seconds east 260.26 feet, south 27 degrees 07 minutes 59 seconds east 548.27 feet, south 22 degrees 55 minutes 47 seconds west 347.65 feet, north 84 degrees 03 minutes 46 seconds west 261.09 feet, south 74 degrees 28 minutes 06 seconds west 432.00 feet, south 78 degrees 43 minutes 06 seconds west 367.50 feet, south 47 degrees 13 minutes 06 seconds west 176.97 feet, north 68 degrees 24 minutes 55 seconds east 777.00 feet, south 33 degrees 46 minutes 22 seconds west 275.92 feet, south 01 degrees 28 minutes 44 seconds west 637.04 feet, south 27 degrees 54 minutes 24 seconds west 368.55 feet, south 74 degrees 14 minutes 54 seconds west 258.20 feet, south 66 degrees 24 minutes 01 seconds west 367.87 feet, north 71 degrees 19 minutes 06 seconds west 311.22 feet, north 79 degrees 51 minutes 14 seconds west 374.81 feet, south 63 degrees 43 minutes 55 seconds

west 119.54 feet, north 75 degrees 20 minutes 13 seconds west 304.38 feet, south 13 degrees 11 minutes 18 seconds west 133.42 feet, south 55 degrees 35 minutes 58 seconds east 316.81 feet, south 61 degrees 37 minutes 43 seconds east 302.65 feet, south 61 degrees 37 minutes 43 seconds east 302.65 feet, south 70 degrees 13 minutes 25 seconds east 249.17 feet, south 71 degrees 00 minutes 24 seconds east 301.53 feet, south 73 degrees 58 minutes 30 seconds east 294.91 feet, north 82 degrees 49 minutes 01 seconds east 222.95 feet, north 03 degrees 59 minutes 36 seconds west 114.82 feet, south 88 degrees 50 minutes 31 seconds east 605.09 feet, south 10 degrees 20 minutes 18 seconds east 549.49 feet, south 85 degrees 22 minutes 28 seconds west 834.31 feet to a point, said point having the coordinate value north 696882.02, east 1186108.26 (Maryland State plane grid system NAD83), then leaving said conveyance from Trout Run LLC to the State of Maryland, Department of Natural Resources and running south 15 degrees 42 minutes 37 seconds west 592.68 feet more or less, south 50 degrees 17 minutes 23 seconds west 1082.40 feet more or less, then easterly approximately 450 feet, northerly approximately 2,400 feet, easterly approximately 1,150 feet to a point on the State park boundary lying southerly approximately 1,000 feet from the intersection of U.S. Route 15 and Catoctin Hollow Road, then running along the State Park Boundary southerly 3,200 feet, westerly 150 feet, southwesterly 850 feet, southerly 1,350 feet, easterly 625 feet, southerly 1,200 feet, southwesterly 2,960 feet, southeasterly 1,850 feet, southerly 2,400 feet, then westerly 3,800 feet, then northerly by twelve courses approximately 10,800 feet to a point, said point being the beginning of the thirty–fifth line of parcel two in a deed recorded among the land records of Frederick County, Maryland in Liber 9493, Folio 163 from Trout Run LLC to the State of Maryland, Department of Natural Resources, said point having the coordinate value north 695055.31, east 1183665.60 (Maryland State plane grid system NAD83), then running with said conveyance north 43 degrees 26 minutes 09 seconds west 654.61 feet, north 23 degrees 17 minutes 49 seconds west 264.16 feet, north 60 degrees 30 minutes 21 seconds west 1409.17 feet, then leaving said conveyance from Trout Run LLC to the State of Maryland, Department of Natural Resources, and running the following courses and distances, north 81 degrees 34 minutes 28 seconds west 476.82 feet, south 60 degrees 44 minutes 49 seconds west 279.32 feet, north 84 degrees 52 minutes 51 seconds west 298.10 feet, north 65 degrees 45 minutes 18 seconds west 230.41 feet, north 82 degrees 57 minutes 48 seconds west 254.53 feet to a point, said point intersecting the north 27 degrees 09 minutes 38 seconds east 3058.78 foot line of said conveyance from Trout Run LLC to the State of Maryland, Department of Natural Resources, and running with the remainder of said line 2,953.53 feet, then running south 71 degrees 36 minutes 40 seconds east 1213.38 feet, north 49 degrees 21 minutes 50 seconds east 374.81 feet, then leaving said conveyance from Trout Run LLC to the State of Maryland, Department of Natural Resources and running north 25 degrees 49 minutes 35 seconds west 724.05 feet more or less, north 28 degrees 21 minutes 50 seconds east 273.90 feet more or less, south 77 degrees 21 minutes 50 seconds west 683.10 feet more or less, south 60 degrees 21 minutes 50 seconds west 339.90 feet more or less, south 79 degrees 21 minutes 50 seconds west 410.52 feet more or less, south 26 degrees 05 minutes 53 seconds west 587.24 feet more or less to a point north of the northern margin of Catoctin Hollow Road, then running along the existing State Park boundary north 36 degrees 34 minutes 42 seconds west 477.55

feet more or less, north 34 degrees 01 minutes 45 seconds west 476.79 feet more or less, north 60 degrees 46 minutes 07 seconds west 1187.24 feet more or less, north 75 degrees 21 minutes 16 seconds west 671.45 feet more or less, north 28 degrees 27 minutes 00 seconds west 454.64 feet more or less, north 08 degrees 23 minutes 56 seconds west 1298.89 feet more or less, north 25 degrees 49 minutes 35 seconds west 724.05 feet more or less, north 26 degrees 00 minutes 03 seconds west 1096.58 feet more or less, north 55 degrees 42 minutes 24 seconds west 722.64 feet more or less, north 12 degrees 13 minutes 29 seconds west 833.42 feet more or less, north 24 degrees 45 minutes 11 seconds west 281.68 feet more or less, south 53 degrees 53 minutes 56 seconds west 1212.53 feet more or less, north 11 degrees 16 minutes 29 seconds east 2446.39 feet more or less, north 25 degrees 49 minutes 35 seconds west 724.05 feet more or less, north 09 degrees 29 minutes 30 seconds west 711.99 feet more or less, north 47 degrees 38 minutes 33 seconds east 1026.19 feet more or less, north 40 degrees 04 minutes 56 seconds west 956.82 feet more or less, north 52 degrees 57 minutes 05 seconds east 464.51 feet more or less, north 46 degrees 48 minutes 00 seconds east 525.75 feet more or less, south 73 degrees 25 minutes 15 seconds east 572.33 feet more or less, north 72 degrees 41 minutes 56 seconds west 1386.92 feet more or less, to a point, said point being the beginning of the twelfth line in the aforesaid conveyance from the Commissioners of Thurmont to the State of Maryland, Department of Natural Resources, said point having the coordinate value north 709830.19, east 1182371.72 (Maryland State plane grid system NAD83), and running with said conveyance reversed, south 73 degrees 01 minutes 51 seconds east 1308.09 feet, south 51 degrees 09 minutes 11 seconds east 198.00 feet, north 42 degrees 43 minutes 20 seconds east 802.07 feet to the point of beginning.

Exempting the existing right–of–way of Catoctin Hollow Road.

(h) Pursuant to the provisions of subsection (a) of this section, that property in Howard and Montgomery counties containing approximately 1579 acres and described as follows is a Type 2 State wildland and shall be named the "Patuxent River Wildland":

Parcel 1:

Beginning at a point on the south shore of the Patuxent River at the eastern margin of the right–of–way of the Hipsley Mill Road, and proceeding counterclockwise about the boundary of the wildland area, southwesterly with said right–of–way margin approximately 3,050 feet to the southern boundary of Patuxent River State Park (hereafter the Park). Thence leaving Hipsley Mill Road and following said Park boundary southeasterly approximately 1,700 feet; thence leaving the Park boundary and with the forest bounding a field, on the right hand, easterly approximately 1,400 feet. Still with the forest edge southwesterly approximately 300 feet, thence easterly approximately 300 feet, thence southeasterly approximately 800 feet, thence southwesterly approximately 475 feet, again to the Park boundary. Thence with said Park boundary southeasterly approximately 550 feet. Then leaving the Park boundary and again with the forest edge northeasterly approximately 1,150 feet, southeasterly approximately 400 feet, southerly approximately 275 feet, thence southeasterly approximately 750 feet, thence northeasterly approximately 550 feet,

thence southeasterly approximately 250 feet, thence northeasterly approximately 500 feet. Thence still with the forest edge southeasterly approximately 600 feet, thence southwesterly approximately 750 feet, thence easterly approximately 150 feet thence southerly approximately 250 feet, thence easterly approximately 900 feet. Thence again with the forest edge northeasterly approximately 1,100 feet, thence easterly approximately 300 feet, thence northeasterly approximately 1,400 feet, thence southeasterly approximately 650 feet, thence northerly approximately 1,050 feet, thence northeasterly approximately 550 feet, thence northerly approximately 420 feet to the Patuxent River. Thence crossing the river in a northwesterly direction approximately 100 feet. Thence with the forest edge and the river southeasterly approximately 300 feet; then leaving the river and following the forest edge northeasterly with a field on the right, approximately 150 feet thence northerly approximately 420 feet, thence northwesterly approximately 475 feet, thence northerly approximately 400 feet. Thence still with the forest edge easterly approximately 150 feet, thence northerly approximately 650 feet, thence westerly approximately 900 feet, thence northerly approximately 800 feet. Thence leaving the forest edge and cutting through a narrow neck of woods, still northerly approximately 200 feet, then again with the forest edge westerly approximately 550 feet. Again cutting through a neck of woods still westerly approximately 550 feet. Once again with the forest edge southwesterly approximately 450 feet, thence northwesterly approximately 1,175 feet, thence southerly approximately 500 feet, thence westerly with the forest edge approximately 300 feet, thence northeasterly approximately 1,375 feet, thence northwesterly approximately 375 feet, thence southwesterly approximately 650 feet, thence northeasterly approximately 450 feet, thence still with the forest edge easterly approximately 1,150 feet to the Park boundary. Thence with said Park boundary northeasterly approximately 825 feet, thence northwesterly approximately 700 feet, thence southwesterly approximately 800 feet, thence westerly approximately 350 feet, thence northwesterly approximately 275 feet to an old field. Thence with the field on the right hand and with the forest edge southwesterly approximately 375 feet, thence northwesterly approximately 425 feet to Hipsley Mill Road. Thence with Hipsley Mill Road southwesterly approximately 600 feet to the edge of an old field. Thence leaving Hipsley Mill Road and with the field on the right hand and with the forest edge southeasterly approximately 350 feet, thence southwesterly through a narrow neck of woods approximately 525 feet, thence still with the forest edge southeasterly approximately 1,150 feet, thence westerly approximately 300 feet, thence southeasterly approximately 500 feet thence southerly approximately 400 feet, thence easterly approximately 175 feet, thence with the field on the right hand and with the forest edge southerly approximately 550 feet, thence westerly approximately 200 feet, thence southwesterly approximately 475 feet, thence northwesterly approximately 250 feet, thence northerly approximately 500 feet. Thence still with the forest edge northerly approximately 350 feet, thence southerly approximately 550 feet, thence northwesterly approximately 1,600 feet to the Hipsley Mill Road. Thence with the eastern margin of said road right–of–way, southwesterly approximately 1,250 feet, thence southerly approximately 750 feet again crossing the Patuxent River to the beginning point.

A twenty–five hundredths (0.25) of an acre parking area located approximately

50 feet northeast of the Patuxent River along the east side of Hipsley Mill Road shall be excluded from the Patuxent River Wildland.

Parcel 2

Beginning at a point, said point being the beginning of the 2nd line of a tract of land which by deed dated January 24, 1975, and recorded in the land records of Howard County in Liber 719, Folio 027, was conveyed by Wiley G. Griffith to the State of Maryland, to the use of the Department of Natural Resources, and running with said second line, south 69 degrees 25 minutes 30 seconds east 818.49 feet to a point, said point being the beginning of the eleventh line of a tract of land which by deed dated, June 26, 1969, and recorded in the land records of Howard County in Liber 513, Folio 289, was conveyed by Theron P. and Elizabeth Sager to the State of Maryland, to the use of the Department of Forest and Parks, and running with said line, south 70 degrees 50 minutes 20 seconds east 130.00 feet more or less to a point, north 16 degrees 30 minutes 00 seconds east 960.00 feet to a point on the southern edge of Annapolis Rock Road, thence running with the south side of said road in a easterly direction to the intersection and western edge of Hipsley Mill Road, thence running with the western edge of Hipsley Mill Road in a southwesterly direction 1800 feet to a point in the western edge of said road, said point also being distant north 36 degrees 46 minutes 30 seconds west 150.00 feet from a point located north 56 degrees 03 minutes 23 seconds west 20.00 from the end of the 33rd line of a tract of land which by deed dated, February 1, 1972, and recorded in the land records of Howard County in Liber 584, Folio 211, was conveyed by George G. and Sidney Ann Adams Wilson to the State of Maryland, to the use of the Department of Forests and Parks, and running thence, north 56 degrees 03 minutes 23 seconds west 890 feet more or less to a point in the 30th line of said aforementioned conveyance, thence running with part of said 30th line, south 28 degrees 39 minutes 20 seconds west 1200.00 feet more or less to a point, north 67 degrees 00 minutes 00 seconds west 650.00 feet more or less to a point, north 81 degrees 30 minutes 00 seconds west 800.00 feet more or less feet to a point, north 33 degrees 30 minutes 00 seconds east 300.00 feet more or less to a point, north 57 degrees 00 minutes 00 seconds west 430.00 feet more or less to a point, south 09 degrees 30 minutes 00 seconds west 550.00 feet more or less feet to a point, south 70 degrees 00 minutes 00 seconds east 930.00 feet more or less to a point, north 66 degrees 30 minutes 00 seconds east 270.00 feet more or less to a point, south 66 degrees 30 minutes 00 seconds east 840.00 feet more or less to a point, south 31 degrees 00 minutes 00 seconds east 450.00 feet more or less to a point on the west edge of Hipsley Mill Road, thence running with the west edge of said road 2850 feet more or less to a point, said point being distant north 76 degrees 02 minutes 12 seconds west 20.00 feet from the beginning of the first line of a tract of land which by deed dated, March 8, 1975, and recorded in the land records of Montgomery County in Liber 4633, Folio 650, was conveyed by William B. King to the State of Maryland, to the use of the Department of Natural Resources, and running thence, north 76 degrees 02 minutes 12 seconds west 56.51 feet to a point, north 67 degrees 22 minutes 12 seconds west 612.57 feet to a point, north 86 degrees 44 minutes 42 seconds west 219.50 feet to a point, said point being the end of the third line of said aforementioned conveyance from King, thence running, north 86 degrees 44 minutes 42 seconds west 221.81 feet to a point, said point being the end of the 11th line of a tract of land which by deed dated

June 10, 1971, and recorded in the land records of Montgomery County in Liber 4081, Folio 247, was conveyed by Margaret Gallagher to the State of Maryland, to the use of the Department of Forest and Parks, and running thence with said eleventh line, north 66 degrees 36 minutes 14 seconds west 200.00 feet to a point, south 29 degrees 00 minutes 00 seconds west 1120.00 feet more or less to a point, north 83 degrees 00 minutes 00 seconds west 480.00 feet more or less to a point, said point being distant south 34 degrees 16 minutes 36 seconds 200.00 feet from the end of the 7th line of the last mentioned deed, thence running, south 07 degrees 00 minutes 00 seconds west 800.00 feet more or less to a point, said point being in the northernmost line of the PEPCO transmission line right of way, thence running along the northern line of said right of way in a northwesterly direction 580.00 feet more or less to a point, thence leaving said right of way and running north 11 degrees 00 minutes 00 seconds west 630.00 feet more or less to a point, said point being the end of the seventh line of a tract of land which by deed dated September 2, 1971, and recorded in the land records of Montgomery County in Liber 4118, Folio 689, was conveyed by A. W. Thompson to the State of Maryland, to the use of the Department of Forest and Parks, and running thence with the 8th, 9th and 10th line of the last mentioned deed, north 03 degrees 31 minutes 50 seconds west 305.50 feet to a point, north 50 degrees 13 minutes 45 seconds west 717.75 feet to a point, south 41 degrees 58 minutes 35 seconds west 492.54 feet to a point, said point being the end of the 1st line of a tract of land which by deed dated January 6, 1981, and recorded in the land records of Montgomery County in Liber 5641, Folio 156, was conveyed by Jerome W. and Ella Jean Cassidy to the State of Maryland, to the use of the Department of Natural Resources, and running thence with the 2nd, 3rd, 4th, 5th, 6th and 7th line of said deed, south 47 degrees 16 minutes 25 seconds east 656.72 feet to a point, south 47 degrees 16 minutes 25 seconds east 232.01 feet to a point, south 68 degrees 42 minutes 42 seconds west 76.83 feet to a point, north 75 degrees 29 minutes 58 seconds west 122.09 feet to a point, south 85 degrees 00 minutes 00 seconds west 208.00 feet to a point in the northernmost right of way line of PEPCO and running with said right of way in a northwesterly direction 2100.00 feet more or less to a point, said point being south 65 degrees 44 minutes 39 seconds east from the end of the 2nd line of a tract of land which by deed dated September 19, 1984, and recorded in the land records of Montgomery County in Liber 6566, Folio 868, was conveyed by Kenneth and Nancy Zastrow to the State of Maryland, to the use of the Department of Natural Resources, and running thence, north 08 degrees 30 minutes 45 seconds east 77.00 feet more or less to a point, north 13 degrees 18 minutes 12 seconds east 149.28 feet to a point, north 09 degrees 00 minutes 00 seconds 102.01 feet to a point, said point being the end of the 11th line of a tract of land which by deed dated September 2, 1971 and recorded in the land records of Montgomery County in Liber 4118, Folio 689, was conveyed by A. W. Thompson to the State of Maryland, to the use of the Department of Natural Resources, and running thence, north 46 degrees 12 minutes 00 seconds east 1537.00 feet to a point on the south bank of the Patuxent River, thence running with the south bank of said river in a northwesterly direction 300.00 feet more or less to a point on the east side of Madcap Road, thence running with the east side of Madcap Road in a northwesterly direction 600.00 feet more or less to a point on the easternmost line of a gas line right of way, thence running with the easternmost line of said right of way in a northerly direction 24000.00 feet more or less to a point, thence running north

88 degrees 00 seconds 00 minutes east 250.00 feet more or less to the beginning.

Within this parcel of the Patuxent River Wildland are twenty (20) acres of leased agricultural land located off the west side of Hipsley Mill Road approximately 700 feet from the Patuxent River. This use may continue until December 31, 1998.

Parcel 3

Beginning at a point, said point being situated south 18 degrees 43 minutes 03 seconds west 859.29 feet from the beginning of the 12th line of a tract of land which by deed dated December 3, 1975, and recorded in the land records of Howard County in Liber 747, Folio 330, was conveyed by Howard and Mary Nicodemus to the State of Maryland, to the use of the Department of Forest and Parks, said point also being a corner of the previously established Patuxent River Wildland, and running thence, south 18 degrees 43 minutes 03 seconds west 400 feet more or less to a point, south 57 degrees 39 minutes 47 seconds east 935.90 feet to a point, south 69 degrees 09 minutes 01 seconds east 1,435.28 feet to a point, south 08 degrees 27 minutes 54 seconds west 400.00 feet more or less to a point in a line of the previously mentioned wildland, thence running with the outline of said wildland to the point of beginning.

Within this parcel of the Patuxent River Wildland are thirty (30) acres of leased agricultural land immediately south of Cabin Branch. This use may continue until December 31, 1999.

Parcel 4

Beginning at a point, said point being the end of the 4th line of a tract of land which by deed dated March 10 1972, and recorded in the land records of Montgomery County in Liber 4193, Folio 797, was conveyed by Walter Tarlton Bryan to the State of Maryland, to the use of the Department of Forests and Parks, said point also being a corner of the previously established Patuxent River Wildland, and running thence, south 45 degrees 00 minutes 00 seconds west 450.00 feet more or less to a point, said point being in the northerly right of way of the PEPCO transmission line, thence running with said right of way in a northwesterly direction 2200.00 feet more or less to a point in a line of the aforementioned wildland, and running thence with the outline of said wildland to the point of beginning.

Within this parcel of the Patuxent River Wildland are twenty (20) acres of leased agricultural land located along the PEPCO power line right of way approximately 2400 feet east of Hipsley Mill Road. This use may continue until December 31, 1998.

(i) (1) Pursuant to the provisions of subsection (a) of this section, that property in Baltimore County containing approximately 792 acres and described as follows is a Type 2 wildland, and shall be named the "Gunpowder Falls Wildland":

Beginning at a point near Falls Road Bridge over the Gunpowder Falls where the west margin of the falls right–of–way meets the south bank of the Gunpowder Falls: Thence with the outline of the proposed wildland in a clockwise direction by the

following bearings and distances: With the right–of–way margin of the Falls Road, southwesterly approximately 2,100 feet, thence southerly approximately 1,650 feet, thence southwesterly approximately 4,300 feet to the Evna Road. Thence with the margin of said Evna Road northwesterly approximately 1,050 feet, thence westerly approximately 325 feet. Leaving the road, thence northerly approximately 300 feet, thence northwesterly approximately 700 feet and thence westerly approximately 1,000 feet to the Prettyboy Dam Road. Thence with the eastern margin of the Prettyboy Dam Road, northeasterly approximately 1,500 feet, thence easterly approximately 300 feet. Then leaving the road, southerly approximately 350 feet, thence easterly approximately 600 feet, northerly approximately 500 feet, thence easterly approximately 750 feet, thence northwesterly approximately 700 feet, thence southwesterly approximately 300 feet, thence westerly approximately 650 feet again to the Prettyboy Dam Road. Again with the eastern margin of said road, northerly approximately 700 feet, thence northeasterly approximately 300 feet, thence again northeasterly approximately 250 feet, thence northerly approximately 400 feet, thence northeasterly approximately 300 feet, thence leaving Prettyboy Dam Road easterly approximately 600 feet, thence northerly approximately 450 feet, thence southeasterly in two courses approximately 875 and 1,600 feet, thence northeasterly approximately 300 feet to the Gunpowder Falls. Thence crossing the Gunpowder Falls still northeasterly approximately 100 feet, thence northwesterly approximately 500 feet, thence northerly approximately 150 feet, thence northeasterly approximately 400 feet, thence northerly approximately 1,000 feet, thence westerly approximately 600 feet. Thence northerly in two courses approximately 100 and 1,350 feet again to the Prettyboy Dam Road. Then with the east margin of said road northeasterly approximately 875 feet. Thence leaving the road southeasterly approximately 225 feet, thence northeasterly approximately 575 feet, thence northwesterly approximately 125 feet, thence northeasterly approximately 825 feet, thence northerly approximately 300 feet, thence easterly approximately 300 feet, thence northeasterly in two courses approximately 200 and 250 feet, thence easterly approximately 250 feet. Thence southwesterly approximately 1,100 feet, thence easterly approximately 325 feet, thence southeasterly in three courses approximately 250, 250 and 200 feet. Thence easterly approximately 150 feet, thence northeasterly approximately 300 feet, thence southeasterly approximately 300 feet, thence northeasterly approximately 450 feet, thence easterly approximately 650 feet. Thence southeasterly in two courses of approximately 600 and 1,200 feet to the west margin of the Falls Road and with said margin southwesterly crossing the Gunpowder Falls approximately 2,350 feet to the beginning.

(2) Within part of the Gunpowder Falls Wildland is eight–tenths (0.8) of an acre of nonconforming use located approximately 1,600 feet northeast of Evna Road along the north side of Falls Road. This use may continue for a period not to exceed 20 years.

(3) A twenty–five hundredths (0.25) of an acre parking area located approximately 600 feet southwest of the Gunpowder River along the northwest side of Falls Road shall be excluded from the Gunpowder Falls Wildland.

(j) (1) Pursuant to the provisions of subsection (a) of this section, that property in Allegany County containing approximately 943 acres and described as follows is a Type 2 State wildland and shall be named "Rocky Gap Wildland":

Beginning at a concrete monument with a brass disc in the top marked as United States Coast & Geodetic Station "Penmar" (Md State plane coordinates north 692383.265, east 333384.588) said monument being a Mason–Dixon marker at the top of Evitts Mountain, said monument also being at the end of the north 88 degrees 53 minutes 50 seconds west 3,536.66 foot line of a tract of land which by deed dated September 28, 1966 and recorded in Liber 402, Folio 391 of the land records of Allegany County was conveyed by inquisition from George and Loretta Coffman to the State of Maryland, then running south 88 degrees 53 minutes 50 seconds east 2,500.00 feet, then running south 28 degrees 15 minutes 00 seconds west 7,130.00 feet more or less, to a point of intersection with a stream, said stream being a tributary of Rocky Gap Run, and the Evitts Mountain Road, then running along said stream in a southwesterly direction, 1,550.00 feet more or less, to its intersection with Rocky Gap Run, then running with Rocky Gap Run in a southeasterly direction 400.00 feet more or less, to a point in said run, then leaving said run and running, south 16 degrees 25 minutes 00 seconds east 300.00 feet more or less, to a point, then running south 37 degrees 30 minutes 00 seconds west 180.00 feet more or less, to a point, then running south 25 degrees 15 minutes 00 seconds west 250.00 feet more or less, to a point, then running south 37 degrees 00 minutes 00 seconds west 330.00 feet more or less, to a point, then running south 63 degrees 30 minutes 00 seconds west 300.00 feet more or less, to a point, then running south 16 degrees 00 minutes 00 seconds west 350.00 feet more or less, to a point, then running south 13 degrees 30 minutes 00 seconds east 420.00 feet more or less, to a point on the north edge of the Old Hancock Road, then running along the north edge of said road in a southwesterly direction 3,000.00 feet more or less, to a point on the northeast edge of Rocky Gap Road, then running along the northeast edge of said road in a northwesterly direction 3,800.00 feet more or less, to a point, said point being distant 50.00 feet from the end of the 5th line of the second Parcel of a tract of land which by deed dated November 11, 1968, and recorded in Liber 427, Folio 154 of the land records of Allegany County, was conveyed by Leo J. Ruppert et al. to the State of Maryland, then running with the remainder of the 6th, and all of the 7th, 8th, and 9th lines of said conveyance, south 42 degrees 47 minutes 53 seconds east 272.33 feet to a point, then running south 61 degrees 03 minutes 56 seconds east 131.94 feet to a point, then running south 66 degrees 17 minutes 58 seconds east 379.39 feet to a point, then running south 61 degrees 21 minutes 24 seconds east 360.29 feet to a point, said point having Maryland State plane coordinates north 683519.30, east 327594.29, said point also being 33.70 feet from the end of the 1st line of the aforesaid conveyance from George and Loretta Coffman (Liber 401, Folio 391), then running with the remainder of the 1st line of the Coffman conveyance and then with the 50th through the 38th lines reversed, north 76 degrees 58 minutes 44 seconds east 362.30 feet to a point, then running north 76 degrees 58 minutes 46 seconds east 483.50 feet to a point, then running north 12 degrees 58 minutes 46 seconds east 223.38 feet to a point, then running north 81 degrees 43 minutes 13 seconds west 561.00 feet to a point, then running north 57 degrees 01 minutes 47 seconds west

1,154.31 feet to a point, then running north 68 degrees 23 minutes 57 seconds east 527.66 feet to a point on a rock, then running north 24 degrees 27 minutes 05 seconds east 1,820.45 feet to a stone pile, then running north 24 degrees 26 minutes 21 seconds east 1,683.12 feet to a point, then running north 26 degrees 13 minutes 19 seconds east 921.21 feet to a stone pile, then running north 27 degrees 47 minutes 28 seconds east 333.46 feet to a stone, then running north 12 degrees 16 minutes 11 seconds west 436.27 feet to a stone pile, then running north 00 degrees 49 minutes 21 seconds west 594.42 feet to a point on a rock, then running north 02 degrees 35 minutes 51 seconds east 462.01 feet to a point, then running north 69 degrees 49 minutes 59 seconds west 53.62 feet to a point, then running north 05 degrees 22 minutes 04 seconds east 513.18 feet to the end of the 1st line of a tract of land which by deed dated December 15, 1975 and recorded in Liber 483, Folio 236 of the land records of Allegany County was conveyed by William and Catherine Welsh to Mitchell Welsh, then running with the 2nd and 3rd lines of said conveyance as surveyed by Chapman Surveying, Inc. in 1984, south 50 degrees 42 minutes 35 seconds east 495.00 feet to a point, then running north 46 degrees 55 minutes 14 seconds east 2,000.89 feet to a 1/2 inch iron pin on the Mason–Dixon Line, then running along the Mason–Dixon Line north 82 degrees 12 minutes 35 seconds east 1,426.40 feet more or less, to the point of beginning.

Saving and excepting from the above description the Evitts Mountain Road described as follows: beginning at the summit of Evitts Mountain east of a concrete monument with a brass disc in the top marked as United States Coast & Geodetic Station "Penmar" (Md State plane coordinates north 692383.265, east 333384.588) said monument being a Mason–Dixon marker, said monument also being at the end of the north 88 degrees 53 minutes 50 seconds west 3,536.66 foot line of a tract of land which by deed dated September 28, 1966 and recorded in Liber 402, Folio 391 of the land records of Allegany County was conveyed by inquisition from George and Loretta Coffman to the State of Maryland, then running 9,000.00 feet more or less, along the crest of Evitts Mountain in a southwesterly direction, then running 3,150.00 feet more or less, in a northeasterly direction to its intersection with a stream, said stream being a tributary of Rocky Gap Run.

(2) Nothing in this subsection shall be construed to or prevent any future development that may be planned by the Department within the area of Rocky Gap State Park that lies outside of and that is not part of the described "Rocky Gap Wildland".

(k) Under the provisions of subsection (a) of this section, that property in Prince George's County, containing approximately 610 acres and described as follows is a Type 2 State wildland and shall be named the "Belt Woods Wildland":

Beginning at a point, said point being the end of the 11th line of a tract of land which by deed dated, November 30 1984, and recorded in the land records of Prince George's County in Liber 6041, Folio 249, was conveyed by the Mercantile Safe Deposit and Trust Company to the State of Maryland, to the use of the Department of Natural Resources, and running thence with the west side of Church Road in a southeasterly direction 1810 feet more or less to a point in the north west corner of the intersection

of Church Road and Central Avenue, thence running along the northern right of way of Central Avenue in a westerly direction 2433 feet more or less to a point in the 7th line of the aforementioned deed, thence continuing along said right of way in a westerly direction 573 feet more or less to a point, thence running, north 05 degrees 50 minutes 10 seconds west 2977.54 feet to a point, north 32 degrees 10 minutes 26 seconds west 2093.66 feet to a point, north 27 degrees 43 minutes 31 seconds east 1899.67 feet to a point, north 02 degrees 46 minutes 07 seconds west 701.52 feet to a point, north 83 degrees 35 minutes 23 seconds east 2989.80 feet to a point, south 03 degrees 32 minutes 21 seconds east 1073.29 feet to a point, north 85 degrees 20 minutes 56 seconds east 737.15 feet to a point in the western right of way of Church Road, thence running with said right of way in a southerly direction 2700 feet more or less to a point in said right of way, thence running, north 81 degrees 00 minutes 00 seconds west 800 feet more or less to a point, south 13 degrees 00 minutes 00 seconds west 780 feet more or less to a point, south 81 degrees 00 minutes 00 seconds east 680 feet more or less to a point in the western right of way of Church Road, thence running with the western right of way of said road in a southwesterly direction 1230 feet more or less to the point of beginning.

Existing agricultural fields will be reforested or allowed to naturally revert to a forested condition according to a management plan developed for the area. Agricultural leases may continue within the Belt Woods Wildland until such time as forestation occurs. Notwithstanding any other provisions of this title, the Department may reforest existing fields using mechanical or motorized equipment.

Existing tenancies within the Belt Woods Wildland may continue until December 31, 1997.

All existing structures including the barns, houses, sheds, and electric utility lines within the above described area shall be allowed to remain in the wildland area. Notwithstanding any other provisions of this title, the Department may allow the use of mechanical or motorized equipment to remove these existing structures and other existing debris from the wildland. The Belt Woods Wildland contains unique ecological features including species sensitive to pressures caused by the burgeoning populations of nonnative and domesticated species. Notwithstanding any other provisions of this title, the Department may, as called for in the management plan developed for the area, remove nonnative or domesticated species of plant or animals and erect fencing, gates, and signage associated with the protection and interpretation of unique ecological features.

(l) Pursuant to the provisions of subsection (a) of this section, that property in Allegany County, containing approximately 2,645 acres described as follows is a Type 2 State wildland and shall be named the "Potomac Bends Wildland":

Parcel 1:

Beginning on the shore of the Potomac River at the east boundary of the abandoned Western Maryland Railroad bed, now owned by the National Park Service, then following the Potomac shore upriver and around the entire sinuous peninsula

to the east boundary of the south end of the property now owned by the National Park Service, then following the National Park Service boundary inland in first a northeasterly direction, then northwest to the Western Maryland Railroad bed, and then northeast following that boundary back to the point of beginning, meaning to include all State–owned and only State–owned lands within this described peninsula.

The wildland excludes the approximately 23 acres privately owned by the Baltimore & Ohio Railroad.

Parcel 2:

Beginning at a point on the south side of the Oldtown Road at the junction of the Green Ridge hiking trail that leads from Oldtown Road to Lift Lock 59, then running south 30 degrees 25 minutes 15 seconds east 220.52 feet to a point, said point having the coordinate value 718444.17 north, 914431.67 east (Maryland State plane grid system NAD83), then running north 78 degrees 18 minutes 20 seconds east 232.59 feet, south 74 degrees 21 minutes 31 seconds east 96.52 feet, south 38 degrees 39 minutes 39 seconds east 166.64 feet, south 25 degrees 46 minutes 13 seconds east 359.17 feet, north 83 degrees 53 minutes 08 seconds west 104.69 feet, south 48 degrees 40 minutes 25 seconds west 287.14 feet, south 14 degrees 02 minutes 14 seconds west 76.64 feet, south 30 degrees 15 minutes 20 seconds west 154.95 feet, south 34 degrees 06 minutes 55 seconds east 278.41 feet, south 14 degrees 28 minutes 17 seconds east 119.03 feet, south 66 degrees 18 minutes 51 seconds east 231.14 feet, south 44 degrees 34 minutes 11 seconds east 950.04 feet to a point, said point having the coordinate value 716509.66 north, 915697.70 east (Maryland State plane grid system NAD83), then running south 28 degrees 34 minutes 21 seconds east 250.00 feet more or less to a point, said point being 1000.00 feet more or less north of the C&O Canal bed, and then running southeasterly keeping 1,000 feet north of the canal bed to the current State forest boundary, then with the boundary to a point on the Western Maryland Railroad, then with the railroad south to the C&O Canal property line, then running upstream with the boundary to the Devil's Alley Road, then following in a northerly direction the road to its junction with Carroll Road and Devil's Alley Run, then with Devil's Alley Run or the Carroll Road, whichever is the most easterly to the Oldtown Road, then following the Oldtown Road to the beginning, only including lands that are State–owned and lands held by the State under certificates of reservation within this described Parcel, and also permitting the nonconforming use of a two–acre Parcel containing an archeological site at an abandoned home site located near the junction of Devil's Alley Road and the C&O Canal boundary and a one–acre Parcel containing an existing observation structure and vista management area at Point Lookout.

Exempting an area consisting of a one hundred foot strip in width extending approximately 1,200 feet along the east side of Carroll Road, the area is located beginning at a stream crossing of the road approximately 1,000 feet north of the Carroll Chimney and all other areas in this Parcel 2 designated or legally used for vehicle parking as of January 1, 1988.

Any land held within this parcel by the State under a certificate of reservation is

included in the Potomac Bends Wildland for so long as the certificate of reservation is in effect.

Parcel 3:

Beginning at the intersection of Mertens Avenue and Outdoor Club Road then following Mertens Avenue in an easterly direction to the right–of–way of the Western Maryland Railroad, then with the railroad in a southerly direction to the C&O Canal boundary, then with the boundary upstream approximately 17,650 feet to the intersection of Sand Flat Run, then continuing with the C&O Canal boundary to a point approximately 1,000 feet southwesterly of the junction of Sand Flat Run and the C&O Canal bed, then in a northeasterly direction maintaining a 1,000 foot distance from the canal bed to Outdoor Club Road, then with the easterly side of Outdoor Club Road to the place of beginning, including all State–owned lands and only lands that are State–owned within this described Parcel.

Exempting all that portion of Outdoor Club Road contained in this Parcel 3 and all other areas in this Parcel 3 designated or legally used for vehicle parking as of January 1, 1988.

Parcel 4:

Beginning at a point where an unnamed forest service road intersects the Old Western Maryland Railroad north of Kessler Tunnel, then along the railroad to the Potomac River shore, then with the shore downstream to the C&O Canal boundary, then with the boundary to a point 1,000 feet from the bank of the river, then maintaining a 1,000 foot distance from the bank to the northerly edge of the unnamed service road, then with the road to the beginning.

Exempting all areas in this Parcel 4 designated or legally used for vehicle parking as of January 1, 1988.

Parcel 5:

An island in the Potomac River of approximately 30 acres known as Mandy Brown Island located near the Western Maryland Railroad Bridge north of Kessler Tunnel.

Parcel 6:

Beginning at a point where the Tunnel Hill Road crosses the C&O Canal boundary at its easternmost point near the Tunnel Hill hiking trail then with the southern boundary of the road to the Western Maryland Railroad south of Kessler Tunnel, then with the railroad in a southwesterly direction to the shore of the Potomac River, then running upstream to the C&O Canal Park, then with the canal boundary northerly to the beginning.

Exempting all areas in this Parcel 6 designated or legally used for vehicle parking as of January 1, 1988.

Parcel 7:

Beginning at a point, said point being the northeast corner of a tract of land designated as Potomac Bends Wildland Parcel 6, by subsection (l) of this section, then running in a northwest direction to a point where Parcel 6 intersects the east boundary of National Park Service land, then running in a northeast direction to a point where the east boundary of the National Park Service land intersects Potomac Bends Wildland, Parcel 4, then running in a southeast direction along the south boundary of the Potomac Bends Wildland, Parcel 4, to a point where the aforementioned line meets the west boundary of the abandoned Western Maryland Railroad bed, then running in a southwest direction along the west boundary of the abandoned Western Maryland Railroad bed to the point of beginning, meaning to include all State–owned and only State–owned lands within this described peninsula.

Exempting all areas in this Parcel 7 designated or legally used for vehicle parking as of January 1, 1996.

Parcel 8:

Beginning at a point, said point having the coordinate value 710198.26 north, 908834.08 east (Maryland State plane grid system NAD83), and then running north 60 degrees 15 minutes 19 seconds east to a point of intersection with the C&O Canal boundary then running with the C&O Canal boundary, in a southeasterly direction to the west boundary of the abandoned western Maryland Railroad bed, then running in a southwesterly direction with said railroad property 3460.00 feet more or less to a point, then leaving said railroad property and running north 28 degrees 51 minutes 20 seconds west 800.00 feet more or less to a point, said point having the coordinate value 705850.51 north, 909248.83 east (Maryland State plane grid system NAD83), then running north 05 degrees 11 minutes 40 seconds west 473.91 feet, north 16 degrees 23 minutes 22 seconds west 253.43 feet, north 84 degrees 17 minutes 22 seconds west 143.73 feet, north 33 degrees 06 minutes 41 seconds west 392.71 feet, north 04 degrees 05 minutes 08 seconds east 401.47 feet, north 47 degrees 43 minutes 34 seconds west 425.22 feet, north 34 degrees 30 minutes 30 seconds west 277.69 feet, north 28 degrees 21 minutes 11 seconds west 582.49 feet, north 46 degrees 42 minutes 27 seconds east 659.85 feet, north 10 degrees 39 minutes 05 seconds east 312.61 feet, north 46 degrees 18 minutes 50 seconds west 504.05 feet, north 56 degrees 42 minutes 14 seconds west 378.39 feet, north 80 degrees 41 minutes 04 seconds west 843.49 feet, north 41 degrees 35 minutes 02 seconds east 339.42 feet, north 85 degrees 14 minutes 11 seconds east 344.43 feet, north 84 degrees 17 minutes 22 seconds west 143.73 feet, south 85 degrees 29 minutes 09 seconds east 545.16 feet, south 59 degrees 44 minutes 37 seconds east 397.37 feet, south 86 degrees 11 minutes 09 seconds east 215.00 feet, north 10 degrees 29 minutes 29 seconds west 392.71 feet to the point of beginning.

Parcel 9:

Beginning at a point, said point having the coordinate value 701890.57 north, 914601.32 east (Maryland State plane grid system NAD83), and then running south

23 degrees 48 minutes 18 seconds west 186.84 feet, south 13 degrees 20 minutes 52 seconds west 152.44 feet, south 13 degrees 52 minutes 47 seconds east 320.00 feet more or less to a point of intersection with the C&O Canal boundary, then running with the C&O Canal boundary in a northwesterly direction to a point of intersection of the C&O Canal Boundary and the easternmost right of way of the abandoned western Maryland Railroad bed, then running in a northerly direction with said railroad right of way 500.00 feet more or less to a point, then leaving said railroad right of way and running south 89 degrees 05 minutes 36 seconds east 220.42 feet to a point, said point having the coordinate value 704031.27 north, 909853.00 east (Maryland State plane grid system NAD83), then running south 50 degrees 11 minutes 43 seconds east 479.30 feet, south 62 degrees 59 minutes 18 seconds east 344.70 feet, south 57 degrees 27 minutes 15 seconds east 401.42 feet, north 62 degrees 24 minutes 07 seconds east 221.89 feet, north 52 degrees 51 minutes 09 seconds east 185.03 feet, north 11 degrees 37 minutes 58 seconds east 155.14 feet, north 48 degrees 30 minutes 10 seconds east 155.14 feet, north 67 degrees 00 minutes 38 seconds east 160.21 feet, south 73 degrees 36 minutes 41 seconds east 79.19 feet, south 43 degrees 01 minutes 33 seconds east 91.70 feet, south 29 degrees 40 minutes 03 seconds east 406.32 feet, south 27 degrees 36 minutes 05 seconds east 683.05 feet, south 60 degrees 58 minutes 46 seconds east 573.06 feet, south 70 degrees 27 minutes 14 seconds east 1388.51 feet, south 71 degrees 38 minutes 35 seconds east 590.66 feet to the point of beginning.

(m) In accordance with the provisions of subsection (a) of this section, the property in Calvert County containing approximately 1079 acres of land and described as follows is a Type 2 State wildland and shall be named the "Calvert Cliffs Wildland":

Beginning at a point 1700 feet northeast of the intersection of old Route 2/4 and Camp Canoy Road and proceeding in a clockwise direction around the wildland along the following approximate distances and directions: leaving the beginning point and running along Camp Canoy Road in a northeasterly direction 700 feet, then leaving the road and following the irregular northwest park boundary for 9 courses and distances back to Camp Canoy Road, then running in a northeasterly direction 842 feet to a private drive, then following the drive and the park boundary until it reaches the Chesapeake Bay, then running along the shoreline for 7050 feet more or less to the park's easternmost point, then running along the southern border of the park to Route 497, then running northwest along Route 497 and the park boundary for 1092 feet more or less, then leaving Route 497 and following the irregular park boundary to the point of intersection with Maryland grid line 963,000 east, then leaving the park boundary and running directly north for 1650 feet to a park road, then running on the north side of the park road in a northwesterly direction for 2000 feet, then leaving the road and running north 40 degrees east 700 feet, then north 350 feet then north 40 degrees west for 2100 feet to the point of beginning.

Exempting a corridor of 30 feet from either side of the existing park service road to the youth camping area.

Exempting a corridor of 30 feet from either side of the park service road to the Chesapeake Bay and also the park road leading to the three existing structures

southeast of the tidal marsh. Also exempting an area around each of these structures extending 30 feet from the structures' exterior walls. Uses will be limited to conservation education and research.

Exempting a parcel beginning at a point on the park road leading to Camp Canoy, the point being 1800 feet southeast of the intersection of the park road and the private drive off of Camp Canoy Road and running the following courses and distances: northeast 800 feet, then southeast 2800 feet, then southwest 1000 feet, then northwest 2200 feet to the point of beginning.

(n) (1) In accordance with the provisions of subsection (a) of this section, the property in Baltimore County within North Point State Park containing approximately 667 acres of land and described as follows is a Type 2 State wildland and shall be named the "Black Marsh Wildland":

Parcel 1:

Beginning at a point on the northeast corner of the intersection between Route 20 and an existing haul road, then following the east side of Route 20 northeasterly for 305 feet to a point, then following the boundary of North Point State Park along 4 courses generally northeasterly to the intersection of the boundary with the south side of Miller's Island Road, then following the south side of Miller's Island Road easterly for 5,910 feet to the south corner of the intersection between Miller's Island Road and Baylight Road, then following the south side of Baylight Road easterly for 1,356 feet to the point of intersection between Baylight Road and the boundary of North Point State Park generally southwesterly along 6 courses to the mean high water line of the Chesapeake Bay, then following the mean high water line of the Chesapeake Bay southwesterly for 8,828 feet to a point, then leaving the shoreline and extending northwesterly in 4 courses of 696.91 feet (north 56 degrees, 52 minutes, 30 seconds west), 200.75 feet (north 18 degrees, 37 minutes, 43 seconds east), 115.91 feet (north 20 degrees, 33 minutes, 41 seconds west), and 378.05 feet (north 48 degrees, 33 minutes, and 58 seconds west) to a point on the southeast side of Bay Shore Road, then following the southeast side of Bay Shore Road northeasterly for 1,521.5 feet and continuing along the northeast side of Bay Shore Road northwesterly for 2,135 feet to a point, then following a north, northeast arc for 976 feet to the east edge of the aforementioned, existing haul road, and then following the east, northeast side of the haul road for 2,016 feet to the point of beginning.

Parcel 2:

Beginning at the southeast corner of the intersection between Route 20 and the aforementioned existing haul road, then following the southwest, west side of the haul road southerly for 2,649 feet to the north corner of the intersection between the haul road and Bay Shore Road, then following the northeast side of Bay Shore Road northwesterly for 248 feet to the east corner of the intersection between Bay Shore Road and Route 20, and then following the east side of Route 20 northeasterly to the point of beginning.

Parcel 3:

Beginning at the intersection between the boundary of North Point State Park and the north side of Miller's Island Road, then following the park boundary in 8 courses to the mean high water line on the south shore of Back River, then following the mean high water line of Back River easterly for 2,980 feet to the intersection between the mean high water line and the boundary of North Point State Park, then following the boundary of North Point State Park generally southeasterly in 3 courses to the intersection of the park boundary with the north side of Miller's Island Road, and then following the north side of Miller's Island Road westerly for 5,894 feet to the point of beginning.

(2) For purposes of this subsection, a 60–foot wide park access corridor shall be recognized between Parcel 1 and Parcel 2. The corridor shall be defined as 30 feet from each side of the centerline of the existing haul road. The surface of the park access road to be placed in the corridor shall be no more than 24 feet in width.

(3) Notwithstanding any other provision of this title, the Department may:

(i) Convert existing dirt roads in Parcel 1 of the Black Marsh Wildland to pedestrian trails of not more than 8 feet in width, and vehicular use of the trails shall be limited to construction and maintenance operations of the Department;

(ii) Construct no more than 2 viewing platforms adjacent to trails for public observation of areas with value for education, research, and appreciation of natural resources; and

(iii) Establish temporary access roads to the shoreline in Parcels 1 and 3 solely for the purpose of shoreline stabilization, provided that:

1. A comprehensive study, with opportunity for citizen input, is conducted on the necessity and methods for shoreline stabilization and that opportunities for nonstructural and offshore stabilization are considered the highest priority;

2. The use of any access road is demonstrated to be necessary to accomplish the required stabilization; and

3. After the completion of any shoreline stabilization, any access road shall be removed immediately and the area used for the access road shall be allowed to revert to its natural conditions.

(o) (1) Pursuant to the provisions of subsection (a) of this section, that property in Somerset County containing approximately 2,880 acres and described as follows is a Type 2 State wildland and shall be named the "Cedar Island Wildland":

Beginning for the same, at a post set up in the shore by the southerly side of the Little Annemessex River, at the mouth of a cove or small creek, lying to the west

side of Broad Creek, said post being the beginning of a tract called "The Re–survey of Broad Neck" described in a patent from the State of Maryland to Oliver S. Horsey, dated August 27, 1891, and recorded in Liber W.R.H. no. 2, Folio 371, in the State Archives; the said tract being the same and identical tract conveyed to the State of Maryland by Sifford Pearre and Angelica Y. Pearre, his wife, and Phillip L. Poe and Grace Morris Poe, his wife, by a deed dated March 31, 1949 and recorded in the land records of Somerset County, Maryland in Liber 146, Folio 154. Said post also being the beginning of a tract of land called "Broad Creek North West". Then leaving said post and running by and with the 1st line of "Broad Creek North West" south 50 degrees 00 minutes 00 seconds east 5,540.00 feet to a post set up by the northerly side of "the prong" of the said Broad Creek, then running, south 47 degrees 00 minutes 00 seconds east 1980.00 feet across the said prong to Broad Creek, thence down and with the westerly side of Broad Creek, and binding thereon, the following eight (8) courses and distances: south 37 degrees 00 minutes 00 seconds east 841.50 feet to a point, then running north 78 degrees 00 minutes 00 seconds east 577.50 feet to a point, then running south 03 degrees 00 minutes 00 seconds east 511.50 feet to a point, then running south 22 degrees 00 minutes 00 seconds west 429.00 feet to a point, then running south 07 degrees 00 minutes 00 seconds east 726.00 feet to a point, then running south 12 degrees 30 minutes 00 seconds west 907.50 feet to a point, then running south 41 degrees 00 minutes 00 seconds west 280.50 feet to a point, then running south 09 degrees 00 minutes 00 seconds east 825.00 feet to the mouth of the said Broad Creek, at Pocomoke Sound, thence by and with the shore of the said Pocomoke Sound, Cedar Straights and Tangier Sound, and binding thereon, to the mouth of the aforesaid Little Annemessex River, as follows, viz: south 76 degrees 00 minutes 00 seconds west 660.00 feet to a point, then running south 50 degrees 00 minutes 00 seconds west 775.50 feet to a point, then running south 06 degrees 00 minutes 00 seconds west 313.50 feet to a point, then running south 56 degrees 00 minutes 00 seconds west 676.50 feet to a point, then running north 76 degrees 00 minutes 00 seconds west 874.50 feet to a point, then running south 66 degrees 00 minutes 00 seconds west 280.50 feet to a point, then running south 03 degrees 00 minutes 00 seconds west 330.00 feet to a point, then running north 60 degrees 00 minutes 00 seconds west 907.50 feet to a point, then running north 31 degrees 00 minutes 00 seconds west 478.50 feet to a point, then running south 71 degrees 00 minutes 00 seconds west 1782.00 feet to the mouth of "Fishing Creek", thence south 52 degrees 00 minutes 00 seconds west 2,508.00 feet across the mouth of Fishing Creek, thence north 82 degrees 00 minutes 00 seconds west 1,089.00 feet to a point, thence north 43 degrees 00 minutes 00 seconds west 660.00 feet to a point, thence north 72 degrees 00 minutes 00 seconds west 627.00 feet to a point, thence north 34 degrees 00 minutes 00 seconds west 841.50 feet to a point, thence north 49 degrees 00 minutes 00 seconds west 1,039.50 feet to a point, thence north 31 degrees 00 minutes 00 seconds west 2,706.00 feet to the aforesaid Tangier Sound, thence by and with the shore of the said Tangier Sound, and binding thereon, the following fourteen (14) courses and distances: north 15 degrees 00 minutes 00 seconds east 1,749.00 feet to a point, then running north 71 degrees 00 minutes 00 seconds east 660.00 feet to a point, then running north 06 degrees 30 minutes 00 seconds east 1,188.00 feet to a point, then running north 27 degrees 30 minutes 00 seconds west 726.00 feet to a

point, then running north 12 degrees 00 minutes 00 seconds east 1,056.00 feet to a point, then running north 36 degrees 30 minutes 00 seconds east 1,782.00 feet to a point, then running north 03 degrees 15 minutes 00 seconds west 841.50 feet to a point, then running north 23 degrees 00 minutes 00 seconds east 1,452.00 feet to a point, then running north 14 degrees 30 minutes 00 seconds east 990.00 feet to a point, then running north 63 degrees 00 minutes 00 seconds east 429.00 feet to a point, then running north 04 degrees 00 minutes 00 seconds west 2,442.00 feet to a point, then running north 45 degrees 00 minutes 00 seconds west 429.00 feet to a point, then running north 31 degrees 00 minutes 00 seconds west 462.00 feet to a point, then running north 40 degrees 00 minutes 00 seconds east 115.50 feet to the mouth of the aforesaid Little Annemessex River, thence binding with the southerly side of the Little Annemessex River the following six (6) courses and distances: south 45 degrees 00 minutes 00 seconds east 1,039.50 feet to a point, then running south 14 degrees 00 minutes 00 seconds east 297.00 feet to a point, then running south 86 degrees 00 minutes 00 seconds east 478.50 feet to a point, then running south 05 degrees 00 minutes 00 seconds west 924.00 feet to a point, then running south 64 degrees 00 minutes 00 seconds east 396.00 feet to a point, then running south 71 degrees 45 minutes 00 seconds east 4,818.00 feet to the point of beginning, being the same and all the land which was conveyed unto the said Sifford Pearre and Phillip L. Poe by Sifford Pearre, Phillip L. Poe, and Angelica Y. Pearre, trustees and directors of Cedar Island, Inc., dissolved, by deed dated October 19, 1948 and recorded in the land records of Somerset County, Maryland in Liber B.L.B. 145, Folio 412.

(2) Notwithstanding any other provisions of this title, the Department may permit motorized boat access and use within the boundary of the Cedar Island Wildland.

(p) (1) Pursuant to the provisions of subsection (a) of this section that property in St. Mary's County containing approximately 1,445 acres and described as follows is a Type 2 State wildland and shall be named the "St. Mary's River Wildland":

Beginning for the same at a cedar stob and axle, said point being at the end of the 50th line of a tract of land which by deed dated July 29, 1968 and recorded in Liber 143, Folio 257 in the land records of St. Mary's County was conveyed by Hall Properties Inc. to the State of Maryland, Department of Forests and Parks, said tract of land was surveyed by John D. Emler and Associates in August of 1971, north 67 degrees 06 minutes 19 seconds east 215.71 feet to a cedar stob, then running north 80 degrees 26 minutes 56 seconds east 437.37 feet to a cedar stob, then running north 50 degrees 42 minutes 07 seconds east 441.07 feet to a point, then running north 62 degrees 15 minutes 32 seconds east 172.44 feet to a point, then running south 80 degrees 04 minutes 28 seconds east 94.30 feet to a point, then running north 86 degrees 35 minutes 32 seconds east 123.94 feet to a point, then running north 71 degrees 09 minutes 32 seconds east 171.04 feet to a cedar stob, then running north 55 degrees 03 minutes 44 seconds east 193.03 feet to a point, then running north 16 degrees 57 minutes 13 seconds east 130.61 feet to a point, then running north 23 degrees 24 minutes 13 seconds east 86.58 feet to a point, then running north 50 degrees 33 minutes 13 seconds east 75.09 feet to a point, then running north 85 degrees 47

minutes 13 seconds east 386.84 feet to a cedar stob, then running north 74 degrees 37 minutes 13 seconds east 163.27 feet to a cedar stob, then running north 78 degrees 25 minutes 22 seconds east 50.43 feet to the southern edge of the Southern Maryland Electric Coop., Inc. right–of–way (Liber 77, Folio 403) and running with the southern side of said right–of–way south 77 degrees 34 minutes 06 seconds east 2,405.56 feet to a point in the west line of lot 6 of the Woodrow W. Hall subdivision number one as per plat thereof recorded in plat Liber CBG no. 5, Folio 103 of the land records of St. Mary's County, and running with the remaining line of lot 6 and with lots 7 through 10 the following two courses: south 08 degrees 23 minutes 10 seconds west 472.00 feet to a point, then running south 12 degrees 18 minutes 10 seconds west 510.07 feet to a point, then running with the southerly line of lot 10 south 78 degrees 41 minutes 50 seconds east 276.77 feet to a point, then running south 78 degrees 41 minutes 50 seconds east 80.00 feet to a point, then running north 11 degrees 18 minutes 10 seconds east 150.00 feet to a point in the southeast corner of lot 11a as shown on the plat of the Woodrow W. Hall subdivision number one, revision of lots 11 thru 17, said plat recorded in the land records of St. Mary's County in Liber DBK 7, Folio 55, and then running south 78 degrees 41 minutes 50 seconds east 151.88 to a point on the eastern edge of the Southern Maryland Electric Coop., Inc. right–of–way (Liber 124, Folio 304) and then running with the eastern side of said right–of–way south 15 degrees 05 minutes 26 seconds west 2,986.32 feet to a point said point intersecting the 23rd line of a tract of land which by deed dated July 7, 1976 and recorded in the land records of St. Mary's County in Liber 255, Folio 156 was conveyed by Joseph B. Norris to the State of Maryland for the use of the Department of Natural Resources, said tract of land was surveyed by John D. Emler and Associates in August of 1971 and running with the remainder of the 23rd and with the 22nd through the 18th lines the following courses and distances: south 34 degrees 01 minutes 38 seconds east 161.93 feet to a point, then running south 24 degrees 01 minutes 38 seconds east 181.88 feet to a point, then running south 32 degrees 01 minutes 38 seconds east 401.87 feet to a point, then running south 25 degrees 01 minutes 38 seconds east 195.73 feet to a point, then running south 25 degrees 01 minutes 38 seconds east 366.66 feet to a point, then running south 40 degrees 46 minutes 38 seconds east 180.86 feet to a point, then running south 41 degrees 30 minutes 00 seconds east 2,010.00 feet more or less, to a point, then running south 60 degrees 45 minutes 00 seconds east 1,480.00 feet more or less, to a cedar post at the edge of a stream (Md State coordinate north 157897.609, east 942613.086), said point being the end of the 4th line of a tract of land which by deed dated December 14, 1974 and recorded in Liber 222, Folio 255 of the land records of St. Mary's County, was conveyed by Eleanor G. Bruff and Florence G. Wilhide, trustees, to the State of Maryland for the use of the Department of Natural Resources, and running then with the 5th and 6th lines of said conveyance, south 77 degrees 29 minutes 51 seconds east 258.44 feet, then running south 10 degrees 00 minutes 18 seconds west 2,012.08 feet to a stone and hickory tree (Md State plane coordinate north 155960.175, east 942515.830), said stone being the end of the 32nd line of a tract of land which by deed dated June 1, 1973 and recorded in Liber 192, Folio 42 of the land records of St. Mary's County was conveyed by Molland Enterprises, Inc. to the State of Maryland to the use of the Department of Natural Resources, and running then with the 33rd line of said conveyance south 33 degrees 29 minutes 24

seconds east 734.08 feet to an iron pipe and cedar stob at a small creek, said pipe and stob being the beginning of a tract of land which by deed dated July 10, 1983 and recorded in Liber 153, Folio 21 in the land records of St. Mary's County was conveyed by John A. and Rose B. Cecil to the State of Maryland for the use of the Department of Natural Resources, and running with the 1st and 2nd lines of said conveyance south 05 degrees 50 minutes 09 seconds west 561.00 feet to a fence tree, then running south 06 degrees 47 minutes 50 seconds east 1,108.55 feet to a fence post (Md State plane coordinate north 153689.053, east 942995.082), said post being the beginning of the 29th line of a tract of land which by deed dated November 5, 1971 and recorded in Liber 172, Folio 399 of the land records of St. Mary's County was conveyed by Leonard and Gladys Demant to the State of Maryland for the use of the Department of Forests and Parks and running then with the 29th through the 51st line of said conveyance as follows: south 05 degrees 42 minutes 59 seconds east 290.46 feet to a fence post, then running south 04 degrees 38 minutes 32 seconds east 285.22 feet to a fence corner, then running south 03 degrees 30 minutes 17 seconds east 326.88 feet to a fence corner, then running south 01 degrees 35 minutes 53 seconds east 649.91 feet to a fence corner, then running to and with a center line of an abandoned county road north 33 degrees 28 minutes 51 seconds west 43.40 feet to a point, then running north 64 degrees 33 minutes 29 seconds west 96.92 feet to a point, then running north 59 degrees 30 minutes 44 seconds west 133.00 feet to a point, then running north 64 degrees 19 minutes 38 seconds west 129.54 feet to a point, then running north 73 degrees 40 minutes 03 seconds west 90.19 feet to a point, then running north 75 degrees 47 minutes 19 seconds west 109.92 feet to a point, then running north 87 degrees 58 minutes 30 seconds west 94.59 feet to a point, then running south 89 degrees 22 minutes 22 seconds west 97.02 feet to a point, then running south 86 degrees 32 minutes 19 seconds west 95.04 feet to a point, then running south 86 degrees 34 minutes 31 seconds west 95.02 feet to a point, then running south 83 degrees 45 minutes 25 seconds west 98.16 feet to a point, then running south 79 degrees 13 minutes 55 seconds west 250.73 feet to a point, then running to and with the north line of said abandoned county road, north 20 degrees 52 minutes 30 seconds west 9.49 feet to a point, then running south 89 degrees 37 minutes 30 seconds west 57.00 feet to a point, then running south 83 degrees 22 minutes 58 seconds west 102.94 feet to a cedar stob, then running north 75 degrees 22 minutes 07 seconds west 112.29 feet to a cedar stob, then running north 64 degrees 35 minutes 50 seconds west 111.58 feet to a point, then running north 70 degrees 52 minutes 30 seconds west 94.00 feet to an iron axle on the northerly bank of a run, then running north 69 degrees 50 minutes 36 seconds west 237.12 to a point, then running with the northeast side of Indian Bridge Road in a northwesterly direction 7,650.00 feet more or less, to a point, then leaving said road and running, east 950.00 feet, then running north 1,000.00 feet, then running west 400.00 feet, then running south 34 degrees 00 minutes 00 seconds west 1,050.00 feet to the northeast side of Indian Bridge Road, then running with the northeast side of Indian Bridge Road in a northwesterly direction 3,450.00 feet to a point on the northeast side of said road, (Md State plane coordinates north 160260.563, east 933839.815), said point also being the beginning of a tract of land which by deed dated July 15, 1971 and recorded in Liber 169, Folio 342 of the land records of St. Mary's County was conveyed by Fairway, Inc. to the State of Maryland,

for the use of the Department of Forest and Parks, and running then with the 1st line of said conveyance as described on a plat of survey by John D. Emler and Associates dated July, 1971, north 62 degrees 08 minutes 45 seconds east 713.24 feet to an iron pipe, then running north 18 degrees 00 minutes 00 seconds east 1,885.00 feet more or less, to a point, said point being at the end of the 36th line of a tract of land as described in aforesaid conveyance from Hall Properties Inc. (Liber 143, Folio 257), then running north 2,385.00 feet more or less, to the point of beginning.

(2) Exempting from the above description a 100 foot wide right–of–way belonging to the Southern Maryland Electric Cooperative, Inc. as described in Liber 35, Folio 312, and Liber 35, Folio 292, of the land records of St. Mary's County.

(3) The use of approximately 40 acres north of Indian Bridge Road for a shooting range operated by the St. Mary's County Sheriff's Department may continue until such time as an alternative site is established.

(4) Within part of the St. Mary's River Wildland are thirty (30) acres of leased agricultural land located approximately 1,500 feet northeast of Indian Bridge Road. This use may continue until December 31, 1999.

(5) Exempting from the above description that acreage subject to an existing or future easement agreed to between the Department of Natural Resources and St. Mary's County Government associated with improvements to Indian Bridge Road.

(q) (1) Pursuant to the provisions of subsection (a) of this section that property in Charles County containing approximately 2,993 acres and described as follows is a Type 2 State wildland and shall be named the "Mattawoman Wildland":

Parcel 1:

Beginning at a point, said point being the end of the south 16 degrees 32 minutes 12 seconds west 543.06 foot line of the first Parcel of a tract of land which by deed dated December 7, 1979 and recorded in Liber 690, Folio 228 of the land records of Charles County was conveyed by Potomac Sand and Gravel Company to the State of Maryland for the use of the Department of Natural Resources and running with an old road bed south 25 degrees 57 minutes 41 seconds west 466.37 feet to a point, then running north 65 degrees 14 minutes 07 seconds west 15.00 feet to a point, then running south 24 degrees 45 minutes 33 seconds west 97.95 feet to a point, then running south 65 degrees 14 minutes 07 seconds east 15.00 feet to a point, then running south 24 degrees 45 minutes 53 seconds west 255.72 feet to a point on the northern right–of–way of Maryland Route 224, and then with said right–of–way running in a southeasterly direction 8,159.00 feet more or less, to a point, said point being the end of the 39th line of a tract of land which by deed dated June 6, 1985, and recorded in Liber 1076, Folio 72 of the land records of Charles County, was conveyed by Potomac Homestead Company to the State of Maryland for the use of the Department of Natural Resources, and then running with the 40th, 41st, 42nd,

43rd, 1st, 2nd, 3rd, and 4th lines of said conveyance north 08 degrees 15 minutes 00 seconds west 45.00 feet to a point, then running south 80 degrees 53 minutes 30 seconds west 80.00 feet to a point, then running south 08 degrees 15 minutes 00 seconds east 45.00 feet to a point, then running south 80 degrees 52 minutes 30 seconds west 15.00 feet to an iron pipe, then running north 08 degrees 15 minutes 00 seconds west 532.55 feet to an iron pipe, then running north 22 degrees 59 minutes 00 seconds west 463.86 feet to an iron pipe, then running north 09 degrees 37 minutes 00 seconds west 463.53 feet to an iron pipe at the end of the 23rd line of a tract of land which by deed dated May 2, 1975, and recorded in Liber 387, Folio 65 of the land records of Charles County, was conveyed by Grace W. Fuss to the State of Maryland for the use of the Department of Natural Resources and running with said conveyance the following courses and distances as surveyed by Lorenzi, Dodds, & Gunnill Inc. in August 1973, south 24 degrees 35 minutes 11 seconds west 1,609.73 feet to an iron pipe, then running south 68 degrees 20 minutes 20 seconds west 88.98 feet to an iron pipe, then running south 22 degrees 42 minutes 40 seconds east 209.00 feet to an iron pipe in the northern right–of–way of Maryland Route 224, then running with said right–of–way 790.00 feet more or less, to an iron pipe, then running north 54 degrees 40 minutes 45 seconds west 110.10 feet to an iron pipe, then running north 64 degrees 46 minutes 46 seconds west 151.60 feet to an iron pipe, then running north 41 degrees 00 minutes 46 seconds west 15.80 feet to an iron pipe, then running north 60 degrees 33 minutes 34 seconds west 111.60 feet to an iron pipe, then running north 78 degrees 14 minutes 34 seconds west 89.93 feet to an iron pipe, then running north 76 degrees 19 minutes 26 seconds west 167.78 feet to an iron pipe, then running south 50 degrees 12 minutes 34 seconds west 30.00 feet to an iron pipe, then running north 39 degrees 05 minutes 28 seconds west 2180.01 feet to an iron pipe, then running north 58 degrees 08 minutes 53 seconds east 104.92 feet to an iron pipe, then running north 38 degrees 37 minutes 07 seconds west 208.50 feet to an iron pipe, then running north 57 degrees 46 minutes 53 seconds east 195.70 feet to a point, then running north 32 degrees 40 minutes 07 seconds west 53.85 feet to a point, then running north 66 degrees 02 minutes 53 seconds east 64.40 feet to a point, then running south 59 degrees 39 minutes 07 seconds east 59.40 feet to a point on the mean high water line of Mattawoman Creek, then running, with said creek in a southeasterly direction 1,120.00 feet, then running with said creek in a northeasterly direction 820.07 feet to an iron pipe at the end of the 5th line of a tract of land which by deed dated June 6, 1985, and recorded in Liber 1076, Folio 72 of the land records of Charles County, was conveyed by Potomac Homestead Company to the State of Maryland for the use of the Department of Natural Resources, then running along the southerly shoreline of Mattawoman Creek in a northeasterly direction with said conveyance 2,569.00 feet more or less, then running along the southerly shoreline of Mattawoman Creek in a southeasterly direction 2,148.00 feet more or less, then running along the southerly shoreline of Mattawoman Creek in a northeasterly direction 657.00 feet more or less, to a point, said point being north 04 degrees, 45 minutes, 55 seconds, east 30.00 feet from a concrete monument, said point also being in the north 13 degrees 06 minutes 47 seconds west 2,491.09 feet from the line of aforesaid conveyance from Potomac Sand and Gravel Co., and running then with the remainder of said line, north 13 degrees 06 minutes 47 seconds west 500.00 feet to a point, then running for the remainder of this

description with the line of said conveyance from Potomac Sand and Gravel Co. the following courses and distances to wit: north 63 degrees 00 minutes 00 seconds west 2,050.00 feet to a point, then running north 50 degrees 00 minutes 00 seconds west 1,201.90 feet to a point, said point having Maryland State plane coordinates north 275294.32, east 755600.34, then running north 40 degrees 00 minutes 00 seconds east 187.11 feet to a point, then running north 80 degrees 28 minutes 02 seconds east 346.00 feet to a pipe, then running north 77 degrees 23 minutes 02 seconds east 75.68 feet to a pipe, then running north 48 degrees 41 minutes 22 seconds east 469.77 feet to a pipe, then running north 29 degrees 15 minutes 40 seconds east 667.71 feet to a pipe, then running north 15 degrees 39 minutes 31 seconds east 221.68 feet to a pipe, then running north 33 degrees 53 minutes 08 seconds east 154.85 feet to a pipe, then running north 09 degrees 51 minutes 24 seconds east 206.97 feet to a pipe, then running north 61 degrees 13 minutes 36 seconds east 373.01 feet to a pipe, then running north 69 degrees 51 minutes 27 seconds east 236.98 feet to a point, then running south 69 degrees 56 minutes 05 seconds east 144.00 feet to a point, then running north 66 degrees 38 minutes 55 seconds east 200.00 feet to a pipe, then running north 38 degrees 08 minutes 55 seconds east 269.78 feet to a pipe, then running north 61 degrees 39 minutes 13 seconds east 310.11 feet to a pipe, then running north 16 degrees 22 minutes 48 seconds east 188.09 feet to a pipe, then running north 23 degrees 58 minutes 36 seconds east 300.03 feet to a pipe, said point having Maryland State plane coordinates north 278055.05, east 758479.37, then running north 40 degrees 58 minutes 49 seconds east 244.06 feet to a pipe, then running south 02 degrees 05 minutes 58 seconds east 121.00 feet to a point, then running north 37 degrees 21 minutes 11 seconds east 213.91 feet to a pipe, then running north 79 degrees 33 minutes 08 seconds east 132.63 feet to a point, then running north 39 degrees 11 minutes 20 seconds east 199.05 feet to a point, then running north 87 degrees 46 minutes 20 seconds east 217.26 feet to a point, then running south 59 degrees 28 minutes 03 seconds east 170.28 feet to a point, then running south 32 degrees 54 minutes 38 seconds east 413.00 feet to a point, then running north 64 degrees 09 minutes 21 seconds east 135.00 feet to a point, then running south 54 degrees 24 minutes 39 seconds east 100.00 feet to a point, then running south 63 degrees 24 minutes 39 seconds east 100.00 feet to a point, then running south 66 degrees 54 minutes 38 seconds east 100.00 feet to a point, then running south 77 degrees 54 minutes 39 seconds east 68.00 feet to a point, then running south 30 degrees 20 minutes 21 seconds west 30.00 feet to a point, then running south 57 degrees 24 minutes 38 seconds east 435.63 feet to a point, then running north 69 degrees 24 minutes 35 seconds east 530.47 feet to a point, then running north 59 degrees 08 minutes 12 seconds west 282.82 feet to a point, then running north 80 degrees 21 minutes 07 seconds east 358.62 feet to a point, then running south 21 degrees 10 minutes 15 seconds east 27.29 feet to a point, then running north 88 degrees 36 minutes 54 seconds east 640.75 feet to a point, then running north 67 degrees 52 minutes 49 seconds east 194.80 feet to a point, then running north 74 degrees 46 minutes 49 seconds east 423.50 feet to a pipe, then running south 81 degrees 22 minutes 11 seconds east 224.64 feet to a pipe, then running south 71 degrees 39 minutes 13 seconds east 148.98 feet to a point, then running south 56 degrees 07 minutes 13 seconds east 419.94 feet to a point,

then running south 06 degrees 40 minutes 13 seconds east 32.29 feet to a point, then running south 50 degrees 54 minutes 13 seconds east 338.35 feet to a point, then running north 39 degrees 05 minutes 37 seconds east 41.80 feet to a point, said point having Maryland State plane coordinates north 277691.44, east 763367.39, south 60 degrees 45 minutes 00 seconds east 305.00 feet more or less, to a point, then running south 70 degrees 51 minutes 16 seconds east 160.51 feet to a point, then running south 54 degrees 09 minutes 13 seconds east 329.01 feet to a point, then running south 70 degrees 51 minutes 15 seconds east 1041.97 feet to the eastern right–of–way of Maryland Route 225, said point having Maryland State plane coordinates north 276961.48, east 765040.12, then running along the eastern right–of–way of Maryland Route 225 in a southerly direction 2,900.00 feet more or less, to a point, then leaving said right–of–way and running, south 16 degrees 32 minutes 12 seconds west 543.06 feet to the point of beginning.

(2) Exempting from this description a parcel of land containing 31 acres more or less, conveyed to Carlisle and Nettie Abell and recorded in Liber 1684, Folio 368 of the land records of Charles County.

Parcel 2:

Beginning at a point, said point being the beginning of the second Parcel of the aforesaid tract of land conveyed to the State of Maryland by Potomac Sand and Gravel Co. (Liber 690, Folio 228), said point also being in the south side of Maryland Route 224, 75 feet from the centerline thereof and marking the corner of the Charles County Board of Education property (Liber 177, Folio 448) and running thence with the lines of said property, south 17 degrees 20 minutes 14 seconds east 900.88 feet to a pipe, then running north 84 degrees 05 minutes 07 seconds east 2,019.83 feet to a pipe, then leaving the Board of Education property, south 17 degrees 15 minutes 56 seconds east 410.81 feet to a pipe, then running south 22 degrees 56 minutes 52 seconds west 272.16 feet to a stone in the right–of–way line of Maryland Route 425, and then running with said road, south 31 degrees 49 minutes 32 seconds west 102.16 feet to a pipe, then running south 28 degrees 52 minutes 15 seconds west 118.60 feet to a pipe, then running south 23 degrees 00 minutes 11 seconds west 110.11 feet to a pipe, then running south 16 degrees 32 minutes 33 seconds west 117.64 feet to a pipe, then running south 11 degrees 02 minutes 40 seconds west 126.49 feet to a pipe, then running south 04 degrees 21 minutes 02 seconds west 205.69 feet to a pipe, then leaving the road and running, south 46 degrees 02 minutes 27 seconds west 592.90 feet to a stone, then running south 10 degrees 11 minutes 22 seconds west 1446.91 feet to a stone, then running south 03 degrees 09 minutes 57 seconds east 382.21 feet to a stone, then running south 85 degrees 52 minutes 32 seconds west 962.05 feet to a pipe, then running south 83 degrees 04 minutes 10 seconds west 880.28 feet to a stone, then running north 16 degrees 20 minutes 18 seconds west 1,256.57 feet to a stone, then running south 75 degrees 28 minutes 59 seconds west 163.73 feet to a stone, then running north 12 degrees 04 minutes 42 seconds west 846.73 feet to a stone, then running south 73 degrees 14 minutes 54 seconds west 994.60 feet to a pipe on the east side of Nelson Road, then with said road, north 25 degrees 44 minutes 19 seconds west 197.51 feet to a pipe, then running north 41 degrees 44 minutes 19 seconds west 526.69

feet to a stone, then with the east side of an old roadway, north 15 degrees 07 minutes 05 seconds east 262.45 feet to a pipe, then running north 17 degrees 52 minutes 55 seconds west 295.25 feet to a stone, then running north 05 degrees 53 minutes 18 seconds west 648.53 feet to a pipe, then running north 20 degrees 43 minutes 18 seconds west 149.27 feet to a stone in the south side of Maryland Route 224, then with Maryland Route 224, north 72 degrees 41 minutes 35 seconds east 1,849.04 feet to a point, then running south 17 degrees 18 minutes 25 seconds east 15.00 feet to a point, then running north 72 degrees 41 minutes 35 seconds east 65.00 feet to a point, then running north 17 degrees 18 minutes 25 seconds west 15.00 feet to a point, then running north 72 degrees 41 minutes 35 seconds east 860.30 feet to the point of beginning.

(3) Exempting a 6–acre tract of land located in the northeast corner of the above described Parcel of land, said Parcel is to be reserved for the use of the Charles County Board of Education, Lackey High School.

Parcel 3:

Beginning for the same at a point, said point being the beginning of the south 04 degrees 35 minutes 58 seconds east 1034.66 feet line as shown on a plat of survey by FSI Design Group, dated May 24, 1989 and recorded in the land records of Charles County in Plat Book 39, Folio 219, and then running with said line south 04 degrees 35 minutes 58 seconds 1034.66 feet to a point, said point being in the center of Yates Spring Branch and then running generally with the center of Yates Spring Branch to a point, said point being the beginning of the south 24 degrees 56 minutes 30 seconds east 1766.34 foot line of a tract of land which by deed dated December 31, 1980 and recorded in Liber 760, Folio 187 of the land records of Charles County was conveyed by Fred R. Bunting and Bernice Reeves to the State of Maryland to the use of the Department of Natural Resources and running with said deed line in its entirety to a point, then running with a portion of the south 57 degrees 13 minutes 30 seconds west 1784.16 foot line 973.42 feet, then leaving said line and running north 58 degrees 06 minutes 58 seconds west 922.09 feet, north 35 degrees 22 minutes 22 seconds west 409.16 feet, north 47 degrees 03 minutes 22 seconds east 220.24 feet more or less to a point, said point being the beginning of the north 54 degrees 19 minutes 00 seconds east 268.70 foot line of the above–mentioned conveyance from Bunting to the State of Maryland, and then running with a portion of said line 157.61 feet more or less to the beginning of the north 24 degrees 48 minutes 06 seconds west 1610.66 foot line as shown on the above–mentioned plat recorded in Plat Book 39, Folio 219, and then running with said line north 24 degrees 48 minutes 06 seconds west 1610.66 feet, north 35 degrees 28 minutes 21 seconds west 583.63 feet to a point in the southern right of way of Livingston Road, then running with said right of way generally in a northeast direction to the beginning of the south 27 degrees 44 minutes 27 seconds 264.06 feet line, then running north 65 degrees 24 minutes 48 seconds east 241.06 feet, north 65 degrees 24 minutes 48 seconds east 241.06 feet, north 00 degrees 49 minutes 01 seconds east 40.62 feet, north 05 degrees 00 minutes 42 seconds west 140.00 feet, north 14 degrees 47 minutes 37 seconds west 42.50 feet, north 69 degrees 35 minutes 12 seconds west 35.36 feet, north 65 degrees 24 minutes 48 seconds east 147.88 feet, south 05 degrees 00 minutes 42 seconds east 828.37 feet, north 84 degrees 59 minutes 18 seconds east 250.23 feet,

south 05 degrees 00 minutes 42 seconds east 40.00 feet, north 84 degrees 59 minutes 18 seconds east 40.00 feet, north 05 degrees 00 minutes 44 seconds east 50.45 feet, north 84 degrees 59 minutes 18 seconds east 159.015 feet, north 05 degrees 04 minutes 27 seconds west 207.09 feet, north 88 degrees 08 minutes 50 seconds east 210.00 feet to the point of beginning.

Being all the same tract of land described as Tract H in a deed from VMIF Charles County Joint Venture to the State of Maryland, to the use of the Department of Natural Resources, dated October 28, 1998, and recorded in the land records of Charles County in Liber 2666, Folio 501 and part of a tract of land which by deed dated December 31, 1980 and recorded in Liber 760, Folio 187 of the land records of Charles County was conveyed by Fred R. Bunting and Bernice Reeves to the State of Maryland to the use of the Department of Natural Resources.

Parcel 4:

Beginning at a point, said point being the beginning of the north 47 degrees 56 minutes 00 seconds west 781.25 foot line of the second parcel of a tract of land which by deed dated April 17, 1989 and recorded in Liber 1376, Folio 003 of the land records of Charles County was conveyed by the Gladfelter Pulp Wood Company to VMS Charles County Venture, said parcel of land also described as tract EII by deed dated October 28, 1998 and recorded in Liber 2666, Folio 501 of the land records of Charles County which was conveyed by the VMIF to the State of Maryland, to the use of the Department of Natural Resources, and running with said first line north 47 degrees 56 minutes 00 seconds west 781.25 feet to a point, then running north 43 degrees 45 minutes 25 seconds east 199.07 feet, north 44 degrees 40 minutes 50 seconds east 238.20 feet, north 42 degrees 51 minutes 00 seconds east 866.14 feet, south 49 degrees 12 minutes 56 seconds east 134.08 feet, north 52 degrees 45 minutes 08 seconds east 151.05 feet, north 41 degrees 04 minutes 10 seconds west 197.07 feet to the southernmost right of way of Maryland Route 210, then running with the said right of way to a point, said point being the beginning of the fifty–third line of the above–mentioned second parcel conveyed by the Gladfelter Pulp Wood Company to VMS Charles County Venture by a deed recorded in Liber 1356, Folio 003 of the land records of Charles County, and then running south 51 degrees 15 minutes 56 seconds east 206.68 feet, north 40 degrees 46 minutes 20 seconds east 494.62 feet to the southernmost right of way of Maryland Route 210, then running with the said right of way to a point at the beginning of the sixty–first line of the above–mentioned second parcel conveyed by the Gladfelter Pulp Wood Company to VMS Charles County Venture, and then running with said line south 51 degrees 14 minutes 13 seconds east 984.07 feet, south 51 degrees 15 minutes 56 seconds east 228.54 feet, south 51 degrees 07 minutes 04 seconds east 1606.73 feet to a point, said point being the end of the thirty–third or north 40 degrees 35 minutes 21 seconds west 77.88 foot line of a tract of land which by deed dated February 15, 1989 and recorded in Liber 1362, Folio 157 of the land records of Charles County was conveyed by CTNC, Inc. to VMS Charles County Venture, said parcel of land also described as tract A by deed dated October 28, 1998 and recorded in Liber 2666, Folio 501 of the land records of Charles County which was conveyed by the VMIF to the State of Maryland, to the use of the Department of Natural Resources, and running then with the thirty–fourth line

north 37 degrees 17 minutes 13 seconds east 301.33 feet, north 38 degrees 07 minutes 58 seconds east 400.80 feet, north 37 degrees 56 minutes 13 seconds east 712.19 feet, south 27 degrees 08 minutes 23 seconds east 1622.88 feet, south 37 degrees 22 minutes 54 seconds west 1280.28 feet to a point said point being the end of the north 38 degrees 20 minutes 58 seconds east 2773.52 foot line of the first parcel of a tract of land which by deed dated April 17, 1989 and recorded in Liber 1376, Folio 003 of the land records of Charles County was conveyed by the Gladfelter Pulp Wood Company to VMS Charles County Venture, said parcel of land also described as tract EII by deed dated October 28, 1998 and recorded in Liber 2666, Folio 501 of the land records of Charles County which was conveyed by the VMIF to the State of Maryland, to the use of the Department of Natural Resources and running with said seventh line south 48 degrees 04 minutes 25 seconds east 650.03 feet to a point, then running south 35 degrees 09 minutes 27 seconds east 204.81 feet, south 51 degrees 09 minutes 19 seconds east 395.00 feet, south 64 degrees 52 minutes 44 seconds east 325.91 feet, south 59 degrees 44 minutes 50 seconds west 855.02 feet, south 04 degrees 51 minutes 03 seconds east 1685.76 feet, south 67 degrees 24 minutes 56 seconds west 105.48 feet, north 04 degrees 51 minutes 03 seconds west 469.00 feet, south 82 degrees 59 minutes 18 seconds west 452.25 feet, north 58 degrees 25 minutes 32 seconds west 503.35 feet, north 11 degrees 38 minutes 56 seconds west 385.51 feet, south 85 degrees 51 minutes 43 seconds west 1239.75.00 feet, north 04 degrees 51 minutes 03 seconds west 469.00 feet, to a point, said point being the beginning of the fourth or 40 degrees 04 minutes 07 seconds west 776.41 foot line of a tract of land which by deed dated February 10, 1989 and recorded in Liber 1362, Folio 164 of the land records of Charles County was conveyed by CTNC Inc. to VMS Charles County Venture, said parcel of land also described as tract B by deed dated October 28, 1998 and recorded in Liber 2666, Folio 501 of the land records of Charles County which was conveyed by the VMIF to the State of Maryland, to the use of the Department of Natural Resources, and running then with the said fourth line south 40 degrees 04 minutes 07 seconds west 776.41 feet, south 43 degrees 12 minutes 47 seconds west 868.61 feet, north 52 degrees 14 minutes 03 seconds west 662.92 feet, north 56 degrees 35 minutes 24 seconds west 36.31 feet, south 30 degrees 34 minutes 15 seconds east 433.17 feet, south 30 degrees 27 minutes 21 seconds east 250.88 feet, south 30 degrees 25 minutes 47 seconds east 87.57 feet, south 64 degrees 57 minutes 48 seconds west 444.00 feet, south 65 degrees 07 minutes 48 seconds west 200.00 feet, north 29 degrees 52 minutes 12 seconds west 197.40 feet, north 60 degrees 07 minutes 48 seconds west 200.00 feet, north 29 degrees 52 minutes 12 seconds west 40.14 feet, south 64 degrees 57 minutes 48 seconds west 120.00 feet, north 25 degrees 02 minutes 12 seconds west 145.67 feet, south 64 degrees 53 minutes 46 seconds west 50.82 feet, north 29 degrees 52 minutes 12 seconds west 183.00 feet, south 60 degrees 42 minutes 52 seconds west 210.00 feet, south 30 degrees 34 minutes 44 seconds east 32.97 feet, south 60 degrees 07 minutes 48 seconds west 200.00 feet, north 29 degrees 52 minutes 12 seconds west 61.88 feet, south 60 degrees 06 minutes 23 seconds west 240.10 feet, south 29 degrees 57 minutes 41 seconds east 629.32 feet, south 60 degrees 02 minutes 18 seconds west 200.60 feet, south 30 degrees 02 minutes 02 seconds east 473.00 feet, to a point, said point being on the northernmost right of way of Livingston Road, then running with said right of way to the end of the forty–second or south 30 degrees 00 minutes 08 seconds west 2124.66 foot line of a tract of land which by deed

dated February 15, 1989 and recorded in Liber 1362, Folio 157 of the land records of Charles County was conveyed by CTNC Inc. to VMS Charles County Venture, said parcel of land also described as Tract A by deed dated October 28, 1998 and recorded in Liber 2666, Folio 501 of the land records of Charles County which was conveyed by the VMIF Charles County Venture to the State of Maryland, to the use of the Department of Natural Resources, and then continuing with said right of way to a point, said point being the beginning of the first line of the aforementioned conveyance from CTNC Inc. to VMS Charles County Venture, then running with the first through the nineteenth line of said conveyance to a point, said point being the beginning of the third or north 44 degrees 51 minutes 36 seconds west 112.27 foot line of a tract of land which by deed dated March 28, 1989 and recorded in Liber 1371, Folio 424 of the land records of Charles County was conveyed by Alice R. Fleet to VMS Charles County Venture, said parcel of land also described as Tract D by deed dated October 28, 1998 and recorded in Liber 2666, Folio 501 of the land records of Charles County which was conveyed by the VMIF Charles County Venture to the State of Maryland, to the use of the Department of Natural Resources, and running then with the said third line north 44 degrees 51 minutes 36 seconds west 112.27 feet to a point, said point being the beginning of the south 54 degrees 37 minutes 14 seconds west 1333.67 foot line of the above–mentioned second parcel of a tract of land conveyed by the Gladfelter Pulp Wood Company to VMS Charles County Venture and then running with said seventy–fourth line south 54 degrees 37 minutes 14 seconds west 1333.67 feet to the point of beginning.

(4) Exempting from this description of Parcel 4 an existing unimproved parking lot 2,000 square feet more or less in size located along the northernmost side of Livingston Road and a driveway entrance 1,000 yards more or less long that originates 3,017 feet more or less northeast from the junction of Maryland Route 224 and Maryland Route 225.

(5) Exempting from this description of Parcel 4 a tract of approximately three acres of land that is used for a public parking area, described as follows: beginning at a point, said point having the coordinate value 344332.00 north, 1281944.00 east (Maryland State plane grid system NAD83), and then running north 60 degrees 54 minutes 39 seconds east 705.27.27 feet, north 33 degrees 01 minutes 24 seconds west 275.54 feet to the southernmost right of way of Maryland Route 210, then running in a southwesterly direction with said right of way 700 feet more or less to a point, said point having the coordinate value 344575.00 north, 1281792.00 east (Maryland State plane grid system NAD83), and then running south 31 degrees 55 minutes 15 seconds east 286.62 feet more or less to the point of beginning.

(6) Notwithstanding any other provisions of this title, the Department may:

(i) Permit motorized boat access and use within the boundary of the Mattawoman Wildland; and

(ii) Permit commercial fishing guide operations, provided the base of operations for the commercial activity is not located within the boundary of the

Mattawoman Wildland.

(7) Notwithstanding any other provision of this subtitle, in the Mattawoman Wildland area the Department, with prior approval of the Maryland Historical Trust and after an internal Departmental review, may authorize:

(i) Archeological inventories, studies, and research that involve surface examination or limited subsurface sampling;

(ii) Salvage and excavation of archeological sites; and

(iii) Stabilization and restoration of historic structures existing as of October 1, 2014.

(r) (1) Pursuant to the provisions of subsection (a) of this section, that property in Baltimore County containing approximately 1,798 acres and described as follows is a Type 2 State wildland and shall be named the "Soldiers Delight Wildland":

Parcel 1:

Beginning at a stone marked "18", the beginning of the 12th line of the land which by deed dated December 26, 1972 and recorded in the land records of Baltimore County in Liber 5325, Folio 537 was conveyed by Samuel Sietz to the State of Maryland, for the use of Forest and Parks, and running thence, south 57 degrees 48 minutes 11 seconds east 650.00 feet to a concrete monument "DFP–MD–LWR–316", then running north 51 degrees 21 minutes 10 seconds east 528.00 feet to a concrete monument "DFP–MD–LWR–313", then running north 65 degrees 21 minutes 10 seconds east 792.00 feet to a concrete monument "DFP–MD–LWR–309", then running north 51 degrees 21 minutes 10 seconds east 990.00 feet to a concrete monument "DFP–MD–LWR–305", then running north 1 degree 53 minutes 50 seconds west 462.00 feet to a concrete monument "DFP–MD–LWR–303", then running north 37 degrees 06 minutes 10 seconds east 264.00 feet to a steel bar "DFP–MD–LWR–300", then running north 39 degrees 50 minutes 51 seconds east 932.25 feet to a concrete monument "DFP–MD–LWR–298", then running south 50 degrees 58 minutes 08 seconds east 738.25 feet to a concrete monument "DFP–MD–LWR–294", then running south 55 degrees 23 minutes 12 seconds east 1,092.79 feet to a concrete monument "DFP–MD–LWR–153", then running south 87 degrees 07 minutes 45 seconds east 264.72 feet to a concrete monument "DFP–MD–LWR–350", then running north 41 degrees 53 minutes 08 seconds east 1,184.11 feet to a concrete monument "DFP–MD–LWR–343", south 0 degrees 03 minutes 44 seconds west 671.56 feet then running south 2 degrees 52 minutes 08 seconds west 249.28 feet to a steel bar marked "DFP–MD–LWR–217", south 2 degrees 52 minutes 08 seconds west 1,290.00 feet more or less, then running in a southwesterly direction on the northern side of Wards Chapel Road for approximately 3,120 feet more or less, to a concrete monument marked "DFP–MD–LWR–185", located approximately 25 feet north of Wards Chapel Road, then running north 64 degrees 46 minutes 58 seconds west 731.50 feet to a stone, south 29 degrees 15 minutes 00 seconds east 648.30 feet to an iron rod on the

west margin of Wards Chapel Road, thence running along the northwest edge of Wards Chapel Road in a southerly direction approximately 620 feet more or less, to a point on the northwesterly edge of Wards Chapel Road, said point being the end of the 4th line of the land by which deed dated December 22, 1978 and recorded in the land records of Baltimore County in Liber 5979, Folio 642 was conveyed by Charles J. Brady, John E. Brady, Mary Louise Ruch, and Margaret E. Miller to the State of Maryland for the use of the Department of Natural Resources, then running north 68 degrees 16 minutes 58 seconds west 192.64 feet to a stone, then running north 63 degrees 34 minutes 35 seconds west 494.51 feet to a stone, then running south 21 degrees 17 minutes 38 seconds west 243.84 feet to a stone, then running south 21 degrees 20 minutes 21 seconds west 252.57 feet to a stone, then running south 21 degrees 26 minutes 51 seconds west 860.11 feet to a stone, at a point on the 40th line of the land which by deed dated November 14, 1978 and recorded in the land records of Baltimore County in Liber 5960, Folio 064 was conveyed by Josephine C. Greene, Constance C. Owings, George G. Carey Jr., and Rosalie C. Wood to the State of Maryland, for the use of the Department of Natural Resources, and running thence, south 69 degrees 38 minutes 55 seconds east 410.00 feet more or less, to a stone marked "19", then running south 21 degrees 54 minutes 53 seconds west 395.39 feet to a concrete monument "DFP–MD–LWR–421", then running along the northwest edge of Wards Chapel Road in a southwesterly direction approximately 405 feet more or less, to a point on the 3rd line of the aforementioned deed, then running north 80 degrees 57 minutes 32 seconds west 1,407.69 feet to a pipe, then running south 9 degrees 02 minutes 28 seconds west 664.16 feet, to a city concrete monument, then running north 80 degrees 57 minutes 32 seconds west 1,105.70 feet, to a city concrete monument, then running north 8 degrees 33 minutes 36 seconds east 591.15 feet, to a city concrete monument, then running north 8 degrees 33 minutes 36 seconds east 1,191.60 feet, to a stone "9", then running north 9 degrees 17 minutes 15 seconds west 2,231.10 feet, to a stone "10", then running south 68 degrees 37 minutes 26 seconds east 140.87 feet, to a stone "11", then running north 9 degrees 51 minutes 17 seconds west 50.17 feet, to a stone "12", then running north 23 degrees 31 minutes 00 seconds west 341.25 feet, to a stone, then running south 80 degrees 00 minutes 00 seconds east 697.95 feet, then running north 48 degrees 45 minutes 00 seconds east 263.65 feet to a stone and then running south 89 degrees 00 minutes 00 seconds east 355.10 feet to the point of beginning.

Parcel 2:

Beginning at a point on a line, 1,102.14 feet from the beginning of the 3rd line of Parcel 1 on the land which by deed dated October 7, 1971 and recorded in the land records of Baltimore County in Liber 5225, Folio 427 was conveyed by Samuel R. Zetzer, Homewood Holding Company et al. to the State of Maryland, for the use of the Department of Forest and Parks, on the south side of Wards Chapel Road where the aforementioned road meets the Baltimore Gas and Electric Company of Maryland right–of–way, and running thence, south 2 degrees 52 minutes 08 seconds west 1,277.14 feet, then running south 3 degrees 15 minutes 19 seconds west 1,747.92 feet, then running south 4 degrees 47 minutes 57 seconds west 1,193.24 feet to a concrete monument "DFP–MD–LWR–219", then running south 4 degrees 47 minutes 16 seconds west 1,755.00 feet, then running south 4 degrees 47 minutes 12 seconds

west 24.64 feet, then running south 4 degrees 45 minutes 92 seconds west 1,315.89 feet to a steel bar marked "DFP–MD–LWR–371", then running north 61 degrees 27 minutes 23 seconds west 163.94 feet to a concrete monument "DFP–MD–LWR–370", then running north 61 degrees 27 minutes 23 seconds west 1,863.41 feet to a concrete monument "DFP–MD–LWR–364", then running north 3 degrees 12 minutes 33 seconds west 600.00 feet to a stone "20–1801", then running north 42 degrees 06 minutes 38 seconds east 329.64 feet to a stone "19" (not the aforementioned stone marked 19), then running south 62 degrees 56 minutes 22 seconds east 257.56 feet to a bolt found in a pile of rocks, then running north 4 degrees 24 minutes 43 seconds east 215.92 feet to a stone, then running north 58 degrees 30 minutes 43 seconds west 458.89 feet, then running south 88 degrees 43 minutes 26 seconds west 442.58 feet to a stone, then running north 3 degrees 57 minutes 52 seconds west 891.00 feet to a point, then running south 64 degrees 11 minutes 47 seconds west 475.20 feet, north 84 degrees 03 minutes 32 seconds west 221.88 feet, south 62 degrees 56 minutes 28 seconds west 213.31 feet, south 54 degrees 56 minutes 28 seconds west 271.00 feet, south 79 degrees 01 minutes 53 seconds west 251.39 feet, north 05 degrees 18 minutes 47 seconds west 32.61 feet, north 21 degrees 54 minutes 39 seconds west 257.00 feet, south 86 degrees 35 minutes 59 seconds west 375.00 feet, south 21 degrees 54 minutes 39 seconds west 291.09 feet, south 59 degrees 24 minutes 42 seconds west 37.74 feet, south 54 degrees 21 minutes 13 seconds west 81.09 feet, south 76 degrees 09 minutes 48 seconds west 178.09 feet, south 86 degrees 19 minutes 07 seconds west 106.75 feet, north 34 degrees 59 minutes 14 seconds west 43.50 feet, north 25 degrees 28 minutes 39 seconds east 232.11 feet, north 64 degrees 31 minutes 21 seconds west 29.14 feet, north 18 degrees 13 minutes 45 seconds east 152.15 feet, north 72 degrees 36 minutes 36 seconds east 146.13 feet, north 77 degrees 53 minutes 18 seconds east 265.85 feet, north 61 degrees 54 minutes 07 seconds east 1204.23 feet, north 27 degrees 54 minutes 07 seconds east 148.50 feet, south 77 degrees 13 minutes 19 seconds east 113.85 feet, north 14 degrees 24 minutes 51 seconds west 80.19 feet, south 89 degrees 46 minutes 02 seconds east 247.23 feet, north 3 degrees 57 minutes 52 seconds west 209.99 feet to fence fragments, then running north 87 degrees 02 minutes 40 seconds west 271.00 feet to a concrete monument "DFP–MD–LWR–453", then running north 2 degrees 55 minutes 42 seconds west 377.96 feet to a concrete monument "DFP–MD–LWR–455", then running north 2 degrees 55 minutes 42 seconds west 98.69 feet, then running north 28 degrees 40 minutes 16 seconds east 627.00 feet to a stone found "D", then running north 28 degrees 40 minutes 16 seconds east 99.00 feet, then running north 53 degrees 40 minutes 16 seconds east 260.29 feet to a point at the end of the 2nd line of the land which by deed dated January 24, 1990 and recorded in the land records of Baltimore County in Liber 8395, Folio 016, was conveyed by the Roman Catholic Archbishop of Baltimore to the State of Maryland, for the use of the Department of Natural Resources, and running thence, north 33 degrees 15 minutes 54 seconds west 776.00 feet to a steel bar set in the southeasterly side of the macadam paving of the Wards Chapel Road, thence running in a northeasterly direction along Wards Chapel Road approximately 3,425 feet to the point of beginning.

(2) Exempting the Baltimore Gas and Electric Company and Susquehanna Power Company rights–of–way.

Parcel 3:

Beginning at a concrete monument "DFP–MD–LWR–142", on a line, 869.24 feet from the beginning of the 1st line of Parcel 2 on the land which by deed dated October 7, 1971 and recorded in the land records of Baltimore County in Liber 5225, Folio 427 was conveyed by Samuel R. Zetzer, Homewood Holding Company et al. to the State of Maryland, for the use of the Department of Forest and Parks, on the south side of Wards Chapel Road where the aforementioned road meets the Baltimore Gas and Electric Company of Maryland row, and running thence, south 2 degrees 52 minutes 08 seconds west 1,277.14 feet, then running south 3 degrees 15 minutes 19 seconds west 1,747.92 feet, then running south 4 degrees 47 minutes 57 seconds west 1,193.24 feet to a concrete monument "DFP–MD–LWR–219", then running south 4 degrees 47 minutes 16 seconds west 1755.00 feet, then running south 4 degrees 47 minutes 12 seconds west 24.64 feet, then running south 4 degrees 45 minutes 92 seconds west 1,315.89 feet to a steel bar marked "DFP–MD–LWR–371", then running south 61 degrees 27 minutes 23 seconds west 109.28 feet to a concrete monument "DFP–MD–LWR–372", then running south 61 degrees 27 minutes 23 seconds west 168.76 feet to a concrete monument "DFP–MD–LWR–397", then running north 37 degrees 40 minutes 15 seconds east 353.20 feet to a stone, then running north 65 degrees 55 minutes 16 seconds east 298.16 feet to a concrete monument "DFP–MD–LWR–401", then running north 30 degrees 25 minutes 16 seconds east 200.43 feet to a concrete monument "DFP–MD–LWR–402", then running north 8 degrees 25 minutes 16 seconds east 240.18 feet to a concrete monument "DFP–MD–LWR–403", then running south 70 degrees 17 minutes 23 seconds east 158.82 feet to a steel bar marked "DFP–MD–LWR–383", then running south 70 degrees 17 minutes 23 seconds east 390.12 feet, then running south 70 degrees 17 minutes 23 seconds east 515.22 feet to a steel bar marked "DFP–MD–LWR–387", then running north 26 degrees 54 minutes 10 seconds east 357.00 feet, south 63 degrees 25 minutes 58 seconds east 202.55 feet, south 26 degrees 54 minutes 02 seconds west 201.40 feet, south 62 degrees 33 minutes 00 seconds east 62.26 feet, north 26 degrees 54 minutes 02 seconds east 340.00 feet, south 63 degrees 25 minutes 58 seconds east 524.70 feet, north 20 degrees 44 minutes 02 seconds east 377.70 feet, north 05 degrees 54 minutes 07 seconds west 461.90 feet, north 63 degrees 40 minutes 31 seconds east 369.25 feet, north 17 degrees 48 minutes 47 seconds east 331.40 feet to a point where Mountain View Road and Deer Park Road intersect, thence running in a northwesterly direction on the southwest side of Deer Park Road for a distance of 5,610 feet to a point at the end of the 2nd line of the land which by deed dated November 9, 1989 and recorded in the land records of Baltimore County in Liber 8322, Folio 620 was conveyed by James Snodgrass and Joseph Snodgrass to the State of Maryland, for the use of the Department of Natural Resources, and running thence, south 54 degrees 45 minutes 04 seconds west 247.50 feet, then running north 29 degrees 47 minutes 52 seconds east 306.00 feet, then running north 55 degrees 06 minutes 48 seconds east 132.50 feet to a point at the southwest edge of Deer Park Road, then running north 34 degrees 00 minutes 00 seconds west 217.50 feet to the point of beginning.

(3) Exempting the Baltimore Gas and Electric Company power line right–of–way.

Parcel 4:

Beginning at a concrete monument "DFP–MD–LWR–373", the beginning of the 3rd line of the land which by deed dated August 19, 1974 and recorded in the land records of Baltimore County in Liber 5476, Folio 837 was conveyed by Charles R. McComas to the State of Maryland, for the use of Forest and Parks, and running thence north 42 degrees 02 minutes 25 seconds east 158.03 feet to a concrete monument "DFP–MD–LWR–374", then running south 57 degrees 07 minutes 53 seconds east 606.74 feet to a concrete monument "DFP–MD–LWR–236", then running south 18 degrees 23 minutes 34 seconds east 415.05 feet, then running north 27 degrees 30 minutes 09 seconds east 260.87 feet, then running south 57 degrees 07 minutes 53 seconds east 42.30 feet to a concrete monument stamped "DFP–MD–LWR–236", then running south 57 degrees 07 minutes 53 seconds east 1,671.36 feet, then running south 16 degrees 03 minutes 66 seconds east 267.69 feet to a steel bar "DFP–MD–LWR–115", then running north 45 degrees 39 minutes 32 seconds east 176.99 feet, then running south 57 degrees 07 minutes 53 seconds west 57.79 feet to a concrete monument with brass disk "B G & E Co.", then running north 87 degrees 37 minutes 10 seconds east 2012.51 feet, south 49 degrees 21 minutes 50 seconds east 87.74 feet, south 09 degrees 04 minutes 35 seconds west 357.32 feet, north 50 degrees 50 minutes 53 seconds east 39.76 feet, south 87 degrees 52 minutes 07 seconds 73.92 feet, south 77 degrees 53 minutes 07 seconds east 69.42 feet, south 58 degrees 46 minutes 07 seconds east 49.94 feet, north 68 degrees 06 minutes 59 seconds east 202.55 feet, 206.41, south 49 degrees 21 minutes 50 seconds east 1643.61 feet, north 84 degrees 56 minutes 17 seconds east 216.49 feet, south 01 degrees 23 minutes 41 seconds east 1578.521 feet to a pipe, then running north 33 degrees 01 minutes 23 seconds west 230.89 feet to a stone, then running south 77 degrees 08 minutes 41 seconds west 500.34 feet to a stone, then running south 22 degrees 16 minutes 43 seconds east 213.84 feet to a stone, then running south 78 degrees 08 minutes 35 seconds west 383.95 feet to a stone, then running north 48 degrees 17 minutes 10 seconds west 548.67 feet to a concrete monument "DFP–MD–LWR–50", then running south 38 degrees 17 minutes 07 seconds west 416.24 feet to a concrete monument "DFP–MD–LWR–48", then running south 20 degrees 11 minutes 00 seconds west 831.91 feet to a stone, then running south 53 degrees 34 minutes 16 seconds east 570.91 feet to a stone, then running south 59 degrees 13 minutes 45 seconds east 764.58 feet to a concrete monument "DFP–MD–LWR–37", then running south 27 degrees 19 minutes 04 seconds west 835.65 feet to a stone, then running south 59 degrees 08 minutes 52 seconds east 457.00 feet, north 33 degrees 28 minutes 35 seconds east 289.66 feet, south 31 degrees 23 minutes 31 seconds east 143.01 feet, south 65 degrees 31 minutes 16 seconds east 69.62 feet, south 73 degrees 35 minutes 06 seconds east 38.06 feet, south 48 degrees 06 minutes 31 seconds east 45.46 feet, south 76 degrees 40 minutes 31 seconds east 60.69 feet to a point, said point being on the northwesternmost right of way of Dolfield Road, then running with said right of way generally in a southwest direction to a point, said point being the intersection of the northwesternmost right of way and the south 31 degrees 18 minutes 08 seconds west 1027.13 foot line of the land which by deed dated July 18, 1973 and recorded in the land records of Baltimore County in Liber 5379, Folio 94 was conveyed by International Land and Development Co., Inc.,

to the State of Maryland, for the use of the Department of Natural Resources, and running with the remainder of said line, then running south 31 degrees 18 minutes 08 seconds west 1,012.13 feet, then running north 70 degrees 23 minutes 13 seconds west 887.00 feet to a stone, then running north 4 degrees 08 minutes 33 seconds west 382.59 feet, north 70 degrees 55 minutes 48 seconds west 520.96 feet, north 03 degrees 57 minutes 30 seconds west 520.96 feet, north 70 degrees 29 minutes 30 seconds west 570.42 feet, north 25 degrees 45 minutes 30 seconds west 68.30 feet, south 63 degrees 19 minutes 33 seconds west 84.35 feet, north 26 degrees 07 minutes 06 seconds west 307.00 feet, south 70 degrees 41 minutes 35 seconds east 182.59 feet to a concrete monument "DFP–MD–LWR–279", then running north 21 degrees 30 minutes 11 seconds west 528.19 feet to a concrete monument "DFP–MD–LWR–277", then running north 75 degrees 11 minutes 07 seconds west 247.80 feet to a concrete monument "DFP–MD–LWR–276", then running north 21 degrees 29 minutes 12 seconds west 62.04 feet to a concrete monument "DFP–MD–LWR–275", then running north 75 degrees 11 minutes 07 seconds west 433.47 feet to a concrete monument "DFP–MD–LWR–64", then running north 29 degrees 00 minutes 00 seconds west 115.00 feet to a stone, then running south 75 degrees 19 minutes 26 seconds east 305.00 feet to a steel bar "DFP–MD–LWR–274", then running north 27 degrees 37 minutes 34 seconds west 277.60 feet intersecting a point 623.80 feet from the beginning of the 16th line of the land which by deed dated October 7, 1971 and recorded in the land records of Baltimore County in Liber 5225, Folio 427 was conveyed by Samuel R. Zetzer, Homewood Holding Company et al. to the State of Maryland, for the use of the Department of Forest and Parks, running thence, north 75 degrees 13 minutes 34 seconds west 297.04 feet to a stone at the northeast edge of Deer Park Road, then running in a northwesterly direction along the aforementioned road 325.00 feet to an iron pipe 18.6 feet from the northwest edge of the aforementioned road, then running north 54 degrees 53 minutes 34 seconds east 809.00 feet, then running north 35 degrees 06 minutes 26 seconds west 560.48 feet, then running south 54 degrees 53 minutes 34 seconds west 155.42 feet, then running north 35 degrees 06 minutes 26 seconds west 199.94 feet, then running south 54 degrees 53 minutes 34 seconds west 180.92 feet to a point at the northwest edge of Deer Park Road, then running in a northwesterly direction approximately 1,237.5 feet along the northwest edge of Deer Park Road to a concrete monument "DFP–MD–LWR–128", located 50.40 feet from the edge of the aforementioned road, then running north 30 degrees 15 minutes 08 seconds west 100.56 feet, then running north 34 degrees 04 minutes 12 seconds west 150.11 feet, then running north 44 degrees 38 minutes 49 seconds west 119.32 feet, then running north 51 degrees 06 minutes 39 seconds west 150.19 feet, then running north 43 degrees 52 minutes 12 seconds west 214.42 feet, then running north 37 degrees 25 minutes 59 seconds west 149.12 feet, then running north 36 degrees 12 minutes 15 seconds west 142.03 feet, then running north 31 degrees 40 minutes 15 seconds west 158.00 feet to a steel bar, then running north 26 degrees 43 minutes 43 seconds west 511.50 feet, then running north 54 degrees 10 minutes 45 seconds east 841.50 feet, then running north 52 degrees 39 minutes 08 seconds west 170.20 feet to a stone, then running south 55 degrees 06 minutes 48 seconds west 132.00 feet to a concrete monument "DFP–MD–LWR–238", then running south 55 degrees 06 minutes 48 seconds west 643.00 feet to the northeast side of Deer Park Road, then running along

the aforementioned road 600 feet to a point, and running thence, south 89 degrees 56 minutes 47 seconds east 500.00 feet, then running north 0 degrees 03 minutes 13 seconds west 150.00 feet, then running north 89 degrees 56 minutes 47 seconds west 150.00 feet, then running north 00 degrees 32 minutes 31 seconds east 249.90 feet to a pipe, then running north 89 degrees 56 minutes 47 seconds west 348.50 feet to a point on the northeast side of Deer Park Road, running thence, in a northwesterly direction 670 feet to a point 600 feet from the beginning of the 2nd line of the land which by deed dated August 19, 1974 and recorded in the land records of Baltimore County in Liber 5476, Folio 837 was conveyed by Charles R. McComas to the State of Maryland, for the use of Forest and Parks, thence running, north 2 degrees 52 minutes 08 seconds east 590.00 feet to a concrete monument "DFP–MD–LWR–373", the point of beginning.

Parcel 5:

Beginning at a point, said point having the coordinate value 638425.77 north, 1363001.34 east (Maryland State plane grid system NAD83), and then running north 49 degrees 21 minutes 51 seconds west 695.83 feet, north 68 degrees 06 minutes 59 seconds east 195.92 feet, south 33 degrees 20 minutes 45 seconds east 629.88 feet to the point of beginning.

Parcel 6:

Beginning at a point, said point having the coordinate value 638425.77 north, 1363001.34 east (Maryland State plane grid system NAD83), and then running south 58 degrees 39 minutes 15 seconds east 1010.96 feet, south 01 degrees 23 minutes 41 seconds east 33.86 feet, south 84 degrees 56 minutes 17 seconds west 192.90 feet, north 49 degrees 21 minutes 50 seconds east 885.64 feet to the point of beginning.

Parcel 7:

Beginning at a point, said point being the end of the south 41 degrees 05 minutes 09 seconds west 676.77 foot line as shown on a plat of survey entitled "1st Amended Plat of Durkee Property", prepared by Duvall and Associates, Inc., dated August 25, 1998 and recorded among the land records of Baltimore County in Plat Book 71, page 19, said point having the coordinate value 642713.07 north, 1355507.80 east (Maryland State plane grid system NAD83), and then running south 69 degrees 48 minutes 26 seconds west 586.56 feet, south 21 degrees 22 minutes 14 seconds east 213.44 feet, south 55 degrees 37 minutes 11 seconds west 942.71 feet more or less to a point, said point intersecting the boundary of the property of the State of Maryland, then running with said boundary south 33 degrees 04 minutes 36 seconds east 346.63 feet more or less, north 62 degrees 57 minutes 41 seconds east 86.46 feet more or less, then leaving the said State boundary and running north 62 degrees 16 minutes 10 seconds east 744.49 feet more or less, north 08 degrees 47 minutes 26 seconds west 213.01 feet more or less, north 55 degrees 16 minutes 03 seconds east 628.47 feet more or less, south 43 degrees 45 minutes 02 seconds west 492.70 feet more or less, south 46 degrees 12 minutes 42 seconds west 508.04 feet more or less, south 49 degrees 40 minutes 10 seconds west 519.62 feet more or less to a point, said point being on the

existing boundary of the State of Maryland property, then running with said boundary north 42 degrees 01 minutes 00 seconds east 294.92 feet more or less, north 25 degrees 24 minutes 54 seconds west 607.13 feet more or less, north 84 degrees 42 minutes 30 seconds east 734.94 feet more or less, north 02 degrees 21 minutes 58 seconds east 979.00 feet more or less, north 52 degrees 45 minutes 25 seconds west 54.97 feet more or less, north 34 degrees 00 minutes 09 seconds west 85.95 feet more or less, north 02 degrees 21 minutes 57 seconds east 544.95 feet more or less, north 27 degrees 10 minutes 26 seconds west 288.20 feet more or less, north 56 degrees 34 minutes 34 seconds east 89.30 feet more or less, north 37 degrees 46 minutes 11 seconds west 618.92 feet more or less, north 54 degrees 42 minutes 10 seconds west 204.60 feet more or less, north 16 degrees 57 minutes 50 seconds west 703.48 feet more or less, south 55 degrees 44 minutes 11 seconds west 277.53 feet more or less, north 72 degrees 44 minutes 24 seconds west 560.36 feet more or less to a point, north 89 degrees 49 minutes 38 seconds west 336.13 feet more or less, south 40 degrees 13 minutes 01 seconds west 529.12 feet more or less, south 28 degrees 31 minutes 38 seconds west 1064.97 feet more or less, south 61 degrees 02 minutes 08 seconds east 1270.23 feet more or less, south 05 degrees 55 minutes 23 seconds west 280.50 feet more or less, south 40 degrees 50 minutes 50 seconds west 676.77 feet to the point of beginning.

(4) Exempting from the above described Parcels the following described tracts:

Tract 1:

Beginning at a point, said point being the beginning of the above described Parcel 1 and then running, south 21 degrees 35 minutes 00 seconds west 454.19 feet, then running south 04 degrees 01 minutes 00 seconds west 318.98 feet, then running south 56 degrees 34 minutes 00 seconds west 350.00 feet more or less to a point, then running north 48 degrees 00 minutes 00 seconds west 380.00 feet more or less to a point, then running north 72 degrees 00 minutes 00 seconds west 750.00 feet more or less to the end of the 35th line of Parcel 1, then running with the 36th, 37th, 38th, and 39th lines of said Parcel to the beginning.

Tract 2:

Beginning at a point, said point being north 69 degrees west 580.00 feet more or less from the end of the 24th line of Parcel 1, and then running north 69 degrees 00 minutes 00 seconds west 580.00 feet, then running north 21 degrees 00 minutes 00 seconds east 570.00 feet, then running north 47 degrees 00 minutes 00 seconds west 450.00 feet, then running south 64 degrees 00 minutes 00 seconds west 440.00 feet, then running north 17 degrees 30 minutes 00 seconds west 430.00 feet, then running north 72 degrees 30 minutes 00 seconds east 370.00 feet, then running north 19 degrees 00 minutes 00 seconds east 450.00 feet, then running south 65 degrees 00 minutes 00 seconds east 180.00 feet, then running north 82 degrees 00 minutes 00 seconds east 470.00 feet, then running north 58 degrees 00 minutes 00 seconds east 780.00 feet, then running north 32 degrees 00 minutes 00 seconds east 770.00 feet, then running south 09 degrees 00 minutes 00 seconds east 830.00 feet, then running south 59 degrees

30 minutes 00 seconds east 340.00 feet, then running south 05 degrees 30 minutes 00 seconds west 680.00 feet, then running north 59 degrees 00 minutes 00 seconds west 720.00 feet, then running south 10 degrees 00 minutes 00 seconds west 250.00 feet, then running south 75 degrees 00 minutes 00 seconds west 370.00 feet, then running south 65 degrees 30 minutes 00 seconds east 490.00 feet, then running south 24 degrees 00 minutes 00 seconds west 670.00 feet, then running north 54 degrees 30 minutes 00 seconds west 300.00 feet, then running south 18 degrees 30 minutes 00 seconds west 580.00 feet to the point of beginning.

Including also the existing right–of–way to Wards Chapel Road.

Tract 3:

Beginning at a point, said point being south 50 degrees west 160.00 feet more or less from the end of the 3rd line of the above described Parcel 1 and running north 52 degrees 00 minutes 00 seconds east 170.00 feet, then running south 38 degrees 00 minutes 00 seconds east 170.00 feet, then running south 52 degrees 00 minutes 00 seconds west 170.00 feet, then running north 38 degrees 00 minutes 00 seconds east 170.00 feet to the point of beginning.

Including also the existing right–of–way to Wards Chapel Road.

Tract 4:

Beginning at a point, said point being south 26 degrees east 530.00 feet from the end of the 4th line of the above described Parcel 1 and running south 82 degrees 00 minutes 00 seconds east 270.00 feet, then running south 08 degrees 00 minutes 00 seconds west 270.00 feet, then running north 82 degrees 00 minutes 00 seconds west 270.00 feet, then running north 08 degrees 00 minutes 00 seconds east 270.00 feet to the point of beginning.

Including also the existing right–of–way to Wards Chapel Road.

Tract 5:

Being a 20 foot right–of–way and described as follows: beginning at a point, said point being north 59 degrees 13 minutes 45 seconds west 141.60 feet from the end of the 26th line of the above described Parcel 4, and then running, north 88 degrees 35 minutes 20 seconds west 29.50 feet, then running north 65 degrees 31 minutes 10 seconds west 45.00 feet, then running north 56 degrees 30 minutes 40 seconds west 211.59 feet, then running north 82 degrees 28 minutes 10 seconds west 26.71 feet, then running south 70 degrees 31 minutes 20 seconds west 36.50 feet, then running south 39 degrees 39 minutes 50 seconds west 175.15 feet, then running south 40 degrees 09 minutes 20 seconds west 282.86 feet, then running south 54 degrees 22 minutes 20 seconds west 34.47 feet, then running south 83 degrees 10 minutes 20 seconds west 22.70 feet, then running north 76 degrees 44 minutes 40 seconds west 31.50 feet, then running north 58 degrees 35 minutes 40 seconds west 207.31 feet, then running north 40 degrees 18 minutes 40 seconds west 113.60 feet to the point of beginning.

Tract 6:

Beginning at a point, said point being north 20 degrees 13 minutes 04 seconds east 472.00 feet from the end of the 14th line of the above described Parcel 3, and then running south 70 degrees 17 minutes 23 seconds east 68.00 feet, then running north 20 degrees 13 minutes 04 seconds east 263.00 feet, then running north 70 degrees 17 minutes 23 seconds west 250.00 feet, then running south 20 degrees 13 minutes 14 seconds west 263.00 feet, then running south 70 degrees 17 minutes 23 seconds east 182.00 feet to the point of beginning.

Including also the existing right–of–way to Deer Park Road.

Tract 7:

Beginning at a point, said point being north 20 degrees 13 minutes 04 seconds east 932.00 feet from the end of the 13th line of the above described Parcel 3, and then running, north 83 degrees 20 minutes 37 seconds east 353.00 feet, then running north 03 degrees 04 minutes 45 seconds east 174.00 feet, then running south 83 degrees 20 minutes 37 seconds west 305.00 feet, then running south 20 degrees 13 minutes 04 seconds west 195.00 feet to the point of beginning.

Including also the existing right–of–way to Deer Park Road.

Tract 8:

Beginning at a point, said point being north 76 degrees 28 minutes 38 seconds east from a point located north 04 degrees 47 minutes 57 seconds east 880.00 feet from the end of the 3rd line of the above described Parcel 4, and then running south 85 degrees 12 minutes 03 seconds east 790.00 feet, then running south 04 degrees 47 minutes 57 seconds west 173.00 feet, then running south 85 degrees 12 minutes 03 seconds east 495.00 feet, then running south 04 degrees 47 minutes 57 seconds west 280.00 feet, then running north 85 degrees 12 minutes 03 seconds west 1,280.00 feet, then running north 04 degrees 47 minutes 57 seconds east 450.00 feet to the point of beginning.

Including also the existing right–of–way to Deer Park Road.

Tract 9:

A Parcel of land containing a parking lot situate on the west side of Deer Park Road, 2,400.00 feet more or less south of the intersection with Wards Chapel Road.

Tract 10:

Beginning at a point, said point being on the west side of Deer Park Road, 1,200 feet south of the intersection with Wards Chapel Road, and then running south 58 degrees 00 minutes 00 seconds west 270.00 feet, then running south 07 degrees 00 minutes 00 seconds west 150.00 feet, then running south 15 degrees 00 minutes 00

seconds east 60.00 feet, then running south 86 degrees 00 minutes 00 seconds east 150.00 feet, then running north 62 degrees 00 minutes 00 seconds east 320.00 feet to a point on the west side of Deer Park Road, then running with said road to the point of beginning.

Tract 11:

Beginning at a point, said point being on the west side of Deer Park Road, 860 feet south of the intersection with Wards Chapel Road, and then running south 56 degrees 00 minutes 00 seconds east 680.00 feet, then running south 270.00 feet, then running north 50 degrees 00 minutes 00 seconds east 330.00 feet, then running north 42 degrees 00 minutes 00 seconds east 470.00 feet to the west side of Deer Park Road, then running with said road to the point of beginning.

(5) The Soldiers Delight Wildland Area contains unique ecological features associated with serpentine soils. Active manipulation of the landscape may be required to maintain these features. Notwithstanding any other provisions of this title, the Department may:

(i) Remove, replace, or dispose of vegetation using mechanical or motorized equipment; and

(ii) Erect fencing, gates, and signage associated with the protection and interpretation of unique natural or historical elements as called for in the management plan for the area.

(s) (1) Pursuant to the provisions of subsection (a) of this section, that property in Carroll County containing approximately 499 acres and described as follows is a Type 2 State wildland and shall be named the "Morgan Run Wildland":

Beginning for the same at a concrete monument (No. 43), said point being the beginning of the 11th line of a tract of land which by deed dated October 17, 1977, and recorded in the land records of Carroll County in Liber 683, Folio, 062, was conveyed by James T. and Gladys R. Warthen to the State of Maryland for the use of the Department of Natural Resources, then binding and running with the 11th and 12th lines of said land, south 59 degrees 28 minutes 50 seconds east 1,026.88 feet to a pipe, then running north 86 degrees 39 minutes 00 seconds east 275.00, to a pipe on the westernmost side of Jim Bower's Road, then running south with and along the westernmost side of Jim Bower's Road, extended, 2,700 feet more or less, crossing Morgan Run, thence running, with the southern bank of Morgan Run 25.00 feet more or less, to a point, thence running north crossing Morgan Run and then with and along the easternmost side of Jim Bower's Road 900.00 feet more or less, to a point on the exterior boundary of Morgan Run Natural Environment Area as surveyed by Leon Podolak and Associates (survey dated March 13, 1990) said point being located south 62 degrees 05 minutes 51 seconds east 30.00 feet from a concrete monument stamped no. 37 and located on the west side of Jim Bower's Road, then running south 62 degrees 05 minutes 51 seconds east 555.00 feet more or less, to a stone, then running south 85 degrees 08 minutes 57

seconds east 634.36 feet to a concrete monument (no. 36), then running south 40 degrees 14 minutes 29 seconds east 548.58 feet to a concrete monument (no. 35), then running south 33 degrees 31 minutes 06 seconds east 704.28 feet to a concrete monument (no. 34), it being located where a stone formerly stood, said point also being the end of the 9th line of the land by which deed dated March 14, 1977 and recorded in the land records of Carroll County in Liber 657, Folio 258, was conveyed by Lewis G. Miller to the State of Maryland, for the use of the Department of Natural Resources, then binding on and reversing the 9th and 8th lines of said tract of land south 15 degrees 52 minutes 14 seconds west 262.59 feet to a stone, then running south 07 degrees 51 minutes 06 seconds east 299.41 feet to a stone, said point being at the beginning of the 10th line of the land by which deed dated October 10, 1983, and recorded in the land records of Carroll County in Liber 847, Folio 467, was conveyed by Joseph C. and Monica Ann Wisby to the State of Maryland, for the use of the Department of Natural Resources, thence running with the 10th and 1st lines of said land, south 56 degrees 42 minutes 59 seconds east 422.23 feet, then running south 30 degrees 20 minutes 29 seconds east 264.00 feet to an iron pin set at the base of a large rock 25 feet from the north bank of Morgan Run, said point also being at the end of the 4th line of the land by which deed dated December 30, 1975, and recorded in the land records of Carroll County in Liber 612, Folio 515, was conveyed by Harry and Margaret Barker to the State of Maryland, thence binding and reversing with the 4th and 3rd lines of said land, south 33 degrees 00 minutes 00 seconds east 907.50 feet more or less, to a point, then running south 03 degrees 30 minutes 00 seconds east 346.50 feet more or less, to a point on the northwest side of Klees Mill Road, then running along the northwest side of Klees Mill Road 50.00 feet more or less, to a point on the northeast side of an old farm road, then running along the north side of aforementioned road 600.00 feet more or less, to a point on the 6th line of the aforementioned conveyance to the State of Maryland by Harry and Margaret Barker and binding and reversing said line, north 43 degrees 30 minutes 00 seconds west 50.00 feet more or less, to a concrete monument (no. 30), said point being the end of the 2nd line of the aforementioned conveyance from Joseph C. and Monica Ann Wisby to the State of Maryland then running with the 3rd and 4th and 5th lines of said land, north 40 degrees 34 minutes 33 seconds west 346.34 feet to a concrete monument (no. 31), then running north 68 degrees 41 minutes 35 seconds west 2,164.52 feet to a concrete monument (no. 32), then running south 86 degrees 37 minutes 49 seconds west 33.00 feet to a concrete monument (no. 33), said point being the end of the 27th line of the land by which deed dated July 1, 1975 and recorded in the land records of Carroll County in Liber 596, Folio 657, was conveyed by Bill Gene and Mary Louise Honbarrier to the State of Maryland, for the use of the Department of Natural Resources, thence binding on and reversing the 27th, 26th, 25th, and 24th lines of said land, then running north 89 degrees 22 minutes 30 seconds west 1,316.70 feet, then running south 76 degrees 30 minutes 00 seconds west 475.20 feet, then running south 59 degrees 15 minutes 00 seconds west 651.75 feet, then running north 60 degrees 37 minutes 30 seconds west 303.60 feet to a stone formerly planted, said stone being located on the 1st line of the land by which deed dated July 31, 1975 and recorded in the land records of Carroll County in Liber 598, Folio 189, was conveyed by Ira Berger et al. to the State of Maryland, to the use of the Department of Natural Resources, thence running with the remainder of the first line of said land, north 08 degrees 00 minutes 00 seconds

east 400.00 feet more or less, to a stone, then running south 86 degrees 30 minutes 00 seconds west 173.25 feet to a stone, then running in a northwesterly direction 3,200.00 feet more or less, to a point in the eastern right–of–way of Maryland Route 97, then running along the east side of Maryland Route 97 in a northeasterly direction 3,000.00 feet more or less, to a concrete monument stamped no. 29, said monument being located by the aforementioned plat of survey by Leon Podolak and Associates, then running along line "F" as established by said survey, south 67 degrees 12 minutes 18 seconds east 473.00 feet to a concrete monument (no. 28), then running south 63 degrees 42 minutes 18 seconds east 1,470.00 feet to a concrete monument (no. 27), then running south 60 degrees 27 minutes 18 seconds east 690.00 feet to a concrete monument (no. 26), then running south 81 degrees 27 minutes 18 seconds east 396.00 feet to a concrete monument (no. 25), then running south 64 degrees 57 minutes 18 seconds east 250.00 feet to a concrete monument (no. 24), then running south 13 degrees 02 minutes 39 seconds east 300.00 feet to a concrete monument (no. 23), then running south 81 degrees 38 minutes 27 seconds east 330.00 feet to a concrete monument (no. 46), then running north 04 degrees 05 minutes 54 seconds west 429.00 feet to a concrete monument (no. 45), then running south 57 degrees 33 minutes 40 seconds west 522.99 feet to a concrete monument (no. 44), then running north 04 degrees 21 minutes 07 seconds west 1,439.62 feet to a stone, then running south 87 degrees 10 minutes 12 seconds west 176.91 feet to a stone, then running north 23 degrees 17 minutes 07 seconds east 329.74 feet to a stone, then running north 06 degrees 00 minutes 17 seconds west 414.04 feet to a concrete monument (no. 43) and the point of beginning.

(2) Notwithstanding any other provisions of this title, the Department may utilize mechanical or motorized equipment to create and maintain recreational trails as called for in the Morgan Run Natural Environment Area Master Plan.

(t) Pursuant to the provisions of subsection (a) of this section, that property in Baltimore County containing approximately 1,073 acres and described as follows is a Type 2 State wildland and shall be named the "Sweathouse Branch Wildland":

Beginning for the same at a point at the end of the north 22 degrees 02 minutes 00 seconds east 639.72 feet line of the land which by deed dated September 23, 1966 and recorded among the land records of Baltimore County in Liber 4676, Folio 270, was conveyed by Herman and Elizabeth Hutschenreuter to the State of Maryland for the use of the Department of Natural Resources, and running thence, south 85 degrees 48 minutes 30 seconds east 511.28 feet to a point, then running south 40 degrees 15 minutes 30 seconds east 560.00 to a point lying on the west side of Sweathouse Branch and running thence on said branch, south 26 degrees 05 minutes 40 seconds west 528.00 feet, then running south 18 degrees 23 minutes 00 seconds west 223.06 feet, then running south 08 degrees 33 minutes 50 seconds west 50.22 feet, then running south 76 degrees 00 minutes 00 seconds east 230.11 feet, then running south 25 degrees 26 minutes 40 seconds west 458.57 feet, then running south 06 degrees 41 minutes 30 seconds east 362.98 feet, then running south 83 degrees 34 minutes 50 seconds west 600.71 feet, then running south 07 degrees 33 minutes 40 seconds east 862.54 feet, then running south 05 degrees 46 minutes 45 seconds east 521.09 feet, then running south 37 degrees 24 minutes 15 seconds west 530.45 feet, then

running south 52 degrees 35 minutes 45 seconds west 600.00 feet to a point on the east side of Stocksdale Road, then running along the east side of Stocksdale Road 900.00 feet more or less, to a point on the 7th line of a tract of land deeded to the State of Maryland for the use of the Department of Natural Resources by Mamie Mohr on August 4, 1961 and recorded among the land records of Baltimore County, thence reversing and binding on said line, south 82 degrees 31 minutes 00 seconds east 620.00 feet more or less, to the end of the 6th line of the aforementioned deed, thence running with the 6th to the 1st lines thereof and reversing, south 72 degrees 42 minutes 00 seconds east 564.00 feet, then running south 32 degrees 51 minutes 30 seconds east 1469.65 feet, then running south 19 degrees 31 minutes 20 seconds east 17.18 feet, then running south 02 degrees 10 minutes 50 seconds east 474.43 feet, then running south 43 degrees 01 minutes 50 seconds east 1,266.64 feet, then running south 37 degrees 01 minutes 20 seconds east 2,274.00 feet to a point in the western right–of–way of Belair Road, then running along the west side of Belair Road in a southwesterly direction 2,786.00 feet more or less, to the north bank of the Big Gunpowder Falls, thence running along the north bank of the Big Gunpowder Falls 9,900.00 feet more or less, to a point, then running in a northwesterly direction 900.00 feet more or less, to a point, said point being the beginning of the 4th line of the land which by deed dated September 20, 1984 and recorded in the land records of Baltimore County in Liber 6805, Folio _____ was conveyed by Issac Twinning et al. to the State of Maryland for the use of the Department of Natural Resources, said point being part of the first Parcel of said deed, thence running with the 3rd and 4th line of said deed, north 40 degrees 22 minutes 21 seconds east 589.61 feet, then running north 46 degrees 19 minutes 30 seconds west 412.50 feet, then running north 43 degrees 54 minutes 40 seconds west 680.00 feet, then running north 43 degrees 33 minutes 20 seconds west 20.00 feet, then running north 43 degrees 56 minutes 40 seconds east 900.00 feet, then running south 46 degrees 03 minutes 20 seconds east 900.00 feet, then running north 43 degrees 56 minutes 40 seconds east 900.00 feet, then running north 15 degrees 33 minutes 00 seconds east 463.00 feet more or less, to the end of the 1st line of the land which by deed dated December 16, 1963 and recorded in the land records of Baltimore County in Liber 4243, Folio 356 was conveyed by Rosena Brodt et al. to the State of Maryland, to the use of the Department of Forests and Parks. Thence running with the 2nd, 3rd, 4th, 5th and part of the 6th line of said deed, north 02 degrees 21 minutes 00 seconds west 924.60 feet, then running south 78 degrees 51 minutes 26 seconds west 336.34 feet, then running north 17 degrees 34 minutes 17 seconds east 629.37 feet, then running south 85 degrees 36 minutes 00 seconds west 925.55 feet thence running north 04 degrees 42 minutes 40 seconds west 193.35 feet, thence running, south 65 degrees 31 minutes 30 seconds west 855.03 feet, then running north 45 degrees 17 minutes 00 seconds west 464.64 feet, then running north 45 degrees 21 minutes 30 seconds east 735.90 feet, then running north 53 degrees 06 minutes 30 seconds east 283.80 feet, then running north 51 degrees 06 minutes 30 seconds east 854.70 feet, then running north 24 degrees 13 minutes 50 seconds west 137.75 feet, then running north 24 degrees 49 minutes 23 seconds west 69.44 feet, then running north 31 degrees 08 minutes 12 seconds west 241.71 feet, then running north 51 degrees 55 minutes 32 seconds east 385.38 feet, then running south 19 degrees 42 minutes 34 seconds east 240.53 feet, then running south 56 degrees 04

minutes 00 seconds east 251.14 feet, then running north 34 degrees 48 minutes 15 seconds east 1,910.00 feet more or less, to the end of the 15th line of the land which by deed dated November 15, 1965 and recorded in the land records of Baltimore County in Liber 4551, Folio 435 was conveyed by J. Paul and Isabelle Herzog to the State of Maryland for the use of the Department of Forests and Parks, then binding and reversing the 15th, 14th, 13th, 12th, and 11th lines of said land, north 63 degrees 25 minutes 20 seconds west 976.77 feet, then running south 02 degrees 23 minutes 40 seconds west 108.90 feet, then running north 82 degrees 01 minutes 20 seconds west 185.63 feet, then running south 28 degrees 08 minutes 40 seconds west 304.70 feet, then running south 16 degrees 04 minutes 50 seconds west 680.88 feet, then running south 65 degrees 16 minutes 40 seconds east 1,347.22 feet, then running north 73 degrees 50 minutes 30 seconds east 365.00 feet, then running north 10 degrees 03 minutes 10 seconds west 175.43 feet, then running north 39 degrees 20 minutes 50 seconds east 636.40 feet, then running north 39 degrees 20 minutes 50 seconds east 730.00 feet, then running north 71 degrees 40 minutes 50 seconds west 201.52 feet, then running north 25 degrees 59 minutes 00 seconds west 308.15 feet, then running north 61 degrees 51 minutes 00 seconds east 856.29 feet, then running north 09 degrees 40 minutes 00 seconds east 506.19 feet, then running north 83 degrees 53 minutes 00 seconds west 281.60 feet, then running north 22 degrees 02 minutes 00 seconds east 639.72 feet to the beginning.

(u) Pursuant to the provisions of subsection (a) of this section, that property in Baltimore County containing approximately 735 acres and described as follows is a Type 2 State wildland and shall be named the "Panther Branch Wildland":

Beginning at an iron pipe, said point being the beginning of the 1st line of the land which by deed dated January 8, 1976 and recorded in the land records of Baltimore County in Liber 5606, Folio 521 was conveyed by George R. Moore and Raymond L. Moore and William E. Berndt and Henry F. Le Brun of Baltimore County to the State of Maryland to the use of the Department of Natural Resources, said point also having Maryland State plane coordinates north 647052.52, east 902630.27, then running in a southerly direction along the west side of Big Falls Road, 2,362.35 feet, to a pipe with State plane coordinates of north 644,954.66, east 901,711.01, then north 46 degrees 23 minutes 08 seconds west 204.65 feet, then running south 30 degrees 06 minutes 50 seconds east 420.00 feet, then running south 46 degrees 23 minutes 08 seconds east 204.92 feet to a pipe with coordinates north 644591.17, east 901500.48, then running in a southerly direction along the west side of Big Falls Road a distance of 480.00 feet to a point where the line leaves the road, then running, north 21 degrees 58 minutes 37 seconds west 420.00 feet to a pipe, then running south 42 degrees 12 minutes 28 seconds west 420.00 feet to a pipe with coordinates of north 644322.04, east 900785.69, then running north 21 degrees 58 minutes 37 seconds west 660.00 feet to a pipe, then running south 55 degrees 07 minutes 50 seconds east 566.14 feet to a stone, then running south 22 degrees 32 minutes 10 seconds east 650.32 feet to a stone with coordinates north 644067.10, east 900357.20, then running, south 57 degrees 42 minutes 10 seconds west 76.84 feet to a pipe, then running south 32 degrees 59 minutes 50 seconds east 37.09 feet to a pipe, then running south 59 degrees 55 minutes 20 seconds west 259.51 feet to an iron pin, then running south 61 degrees

30 minutes 20 seconds west 63.79 feet to a pipe, then running south 57 degrees 03 minutes 00 seconds west 10.30 feet to a pipe with coordinates north 643782.54, east 899945.40, then running north 20 degrees 04 minutes 28 seconds west 575.66 feet to a pipe, then running north 19 degrees 32 minutes 50 seconds west 138.79 feet to a point, then running south 49 degrees 23 minutes 56 seconds west 153.96 feet to a point, then running south 19 degrees 30 minutes 40 seconds east 725.70 feet to a pipe, then running south 46 degrees 26 minutes 18 seconds west 297.84 feet to a stone with coordinates north 643464.55, east 899611.03, then running south 57 degrees 45 minutes 30 seconds west 920.93 feet to a stone scribed "IH" with coordinates north 642973.24, east 898832.10, then running, north 18 degrees 07 minutes 15 seconds west 122.96 feet to a stone, then running north 68 degrees 59 minutes 58 seconds west 336.33 feet to a pipe, then running north 68 degrees 59 minutes 58 seconds west 212.19 feet to a stone, then running south 26 degrees 50 minutes 00 seconds west 56.22 feet to a pipe, then running south 42 degrees 59 minutes 00 seconds west 132.03 feet to a pipe, then running north 59 degrees 59 minutes 20 seconds west 113.79 feet to a pipe, then running north 33 degrees 52 minutes 40 seconds east 212.91 feet to a 30 inch oak tree, as surveyed in 1960, then running, north 65 degrees 39 minutes 00 seconds west 468.11 feet to a pipe, then running north 18 degrees 15 minutes 50 seconds west 1419.98 feet to a stone, then running east 900.00 feet to a point, then running north 20 degrees 30 minutes 00 seconds east 550.00 feet more or less, to a point, then running north 29 degrees 00 minutes 00 seconds west 550.00 feet more or less, to a point, then running north 70 degrees 00 minutes 00 seconds west 780.00 feet more or less, to a point, then running north 35 degrees 00 minutes 00 seconds west 300.00 feet more or less, to a point, then running north 200.00 feet more or less, to a point, then running south 62 degrees 00 minutes 00 seconds west 700.00 feet, more or less, to a point on the eastern right–of–way of Maryland Route 45, then running with the eastern side of Route 45 in a northerly direction 2,198.00 feet more or less, to a point in the center of the Gunpowder Falls, said point having coordinates north 648909.58, east 895934.02, then continuing along the east side of Maryland Route 45 in a northwesterly direction 135.00 feet, more or less, to intersect the 3rd line of a tract of land which by deed dated July 27, 1982, and recorded in Liber 6422, Folio 469 of the land records of Baltimore County, was conveyed by Daniel S. Sullivan, Jr., trustee of the estate of Thelma Mitchell Smith, to the State of Maryland for the use of the Department of Natural Resources, then running with the remainder of said 3rd line and with the 4th, 5th, and 6th lines, north 38 degrees 09 minutes 00 seconds west 105.00 feet more or less, to a point, then running south 74 degrees 51 minutes 00 seconds east 360.00 feet to a pipe, then running north 31 degrees 38 minutes 43 seconds east 1,099.49 feet to a pipe, then running south 65 degrees 22 minutes 13 seconds east 587.93 feet to a pipe, with coordinates north 649722.11, east 897422.79, then running, north 29 degrees 59 minutes 10 seconds east 60.00 feet to a pipe, then running north 16 degrees 10 minutes 10 seconds east 312.03 feet to a stone, then running north 23 degrees 40 minutes 50 seconds east 89.52 feet to a stone, then running north 32 degrees 26 minutes 31 seconds east 765.13 feet to a pipe, then running north 81 degrees 40 minutes 51 seconds east 521.88 feet to a pipe, then running north 81 degrees 40 minutes 51 seconds east 644.56 feet to a pipe, then running south 31 degrees 04 minutes 18 seconds east 260.00 feet to a stone with coordinates north 650747.54, east

899202.53, then running north 37 degrees 57 minutes 20 seconds east 166.46 feet to a stone, then running south 39 degrees 42 minutes 47 seconds east 263.06 feet to a stone, then running south 66 degrees 56 minutes 32 seconds east 411.28 feet to a stone, then running south 69 degrees 23 minutes 26 seconds east 442.05 feet to a stone with coordinates north 650359.75, east 900265.17, then running south 35 degrees 35 minutes 30 seconds east 130.89 feet to a stone, then running south 35 degrees 55 minutes 10 seconds east 111.28 feet to a stone, then running south 50 degrees 36 minutes 46 seconds east 1,266.87 feet to a pipe, then running south 55 degrees 41 minutes 17 seconds west 505.00 feet to a pipe, then running south 55 degrees 42 minutes 35 seconds west 120.65 feet to a pipe with coordinates north 649010.19, east 900873.59, then running south 28 degrees 07 minutes 43 seconds east 416.06 feet to a pipe, then running south 18 degrees 56 minutes 02 seconds east 817.50 feet to a pipe, then running south 63 degrees 45 minutes 00 seconds east 406.97 feet to a pipe, then running north 66 degrees 21 minutes 00 seconds east 876.12 feet to a pipe, then running south 33 degrees 04 minutes 16 seconds east 90.00 feet to a pipe, then running south 33 degrees 04 minutes 16 seconds east 621.52 feet to a pipe on the north side of Big Falls Road, then running with the north side of Big Falls Road south 33 degrees 01 minutes 40 seconds west 148.76 feet to a point, then running south 22 degrees 38 minutes 29 seconds west 36.06 feet to the beginning.

(v) (1) Pursuant to the provisions of subsection (a) of this section, that property in Washington and Allegany counties containing approximately 1,555 acres and described as follows is a Type 2 wildland and shall be named the "Sideling Hill Wildland":

Parcel 1:

Beginning for the same, at a point, said point being the beginning of a tract of land which by deed dated July 26, 1927, and recorded in the land records of Washington County in Liber 178, Folio 75, was conveyed by Washington Orchard Company to the State of Maryland, for the use of the Game and Conservation Department, said point also being the beginning of Parcel 2 of a tract of land which by deed dated July 26, 1927 and recorded in the land records of Allegany County in Liber 156, Folio 135 was conveyed by the Washington Orchard Company to the State of Maryland, for the use of the Game and Conservation Department, thence binding on and reversing on the 93rd, 92nd, 91st, 90th lines of the aforementioned first tract of land, south 74 degrees 00 minutes 00 seconds east 412.50 feet to a stone, then running north 80 degrees 30 minutes 00 seconds east 313.50 feet to a point, then running north 34 degrees 30 minutes 00 seconds east 1,650.00 feet to a stone, then running south 66 degrees 30 minutes 00 seconds east 1,600.50 feet more or less, to a point on the western edge of Riser Road, then running with the western edge of Riser Road, in a southwesterly direction, 7,950.00 feet more or less, to a point, said point being the beginning of the second Parcel of a tract of land which by deed dated September 17, 1958, and recorded in the land records of Allegany County in Liber 340, Folio 276, was conveyed by Baltimore Area Council Boy Scouts of America, Incorporated to the State of Maryland, for the use of the Game and Inland Fish Commission, then running, north 18 degrees 00 minutes 00 seconds west 540.00 feet to a point, then running north 55 degrees 00

minutes 00 seconds west 367.00 feet to a point, then running north 19 degrees 00 minutes 00 seconds west 104.00 feet to a point, then running south 50 degrees 00 minutes 00 seconds west 40.00 feet to a point in the center of a spring, then running north 43 degrees 00 minutes 00 seconds west 405.00 feet, to a stone pile set on the north side of a Wood Road, then running, north 66 degrees 00 minutes 00 seconds west 396.00 feet to a point, then running north 10 degrees 00 minutes 00 seconds west 396.00 feet to a point, then running north 15 degrees 30 minutes 00 seconds west 278.00 feet to a point, then running north 15 degrees 30 minutes 00 seconds west 478.00 feet to a point, then running north 46 degrees 00 minutes 00 seconds east 309.00 feet to a stone pile on the south bank of Sideling Hill Creek, then crossing said creek and running, north 46 degrees 00 minutes 00 seconds east 87.00 feet to a point, said point being on the 23rd line of the second aforementioned tract of land, then running with said tract of land and along Sideling Hill Creek, north 53 degrees 30 minutes 00 seconds west 900.00 feet more or less, to a point, then running north 65 degrees 25 minutes 00 seconds west 834.90 feet more or less, to a point, then running north 54 degrees 45 minutes 00 seconds west 396.00 feet more or less, to a point, then leaving the creek and running, south 47 degrees 45 minutes 00 seconds west 214.50 feet more or less, to a point on the south bank of the creek, then running north 56 degrees 00 minutes 00 seconds west 660.00 feet more or less, to a point near the creek, then running south 56 degrees 00 minutes 00 seconds west 1,501.50 feet more or less, to a point, then running south 44 degrees 00 minutes 00 seconds west 198.00 feet more or less, to a point near the east bank of the creek, then running north 47 degrees 00 minutes 00 seconds east 247.50 feet more or less, then crossing the creek and running, north 31 degrees 30 minutes 00 seconds east 247.50 feet more or less, to a point, then running south 33 degrees 00 minutes 00 seconds east 198.00 feet more or less, to a point near the west bank of the creek, then running north 55 degrees 00 minutes 00 seconds east 132.00 feet more or less, to a point, then leaving the creek and running, north 45 degrees 00 minutes 00 seconds west 231.00 feet, then running north 28 degrees 00 minutes 00 seconds west 99.00 feet, then running north 09 degrees 00 minutes 00 seconds west 561.00 feet, then running north 15 degrees 00 minutes 00 seconds east 759.00 feet, then running north 31 degrees 00 minutes 00 seconds east 396.00 feet, then running north 89 degrees 00 minutes 00 seconds east 627.00 feet, then running north 30 degrees 00 minutes 00 seconds east 429.00 feet, then running south 80 degrees 00 minutes 00 seconds east 561.00 feet, then running north 57 degrees 15 minutes 00 seconds east 412.50 feet, then running south 56 degrees 00 minutes 00 seconds east 441.37 feet, then running north 33 degrees 00 minutes 00 seconds east 792.00 feet, then running north 50 degrees 30 minutes 00 seconds east 231.00 feet, then running north 17 degrees 00 minutes 00 seconds west 346.50 feet to a pole line, then running with said pole line, south 85 degrees 30 minutes 00 seconds east 970.00 feet then leaving said pole line and running south 50.00 feet, then running south 59 degrees 00 minutes 00 seconds east 495.00 feet, then running north 86 degrees 30 minutes 00 seconds east 330.00 feet, then running north 86 degrees 30 minutes 00 seconds east 1,839.75 feet, then running south 57 degrees 00 minutes 00 seconds east 264.00 feet, then running south 30 degrees 00 minutes 00 seconds east 330.00 feet, then running south 06 degrees 15 minutes 00 seconds east 519.75 feet, then running south 86 degrees 00 minutes 00 seconds east 231.00 feet, then running

south 74 degrees 00 minutes 00 seconds east 49.50 feet to the beginning.

(2) Exempting a tract of land described as beginning at a point, said point being north 30 degrees 00 east 1,450 feet from the end of the 16th line of the above described Parcel of land, said point being the center of a Parcel of land with a radius of 75.00 feet, this circular Parcel of land contains 0.405 acres.

(3) Exempting a tract of land described as beginning at a point, said point being south 37 degrees 00 minutes 00 seconds west 275.00 feet from the beginning of the 44th line of the above described wildland and running south 56 degrees 00 minutes east 875.00 feet, then running south 17 degrees 00 minutes east 925.00 feet, then running north 65 degrees 30 minutes west 940.00 feet, then running south 54 degrees 00 minutes west 360.00 feet, then running north 30 degrees 00 minutes west 660.00 feet, then running north 37 degrees 00 minutes east 800.00 feet to the beginning.

Parcel 2:

Beginning at a point in Sideling Hill Creek, said point being the end of the 30th or north 49 degrees 00 minutes west line of a tract of land which by deed dated July 26, 1927, and recorded in the land records of Washington County in Liber 178, Folio 75, was conveyed by Washington Orchard Company to the State of Maryland, for the use of the Game and Conservation Department, thence binding and reversing on the 30th and 29th lines of said tract of land, south 49 degrees 00 minutes 00 seconds east 1,815.00 feet to a point, then running south 56 degrees 00 minutes 00 seconds east 412.50 feet to a point, then running south 56 degrees 00 minutes 00 seconds east 450.00 feet more or less, to a point, then running south 36 degrees 30 minutes 00 seconds west 1,400.00 feet more or less, to a point, then running south 61 degrees 45 minutes 00 seconds west 530.00 feet, more or less, to a concrete monument, said monument being the end of the 3rd line, of the Parcel, of a tract of land which by deed dated March 4, 1991, and recorded in the land records of Washington County in Liber 985, Folio 819, was conveyed by the Baltimore Area Council, Boy Scouts of America, Inc. to the State of Maryland, for the use of the Department of Natural Resources, thence binding on and reversing the 3rd and 2nd lines of said tract of land north 51 degrees 15 minutes 46 seconds west 1,968.98 feet to a stone pile, then running south 78 degrees 07 minutes 23 seconds west 584.37 feet to a 3/8" rebar, then running north 30 degrees 00 minutes 00 seconds west 1,740.00 feet more or less, to a point in Sideling Hill Creek, then running with the creek in a southwesterly direction, 1,200.00 feet more or less, to a point, then running north 40 degrees 00 minutes 00 seconds west 1,250.00 feet more or less, to a point at the end of the 32nd line of the first Parcel of a tract of land which by deed dated September 17, 1958, and recorded in the land records of Allegany County in Liber 340, Folio 276, was conveyed by Baltimore Area Council Boy Scouts of America, Incorporated to the State of Maryland, for the use of the Game and Inland Fish Commission, then running with said tract of land with the 32nd through the 17th and part of the 16th lines, reversed, south 73 degrees 30 minutes 00 seconds east 220.00 feet, then running north 122.00 feet, then running north 70 degrees 00 minutes 00 seconds east 86.00 feet, then running south 56 degrees 45 minutes 00 seconds east 165.00 feet, then running south 81 degrees 00 minutes 00 seconds east 332.00 feet, then running south 51 degrees

15 minutes 00 seconds east 99.00 feet to a stone marked “39”, then running north 84 degrees 00 minutes 00 seconds east 205.00 feet to a stone marked “38”, then running north 59 degrees 15 minutes 00 seconds east 1,012.00 feet to a stone marked “37”, then running north 35 degrees 15 minutes 00 seconds east 447.00 feet to a stone marked “36”, then running north 60 degrees 00 minutes 00 seconds east 314.00 feet to a stone marked “35”, then running north 30 degrees 00 minutes 00 seconds west 266.00 feet to a stone marked “34”, then running north 23 degrees 00 minutes 00 seconds east 146.00 feet to a stone marked “33”, then running south 85 degrees 00 minutes 00 seconds east 842.00 feet to a stone marked “32”, then running south 10 degrees 00 minutes 00 seconds east 132.00 feet, then running south 44 degrees 30 minutes 00 seconds west 122.00 feet to a stone marked “30”, then running south 69 degrees 00 minutes 00 seconds east 858.00 feet to a point in the center of Sideling Hill Creek, then running with the center of the creek south 03 degrees 00 minutes 00 seconds west 200.00 feet more or less, to the point of beginning.

Parcel 3:

Beginning for the same at a point, said point being the beginning of the first line of the parcel of land described in a deed dated August 7, 1931 and recorded August 15, 1941 among the land records of Allegany County in Liber 166, Folio 194 which was conveyed by Mary George et al. to the State of Maryland, then running with said first line 703.01 feet to the westernmost right of way of Hoop Pole Road, then running with the westernmost right of way of said Hoop Pole Road in a southerly direction 7137.41 feet to a point of intersection with the westerly right of way of Hoop Hole Road and the fifty first line of the abovementioned conveyance from Mary George et al. to the State of Maryland, then leaving said road and running with the existing State Forest boundary south 70 degrees west 290.78 feet, then south 20 degrees east 584.15 feet to a point, said point being the beginning of the first line of the parcel of land described in a deed dated September 27, 1984 and recorded among the land records of Allegany County in Liber 545, Folio 546 which was conveyed by Millard H Creek and Gale L Creek, his wife, to the State of Maryland, for the use of the Department of Natural Resources, said point also being on the south side of Stottlemyer Road, then running with the south and west side of Stottlemyer Road 2026.71 feet to a point at the end of the sixteenth line of the above mentioned conveyance from Millard H Creek and Gale L Creek, his wife, to the State of Maryland, for the use of the Department of Natural Resources, then leaving the westernmost right of way of Stottlemyer Road and the boundary of Green Ridge State Forest and running the following courses, south 78 degrees 58 minutes 25 seconds west 1297.0 feet to a point, said point having the coordinate value 727797.69 north, 927314.07 east (Maryland State plane grid system NAD83), then south 57 degrees 25 minutes 29 seconds west 404.8 feet, then south 85 degrees 04 minutes 13 seconds west 1476.8 feet to a point, said point having the coordinate value 727452.82 north, 925501.54 east (Maryland State plane grid system NAD83), then north 74 degrees 08 minutes 29 seconds west 860.00 more or less to the easternmost right of way of Orleans Road, then running with said right of way of Orleans Road in a northerly direction to intersect the Green Ridge State Forest boundary and the one hundred fourteenth line of the above mentioned conveyance from Mary George et al. to the State of Maryland, then running with the said right of way, the State Forest boundary and the remainder

of the aforesaid one hundred fourteenth line to a point, then running the entire one hundred fifteenth line through the one hundred nineteenth line of the aforementioned conveyance from Mary George et al. to the State of Maryland to the point of beginning.

Parcel 4:

Beginning for the same at a point said point being the beginning of the thirty seventh line of the abovementioned parcel of land described in a deed dated August 7, 1931 and recorded August 15, 1941 among the land records of Allegany County in Liber 166, Folio 194 which was conveyed by Mary George et al. to the State of Maryland, then running with the aforesaid thirty seventh line through the forty second line, then running with the forty third line 627.33 feet to a point on the westernmost right of way of Stottlemyer Road, then running with the said westernmost right of way of Stottlemyer Road in a southwesterly direction 1063.66 feet to a point, said point being in the westernmost right of way of the intersection of Stottlemyer Road and Hoop Pole Road, then running with the easternmost right of way of Hoop Pole Road 4483.00 feet more or less to the point of beginning.

(w) Pursuant to the provisions of subsection (a) of this section, that property in Allegany County containing approximately 5,125 acres and described as follows is a Type 1 State wildland and shall be named the "Maple Run Wildland":

Beginning at a point, which by deed dated May 3, 1938 and recorded in the land records of Allegany County in Liber 180, Folio 713, was conveyed by Mrs. Margaret Bailey to the State of Maryland, said point being the northwest corner of Green Ridge Valley Orchard Lot 683, Section F, where the east side of Black Twigg Road intersects the southwest side of Mertens Avenue, then running along the southwest side of Mertens Avenue, 15,000 feet more or less, to the intersection of Green Ridge Road, then running along the west side of Green Ridge Road a distance of 17,900 feet more or less, to a point, said point being the intersection of the westernmost right of way of Green Ridge Road and the existing boundary of Green Ridge State Forest, then running with the said State Forest boundary in a northwesterly direction to the westernmost corner of Lot 947 Section F, then running along the westernmost lines of said lot and Lot 948 Section F to the northeast corner of Lot 971, Section F, then running in a northeast direction to the northeasternmost corner of Lot 860 Section F, then running in a northeast direction crossing Jacobs Road to a point of intersection with the northeasternmost right of way of Jacobs Road, then running with said right of way in a northwesterly direction to a point of intersection with an unnamed forest road, then running with the easternmost right of way of Jacobs Road in a northerly direction to its intersection with Black Twigg Road, then running along the easternmost right of way to the point of beginning.

Saving and excepting the existing right of way for Jacobs Road.

Saving and excepting the existing Potomac Edison transmission line that begins at a point on the easterly line of Orchard Tract 331, Section F, said point being on the west side of the Green Ridge Road right of way and having the coordinate value 709448

north, 890869 east (Maryland State plane grid system NAD83), and then running north 86 degrees 10 minutes 56 seconds west a distance of 11,999 feet, more or less, to a point on the southwesterly line of Orchard Tract 634, Section F, said point having the coordinate value 710247 north, 878897 east (Maryland State plane grid system NAD83).

Saving and excepting the following privately owned Orchard Tracts located within the exterior boundary of the above description:

Orchard Tract 330–F, 1/2 Lot totaling 1.8 acres, being all the same land in a deed dated July 26, 2013 and recorded among the land records of Allegany County in Liber 2002, Folio 213 which was conveyed to Mable W. Fritter.

Orchard Tract 334–F, 1/2 Lot totaling 5 acres, being all the same land in a deed dated November 29, 1990 and recorded among the land records of Allegany County in Liber 591, Folio 927 which was conveyed to Michael E. & Belinda J. Weaver.

Orchard Tract 334–F, 1/2 Lot totaling 5 acres, being all the same land in a deed dated September 17, 1994 and recorded among the land records of Allegany County in Liber 634, Folio 456 which was conveyed to Mark W. and Barbara I. Morgan.

Orchard Tract 377–F and 378–F, being all the same land in a deed dated January 28, 1983 and recorded among the land records of Allegany County in Liber 532, Folio 699 which was conveyed to Richard C. Ramsey.

Orchard Tract 675–F, being all the same land in a deed dated January 29, 2013 and recorded among the land records of Allegany County in Liber 1949, Folio 238 which was conveyed to Jeffrey H. Hayes, William A. Suite, John P. Hayes.

Any land held within this Parcel by the State under a certificate of reservation is included in the wildland for so long as the certificate of reservation is in effect.

(x) Pursuant to the provisions of subsection (a) of this section, that property in Allegany County containing approximately 1,416 acres and described as follows is a Type 2 State wildland and shall be named the "Deep Run Wildland":

Beginning at a point, said point being the southeast corner of a tract of land designated as Orchard Tract 298 Section F, which by deed dated February 28, 1939, and recorded in Liber 184, Folio 224 of the land records of Allegany County, was conveyed by James E. Barlow to the State of Maryland, and then running in a northwest direction along the south side of Lot 298 to a point in the southwest corner of Lot 298 Section F, then running along the northwest line of said lot and a portion of Orchard Tract 299 Section F to the southeast corner of Lot 261 Section F, then running in a northwest direction along the southwest line of Lot 261 Section F to a point on the east side of Green Ridge Road, then running along the east side of Green Ridge Road in a northeasterly direction 15,400 feet more or less, to a point at the intersection of Green Ridge Road and an unnamed forest road, then running along said unnamed forest road and through Lots 183, 182, 111, and 110, Section D, 1,500 feet more or

less, to a point on the southwest side of Fifteen Mile Creek Road, then running along the south side of Fifteen Mile Creek Road 3,200 feet more or less, to the intersection with Deep Run, then running along Deep Run in a southwesterly direction 500 feet more or less, to a point, then running in a southeasterly direction 1,340 feet more or less, to the northwest corner of Lot 61, Section D, then running along the west side of Lots 61, 60, 59, 58, 168, 54, 115, 114, 113, and 112, Section D, then running south 20 degrees east 175 feet more or less, to the west side of East Valley Road, then running along the west side of East Valley Road, to the beginning.

Saving and excepting the following privately owned Orchard Tracts located within the exterior boundary of the above description:

Orchard Tract 155–D, being all the same land in a deed dated September 8, 2010 and recorded among the land records of Allegany County in Liber 1745, Folio 378 which was conveyed to Joel William Merrbaugh & John Henry Merrbaugh, Jr.

Orchard Tract 204–D, being all the same land in a deed dated August 8, 2012 and recorded among the land records of Allegany County in Liber 1899, Folio 122 which was conveyed to Stephan C. Whitney & Lauren E. Hudacik.

Orchard Tract 263–F, being all the same land in a deed dated December 10, 2010 and recorded among the land records of Allegany County in Liber 1747, Folio 230 which was conveyed to Richard S. Prill, Sr., Richard S. Prill, Jr., and Stephanie A. Prill.

Any land held within this Parcel by the State under a certificate of reservation is included in the wildland for so long as the certificate of reservation is in effect.

(y) Pursuant to the provisions of subsection (a) of this section, that property in Garrett County containing approximately 1,517 acres and described as follows is a Type 1 State wildland and shall be named the "Bear Pen Wildland":

Beginning at a point, said point being the end of the second line of a tract of land which by deed dated October 14, 1977 and recorded in Liber 382, Folio 467 of the land records of Garrett County, was conveyed by Robert and Marjorie Rogers to the State of Maryland, for the use of the Department of Natural Resources, and then running with the boundary of Savage River State Forest the following courses and distances, north 06 degrees 30 minutes 00 seconds east 2,382.00 feet, then running north 29 degrees 30 minutes 00 seconds west 1,254.00 feet, then running north 47 degrees 00 minutes 00 seconds west 2,285.50 feet, then running north 07 degrees 30 minutes 00 seconds west 577.50 feet, then running south 76 degrees 00 minutes 00 seconds east 247.50 feet, then running north 86 degrees 45 minutes 00 seconds east 132.00 feet, then running north 23 degrees 00 minutes 00 seconds west 132.00 feet, then running north 01 degrees 15 minutes 00 seconds east 260.70 feet, then running north 20 degrees 30 minutes 00 seconds east 198.00 feet, then running north 33 degrees 15 minutes 00 seconds east 148.50 feet, then running north 39 degrees 30 minutes 00 seconds east 701.25 feet, then running south 25 degrees 00 minutes 00 seconds east 1,303.50 feet, then running south 62 degrees 00 minutes 00 seconds east 627.00 feet, then running south

68 degrees 00 minutes 00 seconds east 523.38 feet, then running north 12 degrees 15 minutes 00 seconds east 1,114.08 feet, then running south 70 degrees 00 minutes 00 seconds east 482.46 feet, then running north 63 degrees 00 minutes 00 seconds east 1,006.50 feet, then running south 02 degrees 15 minutes 00 seconds west 429.00 feet, then running south 45 degrees 00 minutes 00 seconds west 1,596.54 feet, then running south 68 degrees 00 minutes 00 seconds east 483.12 feet, then running north 31 degrees 00 minutes 00 seconds east 1,323.96 feet to a planted stone, then running south 16 degrees 00 minutes 00 seconds east 832.92 feet to an iron pipe, then running south 79 degrees 30 minutes 00 seconds east 399.96 feet to a concrete monument, then running south 21 degrees 30 minutes 00 seconds west 1,221.00 feet to a concrete monument, then running south 85 degrees 30 minutes 00 seconds east 618.75 feet, then running north 72 degrees 30 minutes 00 seconds east 429.00 feet, then running north 39 degrees 00 minutes 00 seconds east 82.50 feet, then running south 55 degrees 15 minutes 00 seconds east 330.00 feet, then running north 61 degrees 15 minutes 00 seconds east 858.00 feet, then running north 66 degrees 30 minutes 00 seconds east 1,254.00 feet, then running south 08 degrees 30 minutes 00 seconds west 1,683.00 feet, then running south 35 degrees 00 minutes 00 seconds east 1,600.50 feet, then running north 35 degrees 15 minutes 00 seconds east 1,072.50 feet, then running north 11 degrees 30 minutes 00 seconds west 208.55 feet, then running north 19 degrees 00 minutes 00 seconds east 127.38 feet, then running north 35 degrees 15 minutes 00 seconds east 1,573.44 feet, then running north 05 degrees 00 minutes 00 seconds east 72.60 feet, then running north 52 degrees 30 minutes 00 seconds east 759.00 feet, then running north 18 degrees 30 minutes 00 seconds east 500.00 feet more or less, to a point on the south of an old road on Point Ridge, then running along the south side of said road in a southeasterly direction 5,000.00 feet more or less, to a point, then running south 40 degrees 00 minutes 00 seconds east 1,000.00 feet more or less, to a point on the west side of Savage River Road, then running along the west side of said road in a southwesterly direction 5,500.00 feet more or less, to a point on the boundary line of Savage River State Forest, then running north 35 degrees 15 minutes 00 seconds east 200.00 feet to a concrete monument, then running north 60 degrees 00 minutes 00 seconds west 254.76 feet, then running north 10 degrees 00 minutes 00 seconds east 605.22 feet, then running north 60 degrees 00 minutes 00 seconds west 925.98 feet to a planted stone marked "A", then running south 76 degrees 00 minutes 00 seconds west 580.80 feet, then running south 05 degrees 30 minutes 00 seconds west 188.76 feet to an iron pipe at the end of the 62nd line of "Father, Son, and Brother", then running south 60 degrees 00 minutes 00 seconds west 2,900.00 feet more or less, passing over a stone marked "A" at 1,594.56 feet, then running south 41 degrees 00 minutes 00 seconds west 1,200.00 feet more or less, to a point, then running south 47 degrees 30 minutes 00 seconds east 2,450.00 feet more or less, to a point on the west side of Savage River Road, then running with the west side of Savage River Road in a southwesterly direction 300.00 feet more or less, to a point, then running north 84 degrees 00 minutes 00 seconds west 8,700.00 feet more or less, to a point at the end of the 9th line of the aforementioned conveyance by Rogers (Liber 382, Folio 467), then running north 10 degrees 26 minutes 00 seconds west 357.49 feet, then running north 34 degrees 48 minutes 00 seconds east 235.00 feet, then running north 15 degrees 16 minutes 00 seconds east 409.80 feet, then running north 24 degrees 54 minutes 00 seconds west 99.60 feet, then running north 04 degrees

33 minutes 00 seconds west 108.78 feet, then running north 42 degrees 14 minutes 00 seconds west 93.55 feet, then running south 80 degrees 13 minutes 00 seconds east 383.00 feet, to the beginning.

(z) Pursuant to the provisions of subsection (a) of this section, that property in Garrett County containing approximately 2,932 acres and described as follows is a Type 1 State wildland and shall be named the "Middle Fork Wildland":

Beginning at a point, said point indicated as corner number 826 on a plat of survey by the United States Department of Agriculture, Soil Conservation Service (plat dated June 6, 1940) said point also being a corner on a tract of land designated as tract number 432 in a deed dated December 20, 1955 and recorded in Liber 187, Folio 553 in the land records of Garrett County and was conveyed by the United States of America to the State of Maryland, for the use of the Department of Forests and Parks and then running north 61 degrees 08 minutes west 256.93 feet to corner 825, then running north 49 degrees 18 minutes west 199.98 feet to corner 824, then running north 44 degrees 48 minutes west 132.73 feet to corner 823, then running north 20 degrees 28 minutes east 332.50 feet to corner 822, then running north 05 degrees 09 minutes east 726.26 feet to corner 821, then running north 17 degrees 01 minutes west 501.10 feet to corner 820, then running north 29 degrees 06 minutes west 458.21 feet to corner 819, then running north 02 degrees 15 minutes west 397.10 feet to corner 818, then running north 14 degrees 30 minutes east 421.50 feet to corner 817, then running north 36 degrees 00 minutes east 891.16 feet to corner 816, then running north 59 degrees 01 minutes west 616.34 feet to corner 815, then running north 69 degrees 04 minutes west 449.18 feet to corner 814, then running north 57 degrees 51 minutes west 660.86 feet to corner 813, then running north 45 degrees 20 minutes west 1,434.11 feet to corner 812, then running north 47 degrees 28 minutes east 754.53 feet to corner 811, then running south 42 degrees 52 minutes east 1,259.09 feet to corner 810, then running north 47 degrees 30 minutes east 1,750.79 feet to corner 809, then running north 42 degrees 56 minutes west 425.36 feet to corner 808, then running north 47 degrees 54 minutes east 1,319.69 feet to corner 807, then running south 42 degrees 32 minutes east 422.28 feet to corner 806, then running north 47 degrees 10 minutes east 844.12 feet to corner 801, then running north 42 degrees 39 minutes west 1,268.11 feet to corner 800, then running north 82 degrees 31 minutes west 2,018.29 feet to corner 799, then running north 52 degrees 26 minutes west 397.74 feet to corner 798, then running north 35 degrees 24 minutes east 1,115.34 feet to corner 797, then running north 78 degrees 49 minutes east 711.51 feet to corner 796, then running north 49 degrees 48 minutes east 1,673.89 feet to corner 795, then running south 89 degrees 26 minutes east 1,722.80 feet to corner 794, then running north 85 degrees 09 minutes east 1,994.31 feet to corner 793, then running north 06 degrees 06 minutes west 509.87 feet to corner 792, then running north 53 degrees 19 minutes west 756.07 feet to corner 791, then running north 40 degrees 54 minutes east 898.72 feet to corner 790, then running north 07 degrees 55 minutes west 124.51 feet to corner 789, then running south 79 degrees 18 minutes east 2,674.95 feet to corner 788, then running south 08 degrees 22 minutes west 1,901.32 feet to corner 787, then running south 67 degrees 49 minutes east 946.35 feet to corner 786, then running north 47 degrees 35 minutes east 1,296.74 feet to corner 785, then running north 66 degrees 11 minutes east 490.28 feet to corner 781, then running north

66 degrees 11 minutes east 760.00 feet to corner 780, then running south 30 degrees 27 minutes east 1,298.48 feet to corner 805, then running south 30 degrees 51 minutes west 874.55 feet to corner 804, then running south 29 degrees 14 minutes west 1,697.03 feet to corner 803, then running south 64 degrees 23 minutes west 850.86 feet to corner 802, then running south 10 degrees 44 minutes east 2,046.04 feet to corner 854, then running south 70 degrees 49 minutes east 632.61 feet to corner 853, north 26 degrees 48 minutes east 2082.64 feet to corner 852, south 60 degrees 04 minutes east 227.71 feet to corner 851, south 16 degrees 32 minutes west 2735.59 feet to corner 850, north 71 degrees 34 minutes east 1995.63 feet to corner 855, north 12 degrees 42 minutes east 792.60 feet to corner 856, south 55 degrees 45 minutes east 1966.08 feet to corner 857, south 40 degrees 09 minutes east 630.45 feet to corner 858, south 18 degrees 13 minutes east 2894.92 feet to corner 859, north 56 degrees 34 minutes east 920.60 feet to corner 860, north 22 degrees 28 minutes east 647.34 feet to corner 861, then leaving the Savage River State Forest boundary and running through the State Forest the following seven courses and distances, south 37 degrees 47 minutes 46 seconds east 703.6 feet, north 70 degrees 04 minutes 03 seconds east 625.4 feet, south 76 degrees 55 minutes 50 seconds east 371.4 feet, south 70 degrees 39 minutes 54 seconds east 361.0 feet, south 39 degrees 31 minutes 40 seconds east 490.0 feet, south 10 degrees 34 minutes 00 seconds east 3255.2 feet, south 10 degrees 27 minutes 56 seconds west 741.4 feet to a point of intersection with the northernmost right of way of Savage River Road, then running with said right of way 5750.82 feet more or less to its intersection with Spring Lick Road, then running with the northernmost right of way of Spring Lick Road 101.63 feet to a point, said point being a point of intersection with the seventh line of the first parcel of the fourth tract of land described in a deed dated March 15, 1948 and recorded on November 30, 1948 among the land records of Garrett County in Liber 154, Folio 140 which was conveyed by the Potomac River Commission to the State of Maryland, for the use of the State Department of Forests and Parks, then running with the following six lines of said conveyance, north 39 degrees 41 minutes 00 seconds west 159.25 feet, north 28 degrees 00 minutes 00 seconds east 139.4 feet, north 11 degrees 15 minutes 00 seconds east 407.00 feet, north 34 degrees 00 minutes 00 seconds east 285.55 feet, north 48 degrees 54 minutes 00 seconds east 338.3 feet, north 62 degrees 07 minutes 00 seconds east 235.5 feet, to a point, said point being a point of intersection with the third line of the first parcel of the fifth tract of land described in the above aforementioned conveyance from the Potomac River Commission to the State of Maryland, for the use of the State Department of Forests and Parks, then running with the following line of said conveyance north 06 degrees 00 minutes 00 seconds west 1101.0 feet to a point, said point being the point of intersection with the first line of the first parcel of the sixth tract of land described in the above aforementioned conveyance from the Potomac River Commission to the State of Maryland, for the use of the State Department of Forests and Parks, then running with the following line of said conveyance south 86 degrees 00 minutes 00 seconds west 462.00 feet to corner 896, then running south 89 degrees 08 minutes west 203.33 feet to corner 895, south 17 degrees 14 minutes west 232.80 feet to corner 894, north 46 degrees 25 minutes west 447.67 feet to corner 893, south 51 degrees 56 minutes west 771.20 feet to corner 892, south 73 degrees 30 minutes west 1511.65 feet to corner 891, said corner being the northernmost edge of a woods road, then running with the northernmost edge of said woods road generally in a western and

northerly direction to a point, said point having the coordinate value 677437.36 north, 697513.43 east (Maryland State plane grid system NAD83), then running north 08 degrees 36 minutes 51 seconds west 145.7 feet, south 86 degrees 00 minutes 00 seconds west 462.00 feet, north 09 degrees 54 minutes 54 seconds east 921.7 feet, north 57 degrees 32 minutes 40 seconds east 372.6 feet, north 83 degrees 09 minutes 25 seconds east 789.0 feet to corner 869, then running with the Savage River State Forest boundary north 61 degrees 53 minutes east 341.6 feet to a point, then leaving the State Forest boundary and running south 24 degrees 07 minutes 23 seconds east 386.4 feet, north 65 degrees 35 minutes 07 seconds east 658.9 feet, north 22 degrees 16 minutes 32 seconds west 408.1 feet to a point of intersection with the State Forest boundary, then running north 61 degrees 53 minutes 1171.7 feet to corner 868, north 09 degrees 24 minutes west 811.56 feet to corner 867, south 89 degrees 22 minutes west 725.40 feet to corner 865, north 18 degrees 02 minutes west 3979.66 feet to corner 866, north 85 degrees 30 minutes west 2519.44 feet to corner 849, then running south 18 degrees 20 minutes east 2,178.69 feet to corner 848, then running north 49 degrees 55 minutes west 338.29 feet to corner 847, then running north 86 degrees 31 minutes west 1,449.66 feet to corner 846, then running north 26 degrees 39 minutes west 1,288.06 feet to corner 845, then running south 63 degrees 41 minutes west 1,585.29 feet to corner 844, then running north 26 degrees 29 minutes west 261.20 feet to corner 843, then running north 73 degrees 17 minutes west 1,408.71 feet to corner 842, then running north 51 degrees 31 minutes west 538.14 feet to corner 841, then running north 37 degrees 15 minutes east 1,083.13 feet to corner 840, then running north 21 degrees 51 minutes west 968.70 feet to corner 839, then running north 61 degrees 42 minutes east 608.85 feet to corner 838, then running north 04 degrees 31 minutes east 513.56 feet to corner 837, then running north 60 degrees 45 minutes west 385.28 feet to corner 836, then running south 44 degrees 46 minutes west 420.89 feet to corner 835, then running south 52 degrees 18 minutes west 1,515.89 feet to corner 834, then running south 58 degrees 10 minutes east 291.67 feet to corner 833, then running south 21 degrees 16 minutes east 718.54 feet to corner 832, then running south 38 degrees 25 minutes west 895.92 feet to corner 831, then running south 33 degrees 15 minutes west 2,185.32 feet to corner 830, then running north 56 degrees 01 minutes west 2,426.87 feet to corner 830A, then running south 13 degrees 01 minutes west 2,511.20 feet to corner 829A, then running south 65 degrees 00 minutes east 1,064.10 feet to corner 829, then running south 25 degrees 26 minutes west 358.85 feet to corner 828, then running north 66 degrees 15 minutes west 482.77 feet to corner 827, then running south 25 degrees 44 minutes west 868.24 feet to corner 826, to the beginning.

(aa) Pursuant to the provisions of subsection (a) of this section, that property in Garrett County containing approximately 2,789 acres and described as follows is a Type 1 State wildland and shall be named the "Savage Ravines Wildland":

Beginning at a point, said point indicated as corner number 692 on a plat of survey by the United States Department of Agriculture, Soil Conservation Service (plat dated June 6, 1940) said point also being a point on a tract of land designated as tract number 110 in a deed dated December 20, 1955 and recorded in Liber 187, Folio 553 in the land records of Garrett County and was conveyed by the United States of America to the State of Maryland, for the use of the Department of Forests and Parks, and then

running south 58 degrees 43 minutes 00 seconds east 1,600.00 feet more or less, to a point on the westernmost right of way of the Avilton–Lonaconing Road, then running with said right of way in a southwesterly direction 2,750 feet more or less to a point on the west side of said road, then running south 11 degrees 00 minutes 00 seconds west 2,190.00 feet more or less, to a point, said point having the coordinates value 711028.80 north, 741652.84 east (Maryland State plane grid system NAD83), then running south 41 degrees 00 minutes 00 seconds west 6,080.00 feet more or less to a point on the Savage River State Forest boundary line, said point also being on the west side of Pine Swamp Road, then running north 71 degrees 06 minutes 00 seconds west 550.00 feet to corner 697 as described on aforementioned plat, then running south 46 degrees 10 minutes 00 seconds west 347.50 feet to corner 696 south 36 degrees 51 minutes 00 seconds west 1,200.00 feet more or less, to the northwest side of Pine Swamp Road, then running with the northwest side of Pine Swamp Road in a southwesterly direction 7,500.00 feet more or less, to a point on the boundary of Savage River State Forest, then running north 55 degrees 20 minutes 00 seconds west 635 feet more or less to a point on the northeast side of Westernport Road, then running in a northeasterly direction on the northeast side of Westernport Road 434.81 feet more or less to a point on the northeast side of said road and on the boundary of Savage River State Forest, then running north 36 degrees 58 minutes 00 seconds east 2806.00 feet more or less to corner 1118, then running north 48 degrees 02 minutes 00 seconds east 341.00 feet to corner 1117, then running north 45 degrees 23 minutes 00 seconds east 345.12 feet to corner 1116, then running north 16 degrees 26 minutes 00 seconds east 407.34 feet to corner 1115, then running north 55 degrees 40 minutes 00 seconds east 742.91 feet to corner 1114, then running north 38 degrees 25 minutes 00 seconds west 733.97 feet to corner 1113, then running north 65 degrees 23 minutes 00 seconds west 318.64 feet to corner 1112, then running south 60 degrees 05 minutes 00 seconds west 133.68 feet to corner 1111, then running south 11 degrees 02 minutes 00 seconds west 447.10 feet to corner 1110, then running north 69 degrees 02 minutes 00 seconds west 419.78 feet to corner 1109, then running north 19 degrees 09 minutes 00 seconds west 177.10 feet to corner 1108, then running north 37 degrees 13 minutes 00 seconds west 482.30 feet to corner 1107, then running north 77 degrees 09 minutes 00 seconds west 195.08 feet to corner 1106, then running north 41 degrees 07 minutes 00 seconds west 228.11 feet to corner 1105, then running north 07 degrees 41 minutes 00 seconds east 225.23 feet to corner 1104, then running north 40 degrees 02 minutes 00 seconds east 456.55 feet to corner 1103, then running north 81 degrees 30 minutes 00 seconds west 350.00 feet to corner 1102, then running south 71 degrees 00 minutes 00 seconds west 330.00 feet to corner 1101, then running north 70 degrees 00 minutes 00 seconds west 380.00 feet to corner 1100, then running south 59 degrees 12 minutes 00 seconds west 219.00 feet to corner 561, then running north 35 degrees 07 minutes 00 seconds west 1,078.50 feet to corner 560, then running north 79 degrees 37 minutes 00 seconds west 653.96 feet to corner 559, then running south 69 degrees 35 minutes 00 seconds west 131.86 feet to corner 558, then running south 32 degrees 57 minutes 00 seconds west 725.09 feet to corner 557, then running south 56 degrees 21 minutes 00 seconds west 264.32 feet to corner 556, then running south 38 degrees 47 minutes 00 seconds west 254.13 feet to corner 555, then running south 51 degrees 47 minutes 00 seconds east 527.15 feet to corner 554, then running south 43 degrees 42 minutes 00 seconds east 200.41 feet

to corner 553, then running south 00 degrees 55 minutes 00 seconds east 819.70 feet to corner 552, then running south 71 degrees 19 minutes 00 seconds west 525.93 feet to corner 551, then running south 42 degrees 09 minutes 00 seconds east 729.32 feet to corner 550, then running south 71 degrees 26 minutes east 1278.00 feet more or less to the northernmost right of way of Westernport Road, then running with said right of way to a point on the east of said road, intersecting the boundary of Savage River State Forest, then running north 89 degrees 38 minutes 00 seconds east 715.00 feet more or less, to corner 531, then running north 00 degrees 06 minutes 00 seconds east 754.28 feet to corner 530, then running north 01 degrees 43 minutes 00 seconds west 631.49 feet to corner 529, then running north 88 degrees 27 minutes 00 seconds east 1,648.33 feet to corner 566, then running north 02 degrees 30 minutes 00 seconds west 406.65 feet to corner 565 on the north bank of Savage River, then running along the Old Pea Ridge Road in an easterly direction 3,000.00 feet more or less, to a point intersecting the boundary line of Savage River State Forest, then running along said boundary line, north 74 degrees 25 minutes 13 seconds east 1,055.15 feet, then running north 28 degrees 23 minutes 00 seconds east 774.45 feet, then running south 73 degrees 03 minutes 27 seconds east 263.85 feet, then running north 36 degrees 53 minutes 21 seconds east 593.55 feet, then running north 47 degrees 23 minutes 55 seconds east 197.55 feet, then running north 37 degrees 23 minutes 25 seconds east 494.61 feet, then running north 57 degrees 54 minutes 22 seconds east 461.61 feet, then running north 40 degrees 08 minutes 32 seconds east 1,382.92 feet, then running north 75 degrees 00 minutes 00 seconds east 800.00 feet more or less, to a point on the south bank of Savage River, then running with the south bank of Savage River to a point, said point being the beginning of the twenty–seventh or south 25 degrees 23 minutes east 247.50 foot line of the third parcel of land described in a deed dated December 12, 2006 and recorded among the land records of Garrett County in Liber 1273, Folio 128 which was conveyed by The Conservation Fund to the State of Maryland, for the use of the Department of Natural Resources, then running with said line south 31 degrees 39 minutes 56 seconds east 247.50 feet more or less, south 21 degrees 22 minutes 04 seconds west 924.60 feet more or less, south 59 degrees 09 minutes 56 seconds east 180.00 feet more or less, north 47 degrees 11 minutes 04 seconds east 150.30 feet more or less, north 74 degrees 20 minutes 04 seconds east 64.40 feet more or less, north 52 degrees 51 minutes 04 seconds east 146.04 feet more or less, north 68 degrees 25 minutes 04 seconds east 303.90 feet more or less, north 41 degrees 50 minutes 04 seconds east 350.90 feet more or less, north 41 degrees 50 minutes 04 seconds east 660.00 feet more or less, north 25 degrees 20 minutes 04 seconds east 990.00 feet more or less, north 56 degrees 09 minutes 56 seconds west 919.70 feet more or less to a point, said point being south 56 degrees 09 minutes 56 seconds east 78.90 feet from the end of the thirty seventh line third parcel of the above mentioned conveyance by The Conservation Fund to the State of Maryland, for the use of the Department of Natural Resources, then running along the south side of Avilton–Lonaconing Road the following six lines north 83 degrees 10 minutes 49 seconds east 362.61 feet, north 37 degrees 32 minutes 28 seconds east 291.12 feet, north 47 degrees 32 minutes 28 seconds east 291.12 feet, north 11 degrees 04 minutes 14 seconds east 292.68 feet, north 30 degrees 43 minutes 04 seconds east 94.22 feet, north 49 degrees 12 minutes 30 seconds east 51.79 feet to a point, said point being south 41 degrees 24 minutes 00 seconds east 19.10 feet from the beginning

of the forty fifth line of the third parcel of the above mentioned conveyance by The Conservation Fund to the State of Maryland, for the use of the Department of Natural Resources then running south 47 degrees 40 minutes 56 seconds east 748.80 feet to a point, said point being 50.00 feet from the end of the forty fifth line of the third parcel of the above mentioned conveyance by The Conservation Fund to the State of Maryland, for the use of the Department of Natural Resources, said point also being on the north side of the Avilton–Lonaconing Road, and then running parallel and 50 feet from the north side of said road to a point of intersection with the first line of the line of the third parcel of the above mentioned conveyance by The Conservation Fund to the State of Maryland, for the use of the Department of Natural Resources, then running with said first line south 34 degrees 37 minutes 04 seconds east 3445.00 feet more or less to corner 692, the point of beginning.

Saving and excepting the following lands shown on a plat of survey by Blaine Miller, dated January 12, 1980 and recorded in the plat records of Garrett County in Plat Book A.G.R. I, Folio 54:

All the same land described in a deed dated January 12, 2003 and recorded among the land records of Garrett County in Liber 1020, Folio 820 which was conveyed by Thomas David Jewell to Charles William Turner Jr. and Angela Marie Turner containing 5.09 acres, and shown on the plat as lot 3.

All the same land described in a deed dated October 6, 1980 and recorded among the land records of Garrett County in Liber 413, Folio 548 which was conveyed by the Summer School Acres Corporation to Edward B. Burlas and Joyce Burlas containing 15.00 acres, and shown on the plat as "residue of Liber 378, Folio 64".

All the same land shown as the 20 foot right of way leading from the Avilton–Lonaconing Road to the 5.09 acre land shown on the plat as lot 3, and the 15.00 acre land shown on the plat as "residue of Liber 378, Folio 64".

(bb) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Mineral" includes any gas, oil, coal, peat, clay, stone, or fossil fuel located under a wildland area.

(iii) "Owner" includes any person that is:

1. A lessee or party in interest; and

2. Any successor or assign.

(2) Subject to review, permit, and approval actions required by law, an owner of mineral rights located in a wildland area shall have the right to access the minerals.

(3) If the failure of the Department to issue, extend, or renew a permit

involves taking a property right without just compensation in violation of the Constitution of the United States or Constitution of Maryland and if the General Assembly has not appropriated sufficient funds to pay the compensation, the State may use available funds to purchase or otherwise pay for the property rights.

(cc) (1) Pursuant to the provisions of subsection (a) of this section, that property in Frederick and Montgomery counties containing approximately 790 acres and described as follows is a Type 2 State wildland and shall be named the "Islands of the Potomac Wildland":

Parcel 1

Beginning at the northwestern most point of Watkins Island and running thence in a southeasterly direction, with the low water mark, along the northern shoreline 8100 feet more or less to the northwest corner of a tract of land now or formerly owned by Bernard Wolfson, as recorded in the land records of Montgomery County in Liber 2309, Folio 598, thence leaving the northernmost shoreline of Watkins Island and running with said Wolfson land in a southwesterly direction 200 feet more or less to a point on the southwest side of Watkins Island, thence leaving the Wolfson tract and running in a northwesterly direction, with the low water mark, along the southwestern shoreline of said island 8500 feet to the beginning.

Parcel 2

Beginning at a point, said point being the beginning of the first parcel of a tract of land which by deed dated May 13, 1988, and recorded in the land records of Montgomery County in Liber 8279, Folio 156, was conveyed by the Nature Conservancy to the State of Maryland, to the use of the Department of Natural Resources, and running thence in a southeasterly direction, with the low water mark, along the southwestern shoreline of Watkins Island 5100 feet more or less to the southernmost point on said island, thence running in a northwesterly direction, with the low water mark, along the northeastern shoreline of Watkins Island 6403 feet more or less to a point, thence leaving the northern shoreline of Watkins Island and running 900 feet more or less to a point on the southern shore of said island, thence running in a southeasterly direction, with the low water mark, along the southwestern shoreline 1891 feet more or less to the point of beginning.

Saving and exempting from the above a parcel of land conveyed to the Washington Sanitary Commission by deed recorded in the land records of Montgomery County in Liber 3943, Folio 28, said parcel being located on the southern end of Watkins Island on the northern shoreline.

Saving and exempting all gas pipelines running through the above described portion of Watkins Island.

Parcel 3

A tract of land known as Katie (Poteau) Island, located within the Potomac River,

in Montgomery County, 400 feet more or less northwest of Watkins Island, the center of which lies at 444910 north, 713880 east in accordance with the Maryland State plane grid system (NAD27).

Parcel 4

A tract of land known as Norbell Island, located within the Potomac River, in Montgomery County, 800 feet more or less northeast of Watkins Island, the center of which lies at 443370 north, 719980 east in accordance with the Maryland State plane grid system (NAD27).

Parcel 5

A tract of land known as Grapevine Island, located within the Potomac River, in Montgomery County, 300 feet more or less southwest of Watkins Island, the center of which lies at 443990 north, 714100 east in accordance with the Maryland State plane grid system (NAD27).

Parcel 6

A tract of land known as Beall's Island, located within the Potomac River, in Montgomery County, 9000 feet more or less northeast of Potomac, Maryland, the center of which lies at 433400 north, 731600 east in accordance with the Maryland State plane grid system (NAD27).

Parcel 7

A tract of land known as Island Number 6, located within the Potomac River, in Montgomery County, 300 feet more or less southwest of Watkins Island, the center of which lies at 446000 north, 713490 east in accordance with the Maryland State plane grid system (NAD27).

Parcel 8

A tract of land known as Islands Number 9, 10, and 11, located within the Potomac River, in Montgomery County, just southeast of Grapevine Island and southwest of Watkins Island.

Parcel 9

A tract of land known as Van Deventer Island which is located within the Potomac River, in Montgomery County, the center of which lies 4.3 miles due south of Poolesville, Maryland, and is also located directly across from the southern shoreline of the McKee–Beshers Wildlife Management Area.

Parcel 10

A tract of land known as Heater's Island which is located within the Potomac

River, in Frederick County, and the center of which lies 3/4 of a mile southeast of Point of Rocks, Maryland.

Parcel 11

A tract of land known as Clagett Island, located within the Potomac River, in Montgomery County, southwest of Watkins Island, the center of which lies at 438200 north, 721770 east in accordance with the Maryland State plane grid system (NAD27).

Parcel 12

A tract of land known as Submarine Island, located within the Potomac River, in Montgomery County, 500 feet more or less northeast of Watkins Island, the center of which lies at 443870 north, 717100 east in accordance with the Maryland State plane grid system (NAD27).

Parcel 13

A tract of land known as Paton Island, located within the Potomac River, in Frederick County, 4,700 feet more or less northwest of Point of Rocks, Maryland, the center of which lies at 588719 north, 1155824 east in accordance with the Maryland State plane grid system (NAD83).

Parcel 14

A tract of land known as Oxley's Island, located within the Potomac River, in Montgomery County, 7,500 feet more or less northwest of Martinsburg, Maryland, the center of which lies at 552742 north, 1174725 east in accordance with the Maryland State plane grid system (NAD83).

Parcel 15

A tract of land known as Eagle's Island, located within the Potomac River, in Montgomery County, 3,800 feet more or less south of Rushville, Maryland, the center of which lies at 507686 north, 1219742 east in accordance with the Maryland State plane grid system (NAD83).

Parcel 16

A tract of land known as Dot's Island, located within the Potomac River, in Montgomery County, 3,900 feet more or less southwest of Cabin John, Maryland, the center of which lies at 473555 north, 1263737 east in accordance with the Maryland State plane grid system (NAD83).

Parcel 17

A tract of land known as Isle of Hope, located within the Potomac River, in Montgomery County, 3,700 feet more or less southwest of Cabin John, Maryland, the

center of which lies at 473477 north, 1264030 east in accordance with the Maryland State plane grid system (NAD83).

Parcel 18

A tract of land known as Langley Island, located within the Potomac River, in Montgomery County, 3,800 feet more or less south of Rushville, Maryland, the center of which lies at 507686 north, 1219742 east in accordance with the Maryland State plane grid system (NAD83).

(2) Notwithstanding any other provision of this title, the Department may permit motorized boat access and use within the boundaries of the islands of the Potomac Wildland.

(dd) Pursuant to the provisions of subsection (a) of this section, that property in Caroline County containing approximately 570 acres and described as follows is a Type 2 State wildland and shall be named the "Idylwild Wildland":

Beginning at a point, said point being the beginning of the 20th or north 40 degrees 35 minutes 12 seconds east 1030.57 foot line of a tract of land which by deed dated March 30, 1971 and recorded in the land records of Caroline County in Liber 173, Folio 69, was conveyed by Philip E. Nuttle, personal representative of the estate of Guy L. Wright, to the State of Maryland, for the use of the Department of Natural Resources, and running thence with the center of Marshy Hope Creek in a southwesterly direction 11,040 feet more or less to a point, said point being the end of the 60th or north 37 degrees east 400 foot line of a tract of land known as the Idylwild Mill Pond Property which by deed dated May 29, 1942 and recorded in the land records of Caroline County in Liber 102, Folio 285, was conveyed by the Mayor and Council of Federalsburg to the State of Maryland, to the use of the Game and Inland Fish Commission, and running thence with the western edge of the said "Idylwild Millpond Property" and along the westernmost edge of Marshy Hope Creek in a southerly direction to the end of the 3rd line of the aforementioned deed from the Mayor and Council of Federalsburg to the State of Maryland, thence running due east 1800 feet more or less to a point on the east side of an old road, said point having Maryland State plane grid coordinates (NAD27) N319600 E1150300, thence running along the westernmost edge of said road, northeasterly 2550 feet more or less to a point, northwesterly 700 feet more or less to a point, northeasterly 4500 feet more or less to a point, thence running with the easternmost edge of said road, southeasterly 1700 feet more or less to a point, easterly 800 feet more or less to a point at the intersection of and on the westernmost edge of another road, thence running with the westernmost edge of said road northeasterly 300 feet more or less to the northernmost edge of a stream, thence running north 52 degrees west 2450 feet more or less to a point, north 40 degrees east 5700 feet more or less to a point, north 82 degrees 30 minutes west 1200 feet to a point, north 17 degrees east 2300 feet more or less, crossing Houston Branch, to a point, due east 800 feet more or less to a point, north 23 degrees east 3000 feet more or less to the end of 19th line of the aforementioned deed from Philip Nuttle to the State of Maryland and running thence with said 19th line reversed, north 87 degrees 18 minutes 52 seconds west 1223.00 feet

to a point in the Marshy Hope Creek, thence with the 20th line reversed and with the centerline of said creek south 40 degrees 35 minutes 12 seconds west 1030.57 feet to the beginning.

The wildland designation is subject to all rights and reservations set forth in a deed between the Mayor and Council of Federalsburg and the State of Maryland, recorded among the land records of Caroline County, at Liber 102, Folio 285, namely the right held by the Mayor and Council of Federalsburg to create, use and maintain a pond on the property for the purpose of municipal water supply and the rights held by the Eastern Shore Public Service Company or its successors to control use of any such pond and to construct and operate an electricity transmission distribution system on the property.

(ee) Pursuant to the provisions of subsection (a) of this section, that property in Baltimore County containing approximately 1272 acres and described as follows is a Type 2 State wildland and shall be named the "Mingo Branch/Bush Cabin Run Wildland":

Beginning at a point, said point being distant south 45 degrees 53 minutes 50 seconds east 30.00 feet from the beginning of a tract of land which by deed dated August 1, 1972 and recorded in the land records of Baltimore County in Liber 5288, Folio 549, was conveyed by Stoneleigh Enterprises Inc. to the State of Maryland, for the use of the Department of Natural Resources, and running thence, south 45 degrees 53 minutes 50 seconds east 496.44 feet to a concrete monument, north 40 degrees 50 minutes 54 seconds east 90.83 feet to a concrete monument, south 54 degrees 19 minutes 07 seconds east 1170.51 feet to a concrete monument, south 27 degrees 16 minutes 07 seconds west 504.71 feet to a concrete monument, north 11 degrees 05 minutes 07 seconds west 113.90 feet to a concrete monument, south 51 degrees 02 minutes 14 seconds west 980.25 feet to a concrete monument, south 50 degrees 17 minutes 38 seconds west 131.99 feet to a concrete monument, south 53 degrees 12 minutes 38 seconds west 314.98 feet to a concrete monument, said monument being the end of the 94th line of a tract of land which by deed dated May 16, 1963 and recorded in the land records of Baltimore County in Liber 4143, Folio 220, was conveyed by Harold M. Cummins to the State of Maryland, for the use of the Department of Forests and Parks, and running thence, south 23 degrees 09 minutes 53 seconds east 475.55 feet to a concrete monument, south 23 degrees 18 minutes 30 seconds east 6.61 feet to a point on the north edge of the right of way line of the Susquehanna Transmission Company, and running thence, south 23 degrees 18 minutes 30 seconds east 150 feet more or less to a point on the south edge of the right of way of the Susquehanna Transmission Company, and running thence, south 23 degrees 18 minutes 30 seconds east 22.02 feet to a concrete monument, south 28 degrees 12 minutes 32 seconds east 150.24 feet to a concrete monument, south 16 degrees 03 minutes 04 seconds east 148.74 feet to a concrete monument, south 25 degrees 51 minutes 07 seconds east 158.57 feet to a concrete monument, north 81 degrees 28 minutes 29 seconds east 70.24 feet to a concrete monument, south 38 degrees 50 minutes 15 seconds east 86.63 feet to a concrete monument, south 38 degrees 50 minutes 15 seconds east 27.20 feet to a point in Masemore Road, running thence with said road, north 52 degrees 34 minutes 18

seconds east 77.84 feet to a point, then leaving Masemore Road and running, south 42 degrees 13 minutes 14 seconds east 330 feet to a point, north 44 degrees 42 minutes 35 seconds east 350.00 feet more or less to a point, north 44 degrees 00 minutes 00 seconds west 430.00 feet to a point on the south side of Masemore Road thence running with the south side of said road in a northeasterly direction 460.00 feet more or less to a point, thence leaving said road and running south 40 degrees 00 minutes 00 seconds east 450.00 feet more or less to a point, south 45 degrees 00 minutes 00 seconds east 50.00 feet to a point, south 31 degrees 31 minutes 47 seconds east 302.84 feet to a concrete monument, north 83 degrees 55 minutes 05 seconds east 390.26 feet to a concrete monument, north 86 degrees 03 minutes 33 seconds east 414.50 feet to a concrete monument, north 56 degrees 01 minutes 14 seconds east 432.31 feet to a concrete monument, north 64 degrees 46 minutes 51 seconds east 1082.66 feet to a concrete monument, north 66 degrees 39 minutes 04 seconds east 606.92 feet to a concrete monument, said monument being the beginning of the 16th line of a tract of land which by deed dated March 19, 1976 and recorded in the land records of Baltimore County in Liber 5621, Folio 599, was conveyed by Russell N. and Helen R. Miller to the State of Maryland, to the use of the Department of Natural Resources, and running thence, south 15 degrees 34 minutes 43 seconds west 237.08 feet to a concrete monument, south 40 degrees 35 minutes 46 seconds east 300.67 feet to a concrete monument, north 66 degrees 45 minutes 43 seconds east 284.04 feet to a concrete monument, said monument being in the 7th line of parcel number 2 of a tract of land which by deed dated May 8, 1963 and recorded in the land records of Baltimore County in Liber 4148, Folio 582, was conveyed by the State Roads Commission of Maryland to the State of Maryland, Department of Forest and Parks, and running thence as delineated in the State Roads Commission plat numbered 28532, northeasterly 350 feet more or less to a point, northeasterly 335 feet more or less to a point, northeasterly 200 feet more or less to a point, northeasterly 115 feet more or less to intersect the westernmost right of way line of the Baltimore Harrisburg Expressway, thence running with the west side of said highway right of way in a southeasterly direction 2700.00 more or less feet to a point, thence leaving said right of way and running, south 57 degrees 00 minutes 00 seconds west 400.00 more or less feet to a point, south 23 degrees 00 minutes 00 seconds east 630.00 feet more or less to a point, south 66 degrees 00 minutes 00 seconds east 200.00 feet more or less to a point, south 33 degrees 00 minutes 00 seconds east 500.00 feet more or less to a point, south 01 degrees 40 minutes 12 seconds east 1150.00 feet more or less to a concrete monument stamped "DFP MD R–397", said monument being in the westernmost right of way line of the Baltimore Harrisburg Expressway, and running thence with said right of way and the northernmost right of way of Bunker Hill Road 1587.00 feet to a pipe, thence leaving said Bunker Hill Road right of way and running north 45 degrees 59 minutes 53 seconds east 663.00 feet to a pipe, north 66 degrees 00 minutes 00 seconds west 185.00 feet to a point, south 53 degrees 14 minutes 36 seconds west 630 feet more or less to a pipe on the north side of Bunker Hill Road, thence running with the north side of said road in a northwesterly direction 640.00 feet more or less to a point, thence running across Bunker Hill Road south 00 degrees 08 minutes 20 seconds east 225.00 feet to a pipe, south 15 degrees 00 minutes 00 seconds east 300.00 feet more or less to a point, south 64 degrees 12 minutes 55 seconds west 480.00 feet more or less to a pipe,

south 25 degrees 00 minutes 00 seconds east 258.46 feet to a pipe, north 64 degrees 08 minutes 08 seconds east 978.35 feet to a point, south 22 degrees 33 minutes 01 seconds east 1315.00 feet more or less to a concrete monument, south 66 degrees 16 minutes 42 seconds west 1829.23 feet to a stone, south 11 degrees 19 minutes 34 seconds west 458.98 feet to a stone, south 62 degrees 12 minutes 48 seconds east 883.75 feet to a point in the westernmost right of way line of the Baltimore Harrisburg Expressway, thence running along said right of way and the northernmost right of way of Mount Carmel Road 3300.00 feet more or less to a concrete monument stamped "DFP MD R–364", said monument being the end of the 15th line of a tract of land which by deed dated October 31, 1964 and recorded in the land records of Baltimore County in Liber 4378, Folio 625, was conveyed by Luella T. Gordon and Francis W. Ennis to the State of Maryland, to the use of the Department of Forest and Parks, thence leaving said right of way and running, north 56 degrees 50 minutes 58 seconds west 200.50 feet to a concrete monument, north 08 degrees 35 minutes 58 seconds west 725.03 feet to a stone, north 45 degrees 31 minutes 45 seconds east 660.00 feet to a concrete monument, north 33 degrees 52 minutes 06 seconds west 636.38 feet to a concrete monument, north 16 degrees 12 minutes 08 seconds west 2130.12 feet to a stone, said stone being the end of the 2nd line of a tract of land which by deed dated August 1, 1966 and recorded in the land records of Baltimore County in Liber 4655, Folio 310, was conveyed by Conservation Incorporated to the State of Maryland, for the use of the Department of Forest and Parks, and running thence, north 33 degrees 17 minutes 52 seconds east 18.52 feet to a point, north 40 degrees 17 minutes 52 seconds east 615.75 feet to a point, north 13 degrees 12 minutes 08 seconds west 171.04 feet to a point, north 75 degrees 45 minutes 38 seconds east 460.17 feet to a point, north 52 degrees 57 minutes 36 seconds east 132.00 feet to a point on the northeast side of the Gunpowder Falls, thence running along the northeast side of Gunpowder Falls in a northwesterly direction 2700.00 feet more or less to a point, thence crossing the Gunpowder Falls and running south 55 degrees 00 minutes 00 seconds west 950.00 feet more or less to a point, south 03 degrees 00 minutes 00 seconds east 270.00 feet more or less to a point on the south bank of Cabin Run, thence running with the south bank of said run in a easterly direction 700.00 feet more or less to a point on the westernmost side of Masemore Road, thence running with the westernmost side of Masemore Road 2250.00 feet more or less to a point, thence running, north 52 degrees 14 minutes 16 seconds 30.00 feet more or less to a concrete monument stamped "DFP MD R–415", thence running, north 52 degrees 14 minutes 16 seconds 495.54 feet to a concrete monument, south 87 degrees 59 minutes 00 seconds west 184.13 feet to a stone, south 87 degrees 37 minutes 31 seconds west 380.84 feet to a stone, south 55 degrees 56 minutes 44 seconds west 626.91 feet to a stone, south 51 degrees 13 minutes 41 seconds west 1979.80 feet to a concrete monument, north 51 degrees 42 minutes 42 seconds west 145.00 feet to a concrete monument, said monument being the end of the 2nd line of the first parcel of a tract of land which by deed dated March 23, 1973 and recorded in the land records of Baltimore County in Liber 5345, Folio 171, was conveyed by George S. Wareheim to the State of Maryland, for the use of the Department of Natural Resources, and running thence, south 45 degrees 05 minutes 39 seconds west 551.86 feet to a concrete monument, south 47 degrees 48 minutes 32 seconds west 268.06 feet to a concrete monument, south 46 degrees 55 minutes 25

seconds west 283.18 feet to a concrete monument, south 49 degrees 31 minutes 54 seconds west 480.16 feet to a concrete monument, south 55 degrees 27 minutes 26 seconds west 464.45 feet to a concrete monument, south 62 degrees 08 minutes 42 seconds west 1050.00 feet more or less to a point crossing over a concrete monument at 611.31 feet, thence running, south 35 degrees 00 minutes 00 seconds east 650.00 feet to a point on the northern edge of Evna Road, thence running with the north edge of Evna Road in a westerly and northwesterly direction 2100.00 feet more or less to a point in the southernmost line of the right of way belonging to the Susquehanna Transmission Company of Maryland, and running thence with the southernmost line of said right of way in a northeasterly direction 4500.00 feet more or less to a point, said point being south 48 degrees 05 minutes 43 seconds east 305 feet more or less from the end of the 6th line of a tract of land which by deed dated January 18, 1971 and recorded in the land records of Baltimore County in Liber 5176, Folio 234, was conveyed by John W. Strickland et. al. to the State of Maryland, for the use of the Department of Natural Resources, and running thence reversely with said line north 48 degrees 05 minutes 43 seconds west 618 feet more or less to a steel pipe, north 48 degrees 05 minutes 43 seconds west 1350.00 feet more or less to a point on the easternmost edge of Falls Road, and running thence with the eastern and southeastern edge of Falls Road 4800 feet more or less to the point of beginning.

Saving and exempting the following day use area described as follows:

Beginning at a point, said point being the beginning of the 54th line of a tract of land which by deed dated March 29, 1961, and recorded in the land records of Baltimore County in Liber 3853, Folio 429, was conveyed by the Mayor and City Council of Baltimore to the State of Maryland, to the use of the Department of Forests and Parks, and running thence, said point also being northwest of the confluence of the Gunpowder Falls and Mingo Branch and running thence, with the southernmost bank in a northerly and easterly direction 3400.00 feet more or less to a point on the southernmost bank of the Gunpowder Falls, said point being the end of the 64th line of the aforementioned deed, and running thence south 19 degrees 03 minutes 39 seconds east 566.28 feet to a point, south 35 degrees 00 minutes 00 seconds west 450 feet more or less to a point on the easternmost side of Bunker Hill Road, thence running with the easternmost side of Bunker Hill Road in a southerly direction 600.00 feet more or less to a point, thence crossing Bunker Hill Road and running with the westernmost edge of an old road 900.00 feet more or less to a point, said point being situated south 70 degrees west 670.00 feet from the beginning of the aforementioned deed, thence running north 70 degrees 30 minutes west 1210 feet to the point of beginning.

Saving and exempting all portions of Bunker Hill Road.

Saving and exempting a parking area located northeast of Falls Road with Maryland grid coordinates N648900 E886400, with a radius of 200 feet more or less, and the existing 36 foot wide access road from Falls Road, said road being 900 feet in length.

Saving and exempting the Baltimore Gas and Electric power line right of way

located in the northwest portion of the above described wildland.

(ff) (1) Pursuant to the provisions of subsection (a) of this section, that property in Garrett County containing approximately 2,079 acres and described as follows is a Type 2 State wildland and shall be named the "South Savage Wildland":

Beginning at a point, said point indicated as monument number 590 on a plat of survey by the United States Department of Agriculture titled "Survey of Land Purchased, Project LU–MD–38–2, Garrett County Maryland," said point also having coordinate values of north 688322.69, 725697.44 east (Maryland State plane grid system NAD83), and then running with the easternmost boundary of the Savage River State Forest south 24 degrees 55 minutes 00 seconds west 1,274.49 feet to a point, then running north 60 degrees 30 minutes 00 seconds west 1,237.64 feet to a point, then running south 30 degrees 31 minutes 00 seconds west 2,515.17 feet to a point, then running north 66 degrees 15 minutes 00 seconds west 828.28 feet to a point, then running south 25 degrees 18 minutes 00 seconds west 1,035.27 feet to a point, then running south 66 degrees 31 minutes 00 seconds east 690.58 feet to a point, then running south 29 degrees 04 minutes 00 seconds west 1,630.27 feet to a point, then running south 48 degrees 20 minutes 00 seconds west 1,113.26 feet to a point, then running south 89 degrees 19 minutes 00 seconds west 332.41 feet to a point, then running south 18 degrees 57 minutes 00 seconds west 1,876.31 feet to a point, then running north 71 degrees 27 minutes 00 seconds west 749.32 feet to a point, then running south 22 degrees 46 minutes 00 seconds west 803.01 feet to a point, then running south 57 degrees 35 minutes 00 seconds west 232.67 feet to a pipe at corner 598, then running south 07 degrees 01 minutes 00 seconds west 1297.76 feet to corner 599, then running south 15 degrees 41 minutes 00 seconds east 752.82 feet to corner 600, then running south 54 degrees 05 minutes 00 seconds east 567.40 feet to corner 601, then running south 36 degrees 24 minutes 00 seconds east 327.86 feet to corner 602, then running south 09 degrees 19 minutes 43 seconds east 2180.8 feet, then running south 26 degrees 33 minutes 53 seconds east 1064.2 feet, then running south 06 degrees 50 minutes 34 seconds east 428.0 feet, then running south 17 degrees 41 minutes 44 seconds west 1051.0 feet to a point in the northernmost limit of Savage River Road, then running with said road in a northwesterly direction 3793.61 feet to a point at the edge of an existing road, then leaving aforementioned stream and running at the base of Big Savage Mountain north 74 degrees 07 minutes 40 seconds west 654.05 feet to a point, then running south 85 degrees 27 minutes 31 seconds west 954.17 feet to a point, then running north 37 degrees 38 minutes 52 seconds west 333.52 feet to a point, then running south 49 degrees 06 minutes 00 seconds west 685.27 feet to a point, then running north 71 degrees 13 minutes 33 seconds west 652.80 feet to a point, then running north 85 degrees 08 minutes 44 seconds west 1,186.18 feet to a point, then running north 86 degrees 47 minutes 03 seconds west 586.33 feet to a point, then running north 44 degrees 54 minutes 31 seconds west 687.53 feet to a point, then running north 74 degrees 02 minutes 54 seconds west 228.75 feet to a point, then running north 81 degrees 55 minutes 49 seconds west 458.76 feet to a point, then running north 87 degrees 12 minutes 07 seconds west 397.99 feet to a point, then running north 80 degrees 39 minutes 57 seconds west 258.69 feet to a point, then running north 38 degrees 37 minutes 00 seconds west

199.63 feet to a point, then running north 02 degrees 59 minutes 27 seconds west 275.16 feet to a point, then running north 04 degrees 47 minutes 17 seconds west 372.59 feet to a point, then running north 13 degrees 23 minutes 55 seconds west 422.52 feet to a point, then running north 19 degrees 18 minutes 17 seconds west 805.12 feet to a point, then running north 66 degrees 50 minutes 12 seconds west 467.21 feet to the easternmost boundary of the Big Savage Mountain Wildland, then running with the easternmost boundary of said wildland north 09 degrees 42 minutes 43 seconds east 1,074.90 feet to a point, then running north 00 degrees 29 minutes 39 seconds east 487.76 feet to a point, then running north 16 degrees 36 minutes 19 seconds east 657.34 feet to a point, then running north 22 degrees 59 minutes 23 seconds east 660.24 feet to a point, then running north 27 degrees 44 minutes 26 seconds east 581.93 feet to a point, then running north 45 degrees 08 minutes 06 seconds east 468.08 feet to a point, then running north 66 degrees 30 minutes 40 seconds east 905.64 feet to a point, then running north 77 degrees 06 minutes 01 seconds east 724.19 feet to a point, then running north 82 degrees 51 minutes 58 seconds east 624.35 feet to a point, then running south 51 degrees 25 minutes 01 seconds east 312.48 feet to a point, then running south 64 degrees 40 minutes 58 seconds east 179.02 feet to a point, then running north 46 degrees 47 minutes 13 seconds east 12,723.48 feet to a point intersecting the southernmost edge of the High Rock Fire Tower Road, then running with the southernmost edge of said road south 60 degrees 02 minutes 01 seconds east 367.54 feet to a point, then running south 76 degrees 17 minutes 39 seconds east 747.93 feet to a point, then running north 87 degrees 32 minutes 41 seconds east 558.94 feet to a point, then running south 52 degrees 04 minutes 35 seconds east 379.26 feet to a point, then running north 82 degrees 00 minutes 19 seconds east 112.27 feet to a point in the westernmost right of way of Westernport Road, then running with the westernmost right of way of said road south 34 degrees 15 minutes 30 seconds east 733.80 feet to a point, then leaving said road and running south 22 degrees 18 minutes 38 seconds west 1,285.97 feet to the point of beginning.

(2) (i) The South Savage Wildland area provides a unique site for the study of environmental sciences and offers an outstanding value for education, research, and enhanced understanding of natural processes and related economic, sociological, and cultural benefits.

(ii) Notwithstanding any other provision of this subtitle, the Department may allow research study in the South Savage Wildland area that involves some activities that are generally restricted or prohibited in State wildland areas, if the Department determines that the activities will not cause adverse impacts to the wildland resources and the ecological values of the site.

(iii) The Department and the University System of Maryland, through its constituent institutions Frostburg State University and the University of Maryland Biotechnology Institute, shall develop a comprehensive plan for the site setting forth the timing, duration, and general scope of the research activities to be allowed, subject to public review and comment and subject to approval by the Secretary.

(gg) Pursuant to the provisions of subsection (a) of this section, that property in Somerset County containing approximately 3,125 acres and described as follows is a Type 2 State wildland and shall be named the "Janes Island Wildland":

A tract of land known as Janes Island, located within the Chesapeake Bay, Somerset County, the center of which lies at 126256.00 north, 1638821.00 east (Maryland State plane grid system NAD83); otherwise being all that portion of land, situate in the Crisfield and Lawson Election Districts of Somerset County, Maryland, known as "Janes Island" and "Flat Cap Marshlands", shown and described on a plat entitled "Map of Janes Island and Flat Cap Marshes" dated June 26, 1962 and recorded in the land records of Somerset County, Maryland in Plat Book GJB 5, Folios 83A and 83B and conveyed unto the State of Maryland, to the use of the Department of Forests and Parks by the following two deeds: (1) a quit claim deed dated July 16, 1962 from Wallace M. Quinn and Augusta Quinn, his wife recorded in the land records of Somerset County, Maryland in Liber 211, Folio 537, and (2) a quit claim deed dated July 31, 1962 from John W. Landon, Jr. and Mabel Landon, his wife recorded in the land records of Somerset County, Maryland in Liber 211, Folio 165.

Saving and excepting that tract of land lying on the western shoreline of Tangier Sound and bounded by Flat Cap Creek and being more particularly described as follows: Beginning for the same at a point where Flat Cap Creek empties into Tangier Sound, said point lying on the southwestern side of the mouth of Flat Cap Creek, said point also having the coordinate value 131537.63 north 1,638,129.59 east (Maryland State plane grid system NAD83), then running by and with the western side of Flat Cap Creek in a southerly direction to a point, said point also having the coordinate value 127164.00 north 1,637218.00 east (Maryland State plane grid system NAD83), then leaving the western side of Flat Cap Creek and running north 66 degrees 32 minutes west a distance of 756.00 more or less feet to a point on the western shoreline on Tangier Sound, then running by and with the western shoreline of Tangier Sound to the point of beginning, containing 50.1 acres of land more or less.

Saving and excepting that tract of land lying on the northern shoreline of the Little Annamessex River and being bounded by the southern shoreline of Old House Cove and being more particularly described as follows: Beginning for the same at a point, said point lying on the southwest side of Old House Cove, said point also having the coordinate value 114050.14 north, 1630106.93 east (Maryland State plane grid system NAD83), then running and binding with the southern shoreline of Old House Cove in a southeasterly direction a distance of 4,560 feet more or less to a point on the northern shoreline of the Little Annamessex River, then running by and with the northern shoreline of the Little Annamessex River in a northwesterly direction a distance of 4,150 feet more or less to a point on the northern shoreline of the Little Annamessex River, then south 88 degrees 58 minutes east 241.79 feet to the point of beginning, containing 12.6 acres more or less.

Saving and excepting that tract of land lying on northern shoreline of the Little Annamessex River and being more particularly described as follows: Beginning for the same at a point, said point lying on the southeasternmost side of an unnamed

island south of Long Point on Janes Island, said point also having the coordinate value 112375.00 north, 1635762.00 east (Maryland State plane grid system NAD83), and then running along the northern shoreline of the said island in a northwest direction to its northeasternmost point, said point also having the coordinate value 113561.00 north, 1634261.00 east (Maryland State plane grid system NAD83) and then running along the southern shoreline of said island in a southeasterly direction to the point of beginning, containing 13.7 acres more or less.

(hh) (1) Pursuant to the provisions of subsection (a) of this section, that property in Calvert County containing approximately 1,756 acres and described as follows is a Type 2 State wildland and shall be named the "Parker's Creek Wildland":

Parcel 1:

Being all the same land in a deed dated June 26, 1995 and recorded among the land records of Calvert County in Liber 813, Folio 43 which was conveyed by J and H Properties to the State of Maryland, to the use of the Department of Natural Resources.

Parcel 2:

Being all the same land in a deed dated May 4, 2000 and recorded among the land records of Calvert County in Liber 1267, Folio 135 which was conveyed by The Nature Conservancy to the State of Maryland, to the use of the Department of Natural Resources.

Parcel 3:

Being all the same land in a deed dated January 29, 2001 and recorded among the land records of Calvert County in Liber 1344, Folio 96 which was conveyed by The Nature Conservancy to the State of Maryland, to the use of the Department of Natural Resources.

Parcel 4:

Being all the same land in a deed dated September 27, 2001 and recorded among the land records of Calvert County in Liber 1464, Folio 328 which was conveyed by The Nature Conservancy to the State of Maryland, to the use of the Department of Natural Resources.

Parcel 5:

Being all the same land in a deed dated September 27, 2001 and recorded among the land records of Calvert County in Liber 1467, Folio 171 which was conveyed by The Nature Conservancy to the State of Maryland, to the use of the Department of Natural Resources.

Parcel 6:

Being all the same land in a deed dated December 18, 2002 and recorded among the land records of Calvert County in Liber 1733, Folio 388 which was conveyed by The Nature Conservancy to the State of Maryland, to the use of the Department of Natural Resources.

Parcel 7:

Being all the same land in a deed dated December 13, 2004 and recorded among the land records of Calvert County in Liber 2358, Folio 57 which was conveyed by The Nature Conservancy to the State of Maryland, to the use of the Department of Natural Resources.

(2) (i) The Parker's Creek Wildland area contains unique ecological features and rare habitats that harbor numerous sensitive plant and animal species.

(ii) Notwithstanding any other provision of this subtitle, in order to preserve, maintain, study, research, and educate the public about the unique ecological features and rare habitats described in subparagraph (i) of this paragraph, in the Parker's Creek Wildland area the Department may:

1. Retain, maintain, remove, or replace existing structures, trails, parking areas, and roads using mechanical or motorized equipment;

2. Remove, replace, or dispose of non–native species using mechanical or motorized equipment;

3. Erect fencing, gates, or signs in order to protect or identify unique natural or historical elements;

4. Construct and maintain not more than two viewing platforms adjacent to hiking trails for public observation;

5. Construct and maintain a footbridge across Parker's Creek at the historical crossing found at the southern terminus of Old Parker's Creek Road; and

6. Continue to authorize agricultural management activities on the Goldstein Bay Farm for so long as an agricultural lease is in effect.

(ii) Pursuant to the provisions of subsection (a) of this section, that property in Charles County containing approximately 443 acres and described as follows is a Type 2 State wildland and shall be named the "Zekiah Swamp Wildland":

Parcel 1:

Being all the same land in a deed dated September 3, 1976 and recorded among the land records of Charles County in Liber 461, Folio 34 which was conveyed by William C. Mitchell to the State of Maryland, to the use of the Department of Natural Resources.

Parcel 2:

Being all the same land in a deed dated November 4, 1983 and recorded April 11, 1984 among the land records of Charles County in Liber 976, Folio 109 which was conveyed by Fisher Farm Partnership to the State of Maryland, to the use of the Department of Natural Resources.

Parcel 3:

Being all the same land in a deed dated March 27, 1986 and recorded among the land records of Charles County in Liber 1117, Folio 65 which was conveyed by William E. Sill Jr. to the State of Maryland, to the use of the Department of Natural Resources.

(jj) (1) Pursuant to the provisions of subsection (a) of this section, that property in Charles County containing approximately 694 acres and described as follows is a Type 2 State wildland and shall be named the "Chapman Wildland":

Parcel 1:

Beginning at a point on the northwesternmost right of way of Chapman's Landing Road, said point being the end of the thirteenth or south 49 degrees 49 minutes 53 seconds west 1649.93 foot line of the first parcel of a tract of land which by deed dated February 15, 1989 and recorded in Liber 1362, Folio 169 of the land records of Charles County was conveyed by MAR–JAC Investments, Inc. to VMS Charles County Venture, said parcel of land also described as Tract C by deed dated October 28, 1998 and recorded in Liber 2666, Folio 501 of the land records of Charles County which was conveyed by The VMIF Charles County Venture to the State of Maryland, to the use of the Department of Natural Resources and running with said thirteenth line reversed north 49 degrees 49 minutes 53 seconds east 1649.93 feet to a point, then running north 43 degrees 45 minutes 32 seconds east 187.93 feet, then leaving said right of way and running north 49 degrees 52 minutes 12 seconds east 462.19 feet, north 51 degrees 56 minutes 35 seconds east 1044.13 feet, south 49 degrees 13 minutes 25 seconds east 460.66 feet to a point on the westernmost right of way of Chapman's Landing Road and running north 53 degrees 09 minutes 55 seconds east 644.48 feet, north 73 degrees 15 minutes 29 seconds east 260.40 feet to a point, then leaving said right of way and running north 39 degrees 24 minutes 01 seconds east 304.26 feet to a point, said point having the coordinate value 344581.81 north, 1278899.91 east (Maryland State plane grid system NAD83), then running north 20 degrees 13 minutes 29 seconds east 436.76 feet, due north 269.63 feet, north 11 degrees 46 minutes 06 seconds west 264.40 feet, north 34 degrees 41 minutes 42 seconds east 170.53 feet, north 31 degrees 25 minutes 46 seconds east 455.02 feet, north 19 degrees 10 minutes 44 seconds west 262.63 feet, south 68 degrees 33 minutes 08 seconds west 973.34 feet, north 20 degrees 24 minutes 35 seconds west 759.08 feet, north 24 degrees 58 minutes 01 seconds east 567.71 feet, north 03 degrees 55 minutes 16 seconds east 430.31 feet more or less to a point on the mean high waterline of the Potomac River, then running with mean high water line of the Potomac River in a southwesterly direction 4,560.00 feet more or less to a point, then leaving the Potomac

River and running south 07 degrees 43 minutes 15 seconds east 533.05 feet to a point, said point having the coordinate value 344624.95 north, 1275578.15 east (Maryland State plane grid system NAD83), and then running south 78 degrees 41 minutes 24 seconds east 219.97 feet, south 19 degrees 47 minutes 55 seconds west 286.56 feet, south 51 degrees 20 minutes 24 seconds east 345.29 feet, south 80 degrees 50 minutes 16 seconds east 338.65 feet, north 03 degrees 49 minutes 53 seconds west 752.06 feet more or less to the mean high waterline of the Potomac River, then running with mean high water line of the Potomac River in a southwesterly direction 2020.00 feet more or less to a point, said point being the end of the thirtieth or north 26 degrees 10 minutes 39 seconds west 436.68 foot line of the said first parcel of the tract of land conveyed by MAR–JAC Investments, Inc. to VMS Charles County Venture, and then running with the thirtieth through twelfth lines of said conveyance (reversed) to the point of beginning.

Saving and excepting the existing roadway sometimes referred to as Rivers Edge Place and 15 feet on each side of its centerline, extending from the boundary of Parcel 1 closest to Glymont Road across Parcel 1 to intersect with the boundary on the other side at a point having the approximate coordinate value 344301.37 north, 1275059.56 east (Maryland State plane grid system NAD83).

Parcel 2:

Beginning at a point on the northwesternmost right of way of Chapman's Landing Road, said point being the beginning of the sixth or north 86 degrees 38 minutes 58 seconds west 1319.67 foot line of the first parcel of a tract of land which by deed dated February 15, 1989 and recorded in Liber 1362, Folio 169 of the land records of Charles County was conveyed by MAR–JAC Investments, Inc. to VMS Charles County Venture, said parcel of land also described as Tract C by deed dated October 28, 1998 and recorded in Liber 2666, Folio 501 of the land records of Charles County which was conveyed by The VMIF Charles County Venture to the State of Maryland, to the use of the Department of Natural Resources, and running with the said right of way and the fifth line reversed north 67 degrees 46 minutes 51 seconds east 552.46 feet to a point, north 42 degrees 12 minutes 39 seconds east 340.94 feet, north 42 degrees 28 minutes 30 seconds east 1426.97 feet, north 42 degrees 44 minutes 21 seconds east 997.21 feet, north 46 degrees 43 minutes 308 seconds east 34.64.97 feet, north 53 degrees 05 minutes 42 seconds east 80.99 feet, north 62 degrees 02 minutes 25 seconds east 228.32 feet, north 69 degrees 57 minutes 12 seconds east 125.20 feet to a point, then leaving the said right of way of Chapman's Landing Road and running north 39 degrees 02 minutes 48 seconds west 185.30 feet, north 37 degrees 50 minutes 16 seconds east 82.71 feet, north 45 degrees 03 minutes 29 seconds east 545.26 feet, north 42 degrees 02 minutes 59 seconds east 77.87 feet, north 37 degrees 54 minutes 28 seconds east 311.71 feet, north 41 degrees 10 minutes 35 seconds east 260.95 feet, north 44 degrees 26 minutes 57 seconds west 277.80 feet, north 45 degrees 46 minutes 19 seconds west 222.13 feet, north 44 degrees 47 minutes 43 seconds west 254.88 feet, north 46 degrees 41 minutes 29 seconds west 310.52 feet, north 40 degrees 24 minutes 27 seconds west 392.86 feet, north 49 degrees 46 minutes 33 seconds west 169.99 feet, north 55 degrees 48 minutes 05 seconds west 229.43 feet, north 46 degrees 21 minutes

39 seconds west 339.31 feet, north 45 degrees 38 minutes 37 seconds west 302.40 feet, north 48 degrees 27 minutes 42 seconds west 139.84 feet, north 44 degrees 31 minutes 32 seconds west 149.05 feet, north 46 degrees 25 minutes 31 seconds west 487.00 feet more or less to a point on the mean high waterline of the Potomac River, then running with mean high water line of the Potomac River in a southwesterly direction 2850 feet more or less to a point, then leaving said river and running south 24 degrees 09 minutes 27 seconds east 1376.43 feet more or less to a point, said point having the coordinate value 347083.91 north, 1279730.34 east (Maryland State plane grid system NAD83), and then running south 32 degrees 13 minutes 52 seconds east 1671.03 feet, south 34 degrees 26 minutes 20 seconds west 441.74 feet, south 65 degrees 46 minutes 20 seconds east 228.29 feet, south 88 degrees 58 minutes 20 seconds west 282.28 feet, north 63 degrees 26 minutes 05 seconds east 241.16 feet, due west 194.13 feet, south 56 degrees 18 minutes 35 seconds west 155.54 feet, south 13 degrees 23 minutes 32 seconds west 232.82 feet, south 02 degrees 51 minutes 44 seconds west 215.97 feet, south 16 degrees 41 minutes 56 seconds west 225.20 feet, south 40 degrees 54 minutes 51 seconds west 229.09 feet more or less, to a point on the westernmost right of way of Chapman's Landing Road, and then running with said right of way south 86 degrees 38 minutes 58 seconds east 1055.11 feet more or less to the point of beginning.

Parcel 3:

Being a parcel of land also described as Tract E2 by deed dated October 28, 1998 and recorded in Liber 2666, Folio 501 of the land records of Charles County which was conveyed by The VMIF Charles County Venture to the State of Maryland, to the use of the Department of Natural Resources.

(2) Notwithstanding any other provision of this subtitle, in the Chapman Wildland area the Department, with prior approval of the Maryland Historical Trust and after an internal Departmental review, may authorize:

(i) Archeological inventories, studies, and research that involve surface examination or limited subsurface sampling;

(ii) Salvage and excavation of archeological sites; and

(iii) Stabilization and restoration of historic structures existing as of October 1, 2014.

(kk) (1) Pursuant to the provisions of subsection (a) of this section, that property in Allegany County containing approximately 4,047 acres and described as follows is a Type 1 State wildland and shall be named the "Dan's Mountain Wildland":

Beginning for the same at a point, said point being located on the boundary of Dan's Mountain Wildlife Management Area and being 823.41 feet from the beginning of the last or south 44 degrees 04 minutes 00 seconds west 1978.42 foot line of the parcel of land described in a deed dated November 4, 1960 and recorded among the land records of Allegany County in Liber 329, Folio, 281 which was conveyed by Eva Cox et

al. to the State of Maryland, to the use of the Game and Inland Fish Commission, said point also being on the southwesternmost right of way of Dan's Rock Road and running then with said right of way in a southeasterly direction to a point of intersection with the aforementioned Dan's Mountain Wildlife Management Area boundary, and then running with said boundary two courses on a southeasterly direction to a point, said point being located on said boundary and 282.00 feet more or less from the beginning of the sixty third line of the parcel of the aforesaid conveyance from Eva Cox to the State of Maryland, and then leaving the aforementioned boundary of Dan's Mountain Wildlife Management Area and running south 47 degrees 21 minutes 17 seconds west 2225.80 feet more or less to a point, said point having the coordinate value 699490.18 north, 776146.39 east (Maryland State plane grid system NAD83), and then running south 41 degrees 12 minutes 48 seconds west 1417.57 feet, south 44 degrees 40 minutes 23 seconds east 1384.38 feet, south 68 degrees 03 minutes 38 seconds east 645.69 feet, south 54 degrees 08 minutes 42 seconds east 544.19 feet, south 53 degrees 30 minutes 07 seconds east 1064.55 feet, south 29 degrees 30 minutes 09 seconds west 1075.02 feet, south 05 degrees 05 minutes 06 seconds west 1837.81 feet, south 13 degrees 18 minutes 21 seconds east 738.22 feet, south 51 degrees 19 minutes 01 seconds west 778.44 feet, north 76 degrees 43 minutes 44 seconds west 695.99 feet, south 89 degrees 38 minutes 03 seconds west 848.54 feet, south 58 degrees 43 minutes 42 seconds west 836.41 feet, south 85 degrees 11 minutes 02 seconds west 426.61 feet, south 03 degrees 21 minutes 44 seconds east 170.49 feet, south 42 degrees 54 minutes 17 seconds east 2320.86 feet, south 62 degrees 39 minutes 03 seconds west 413.73 feet, south 41 degrees 27 minutes 44 seconds west 642.13 feet, south 59 degrees 30 minutes 53 seconds west 224.52 feet, north 81 degrees 15 minutes 29 seconds west 394.79 feet, north 56 degrees 33 minutes 07 seconds west 707.57 feet, north 54 degrees 06 minutes 41 seconds west 944.30 feet, south 87 degrees 18 minutes 27 seconds west 1135.83 feet, south 55 degrees 48 minutes 14 seconds west 755.69 feet, north 36 degrees 48 minutes 13 seconds west 394.32 feet, north 44 degrees 58 minutes 08 seconds west 789.32 feet, north 74 degrees 24 minutes 47 seconds west 625.03 feet, north 81 degrees 16 minutes 42 seconds west 1071.03 feet, south 89 degrees 37 minutes 45 seconds west 542.00 feet more or less to a point on the westernmost side of "The Flats Road", said point having the approximate coordinate value 690805.50 north, 768923.00 east (Maryland State plane grid system NAD83), then running with the northwesternmost side of "The Flats Road" in a southwesterly direction to a point of intersection with "Middle Ridge Road", said point having the approximate coordinate value 685711.50 north, 764680.00 east (Maryland State plane grid system NAD83), and then running with the westernmost side of "Middle Ridge Road" in a southerly direction to a point, said point having the approximate coordinate value 679399.50 north, 763595.15 east (Maryland State plane grid system NAD83), and then running with the westernmost side of "Middle Ridge Road" in a northerly direction to a point on the westernmost side of "The Flats Road", said point having the approximate coordinate value 680844.00 north, 761673.50 east (Maryland State plane grid system NAD83), and then running with the westernmost side of "The Flats Road" in a southerly direction to a point, said point having the approximate coordinate value 676476.50 north, 758032.50 east (Maryland State plane grid system NAD83), then leaving "The Flats Road" and running south 33 degrees 20 minutes 48 seconds west 4548.56 feet, south 57 degrees 12 minutes 01 seconds east 578.70 feet, north 61

degrees 45 minutes 45 seconds east 662.57 feet, south 55 degrees 22 minutes 48 seconds east 1967.38 feet, south 53 degrees 01 minutes 14 seconds east 900.09 feet, south 29 degrees 44 minutes 41 seconds west 398.56 feet, south 02 degrees 19 minutes 11 seconds west 1332.67 feet to a point in the boundary of Dan's Mountain Wildlife Management Area, said point being the beginning of north 00 degrees 15 minutes 00 seconds west 1777.00 foot line of the parcel of land described in a deed dated August 29, 1953 and recorded among the land records of Allegany County in Liber 253, Folio 231 which was conveyed by Darin Morehouse et al. to the State of Maryland, to the use of the Game and Inland Fish Commission, and running with said conveyance and the existing boundary of Dan's Mountain Wildlife Management Area to the beginning of the south 21 degrees 30 minutes 00 seconds west 1377.00 foot line of the said Morehouse conveyance to the State of Maryland and then leaving said Wildlife Management Area boundary and running north 44 degrees 37 minutes 51 seconds east 908.17 feet to a point, said point having the coordinate value 668628.58 north, 754267.50 east (Maryland State plane grid system NAD83), and then running north 22 degrees 48 minutes 16 seconds east 1031.92 feet, north 16 degrees 21 minutes 33 seconds west 886.76 feet, north 34 degrees 40 minutes 39 seconds west 2106.92 feet, north 00 degrees 48 minutes 57 seconds east 1518.92 feet, north 35 degrees 48 minutes 13 seconds east 2439.09 feet, north 28 degrees 09 minutes 00 seconds east 2360.01 feet, north 35 degrees 58 minutes 02 seconds east 7943.42 feet, north 25 degrees 33 minutes 03 seconds east 2170.69 feet, north 40 degrees 54 minutes 19 seconds east 3153.05 feet more or less to a point, said point being located on the aforementioned Wildlife Management Area boundary and 667.40 feet more or less from the beginning of the twenty sixth line of the aforesaid conveyance from Eva Cox to the State of Maryland, and then running with the said boundary the remainder of the said twenty sixth line and the twenty fifth through the twenty second line of the aforesaid conveyance from Eva Cox to the State of Maryland to a point, said point being located on the aforementioned Wildlife Management Area boundary and 1005.00 feet more or less from the end of the twenty first line of the aforesaid conveyance from Eva Cox to the State of Maryland, and then leaving the said boundary of the Dan's Mountain Wildlife Management Area and running north 33 degrees 13 minutes 58 seconds east 1174.68 feet more or less to a point, said point having the coordinate value 691345.14 north, 765649.54 east (Maryland State plane grid system NAD83), then running north 45 degrees 15 minutes 50 seconds east 935.17 feet, north 38 degrees 56 minutes 54 seconds east 2572.73 feet, north 35 degrees 12 minutes 19 seconds east 2381.30 feet, north 26 degrees 50 minutes 35 seconds east 1264.93 feet, more or less to a point on the Dan's Mountain Wildlife Management Area boundary, then running with said boundary north 48 degrees 29 minutes 32 seconds east 264.00 feet, south 44 degrees 04 minutes 28 seconds east 248.15 feet, north 54 degrees 10 minutes 12 seconds east 290.30 feet, north 50 degrees 10 minutes 32 seconds east 373.35 feet, north 58 degrees 14 minutes 32 seconds east 266.25 feet, north 84 degrees 07 minutes 32 seconds east 184.25 feet, north 15 degrees 56 minutes 32 seconds east 247.60 feet, north 40 degrees 22 minutes 44 seconds west 470.70 feet, then leaving the said boundary and running north 35 degrees 38 minutes 53 seconds east 1495.22 feet more or less to the aforesaid Dan's Mountain Wildlife Management Area boundary, and then running with said boundary, as defined in the year 2014, to the point of beginning.

(2) Notwithstanding any other provision of this subtitle, in the Dan's Mountain Wildland area the Department may:

(i) Establish and maintain roads and trails to provide access for wildlife–dependent recreation;

(ii) Improve and manage habitat for early–succession wildlife; and

(iii) Take all other actions necessary to manage the area in a way that fulfills the purposes of the 1966 Federal Aid in Fish and Wildlife Restoration Act grant from the Department of the Interior that partially funded acquisition of the area.

(ll) Pursuant to the provisions of subsection (a) of this section, that property in Garrett County containing approximately 300 acres and described as follows is a Type 1 State wildland and shall be named the "Upper White Rock Wildland":

Parcel 1:

Being all the same land described in a deed dated December 9, 1937 and recorded December 21, 1937 among the land records of Garrett County in Liber 117, Folio 122 which was conveyed by Paul Friend, Claudine M. Friend, his wife and Otto Schultz to the State of Maryland, for the use of the Department of Forestry, and also known as Military Lots 1454, 1455, and 1456.

Parcel 2:

Being all the same land described in a deed dated December 3, 1937 and recorded January 10, 1938 among the land records of Garrett County in Liber 117, Folio 182 which was conveyed by Paul Friend, Charles H. Linville and Mary K. Linville, his wife to the State of Maryland, for the use of the Department of Forestry, and also known as Military Lots 1450, 1451, and 1452.

(mm) Pursuant to the provisions of subsection (a) of this section, that property in Garrett County containing approximately 1,706 acres and described as follows is a Type 1 State wildland and shall be named the "Backbone Mountain Wildland":

Beginning for the same at a point, said point being the beginning of the first line of the parcel of land described in a deed dated October 18, 2013 and recorded among the land records of Garrett County in Liber 1774, Folio 280 which was conveyed by Mountain Maryland Minerals LLC to the State of Maryland, to the use of the Department of Natural Resources, said point also being shown on a plat of survey entitled "ALTA/ACSM Land Title Survey, Exterior Boundary for the Lands of the State of Maryland, Department of Natural Resources situated along Maryland Route 135, Election District No. 4, Garrett County, Maryland", prepared by Catoctin Mountain Surveys, Inc., dated May 10, 2013 and recorded among the land records of Garrett County in Plat Book TVM, page 497 and running then, with the boundary of the Potomac State Forest and the first through eighth lines of said deed to a point intersecting the first line of a tract of land described in a deed dated January 7, 1935

and recorded among the land records of Garrett County in Liber 110, Folio 177 which was conveyed by Charles Strecker et al. to the State of Maryland, then running with the said State Forest boundary for remainder of the said first line to a point, then running with the second through fifth lines of said deed to a point, then running with a portion of the sixth line to a point, then leaving the said State Forest boundary and running along the northernmost edge of an existing woods road in a westerly direction 5048.45 feet to a point, said point having a coordinate value 667048.26 north, 696303.36 east (Maryland State plane grid system NAD83), then running north 23 degrees 16 minutes 01 seconds west 228.1 feet to a planted stone in the said State Forest boundary, then running with said State Forest boundary the following two courses, north 34 degrees 52 minutes 47 seconds west 561.00 feet more or less to a point, then north 24 degrees 52 minutes 47 minutes west 586.3 feet more or less to a point in the southernmost right of way of the CSX Railroad, then running with the southernmost right of way of said railroad in a northeasterly direction to a point, said point being the beginning of the eighth line of a tract of land described in a deed dated December 12, 2011 and recorded among the land records of Garrett County in Liber 1629, Folio 380 which was conveyed by Willard F. White et al. to the State of Maryland and following the next three courses and distances, south 44 degrees 00 minutes 00 seconds east 198.0 feet, north 46 degrees 00 minutes 00 seconds east 214.5 feet, then north 44 degrees 00 minutes 00 seconds west 198.0 feet to a point, said point being in the southernmost right of way of the CSX Railroad, then running with the southernmost right of way of said railroad in a easterly direction to a point, said point being the beginning of the fourth line in a tract of land described in a deed dated January 5, 1985 and recorded among the land records of Garrett County in Liber 454, Folio 609 which was conveyed by Richard B. Newman et al. to The Nature Conservancy, a Not–for–Profit Corporation, and following the next three courses and distances, south 26 degrees 00 minutes 00 seconds west 1584.00 feet, south 63 degrees 00 minutes 00 seconds east 990.0 feet, north 46 degrees 00 minutes 00 seconds east 1650.0 feet to a point, said point being in the southernmost right of way of the aforesaid CSX Railroad, then running with the southernmost right of way of said railroad in an easterly direction to a point, said point having a coordinate value 674787.84 north, 713729.74 east (Maryland State plane grid system NAD83), then leaving the said railroad right of way and running south 00 degrees 57 minutes 53 seconds west 656.9 feet to a point, said point being the beginning of the south 88 degrees 00 minutes 00 seconds west 2640.00 foot line of the first parcel of the first tract of land described in a deed dated March 15, 1948 and recorded on November 30, 1948 among the land records of Garrett County in Liber 154, Folio 140 which was conveyed by the Potomac River Commission to the State of Maryland, for the use of the State Department of Forest and Parks, then running with the following six lines of said conveyance south 88 degrees 31 minutes 32 seconds west 2613.80 feet more or less to a point, south 04 degrees 14 minutes 29 seconds west 311.81 feet more or less to a point, north 69 degrees 35 minutes 51 seconds west 209.63 feet more or less to a point, north 68 degrees 27 minutes 39 seconds west 1642.13 feet more or less to a point, south 20 degrees 27 minutes 32 seconds west 314.94 feet more or less to a point, said point being the beginning of the first line of the parcel of land described in a deed dated October 18, 2013 and recorded among the land records of Garrett County in

Liber 1774, Folio 280 which was conveyed by Mountain Maryland Minerals LLC to the State of Maryland, to the use of the Department of Natural Resources, then running south 20 degrees 27 minutes 32 seconds west 929.06 feet, south 15 degrees 09 minutes 35 seconds west 251.99 feet, south 79 degrees 15 minutes 41 seconds west 448.15 feet, south 16 degrees 34 minutes 12 seconds east 35.00 feet, south 68 degrees 38 minutes 19 seconds west 365.36 feet, north 70 degrees 43 minutes 44 seconds west 620.98 feet, north 44 degrees 03 minutes 05 seconds west 124.01 feet, south 72 degrees 11 minutes 42 seconds west 1291.88 feet, south 15 degrees 17 minutes 29 seconds east 707.67 feet, north 73 degrees 09 minutes 10 seconds east 50.06 feet, south 13 degrees 20 minutes 23 seconds west 28.42 feet, and then north 70 degrees 36 minutes 39 seconds west 138.52 feet to the point of beginning.

Saving and excepting a tract of land described in a deed dated January 5, 1985 and recorded among the land records of Garrett County in Liber 454, Folio 609 which was conveyed by Richard B. Newman et al. to The Nature Conservancy, a Not–for–Profit Corporation containing 48.15 acres more or less.

Saving and excepting a tract of land described in a deed dated June 6, 2008 and recorded among the land records of Garrett County in Liber 1374, Folio 35 which was conveyed by Diane M. Kenner to Erwin P. Kenner and Diane M. Kenner containing 1.85 acres more or less.

Parcel 2

Beginning for the same at a point on the southernmost edge of a woods road, said point having the coordinate value 667037.54 north, 699584.53 east (Maryland State plane grid system NAD83), then running south 45 degrees 50 minutes 05 seconds west 4814.4 feet, then south 52 degrees 35 minutes 30 seconds west 4128.1 feet more or less to a point in the northernmost right of way of State Route 135, then running north 73 degrees 25 minutes 13 seconds west 552.5 feet more or less to a point on the southernmost edge of the aforesaid woods road, said point having the coordinate value 661333.10 north, 692322.39 east (Maryland State plane grid system NAD83), then running with the easternmost edge of the aforesaid woods road in a generally northerly direction to the point of beginning.

(nn) Pursuant to the provisions of subsection (a) of this section, that property in Garrett County containing approximately 600 acres and described as follows is a Type 1 State wildland and shall be named the "Maple Lick Run Wildland":

Being all the same land described as the third tract of land in a deed dated October 7, 1938 and recorded October 25, 1938 among the land records of Garrett County in Liber 118, Folio 160 which was conveyed by Arthur H. Strecker Trustee, Arthur H. Strecker, Bertha C. Strecker, his wife, Charles F. Strecker, and The Citizens National Bank of Marietta Ohio, Trustee under the Last Will and Testament of Benjamin T. Strecker to the State of Maryland, for the use of the Department of Forestry.

(oo) Pursuant to the provisions of subsection (a) of this section, that property in

Garrett County containing approximately 457 acres and described as follows is a Type 1 State wildland and shall be named the "Puzzley Run Wildland":

Beginning at a point, said point indicated as monument number 75 on a plat of survey by the United States Department of Agriculture titled "Survey of Land Purchased, Project LU–MD–38–2, Garrett County Maryland", said point also having coordinate values of north 756159.75, east 686447.24 (Maryland State plane grid system NAD83), then running on the westernmost right of way of Hetrick Road in a southerly direction to a rebar and cap at corner 76, then leaving said right of way and running with the boundary of Savage River State Forest south 78 degrees 30 minutes 46 seconds west 228.83 feet to a pipe at corner 77, then south 02 degrees 13 minutes 50 seconds east 1305.63 feet to a pipe at corner 78, then north 77 degrees 17 minutes 46 seconds west 178.57 feet to a pipe at corner 79, then south 23 degrees 44 minutes 09 seconds west 489.1 feet to a pipe at corner 80, then south 58 degrees 36 minutes 46 seconds east 629.61 feet to a pipe at corner 81, then south 08 degrees 06 minutes 42 seconds west 389.15 feet to a pipe at corner 82, then south 06 degrees 32 minutes 25 seconds east 1256.9 feet to a point, then leaving said State Forest Boundary and running south 85 degrees 43 minutes 50 seconds west 744.6 feet to a point, then south 04 degrees 06 minutes 14 seconds west 666.8 feet to a pipe at corner 84, then running with the boundary of Savage River State Forest south 83 degrees 30 minutes 53 seconds west 1327.86 feet to a pipe at corner 85, then north 02 degrees 28 minutes 42 seconds west 427.07 feet to a pipe at corner 86, then north 82 degrees 06 minutes 26 seconds west 626.63 feet to a pipe at corner 87, then north 16 degrees 14 minutes 06 seconds west 1969.51 feet to a pipe at corner 88, then leaving said State Forest Boundary and running north 23 degrees 23 minutes 35 seconds west 285.4 feet to a point on the easternmost edge of a woods road, then running with the easternmost edge of said woods road in a northerly direction to a point on the northernmost boundary of Savage River State Forest and the Maryland–Pennsylvania state line, said point having coordinate values north 756220.05, east 682835.04 (Maryland State plane grid system NAD83), then running with said boundary line in an easterly direction to the point of beginning.

§5–1204.

Notwithstanding inclusion of an area in the State wildlands preservation system, the area shall continue to be managed by the unit which had jurisdiction immediately before its inclusion in the State wildlands preservation system unless otherwise provided by an act of the General Assembly. Money may not be appropriated for the payment of expenses or salaries for the administration of the State wildlands preservation system as a separate unit, nor shall appropriations be available for additional personnel required solely for the purpose of managing or administering areas solely because they are included within the State wildlands preservation system.

§5–1205.

The Secretary may review, as to its suitability for preservation as State wildlands, any area under his jurisdiction which he deems worthy of consideration for protection

as State wildland. He shall report his findings to the Governor. The Governor shall advise the General Assembly of his recommendations with respect to the designation as State "wildland" or reclassification of each area on which a review has been completed and submit maps and a definition of boundaries. Each recommendation of the Governor for designation as "wildland" becomes effective only if provided by an act of the General Assembly. Nothing contained in this title limits the Governor in proposing, as part of his recommendations to the General Assembly, the alteration of boundaries of proposed State wildland areas or recommending the addition of any contiguous area of State lands predominately of wildland value.

§5–1206.

Within ten years after July 1, 1971, the Secretary shall review every roadless area of 500 contiguous acres or more in the State-owned lands under his jurisdiction on July 1, 1971. Every area of State-owned roadless islands, State wildlife refuges, and public hunting areas under his jurisdiction on July 1, 1971 shall be reported to the Governor together with the Secretary's recommendation as to the suitability or nonsuitability of each area or island for preservation as a wildland. The Governor shall advise the President of the Senate and Speaker of the House of Delegates of his recommendation with respect to the designation as wildland of each area or island on which review has been completed, and submit a map, and a definition of its boundaries. The advice shall be given with respect to not less than one third of the areas and islands to be reviewed under this subsection by July 1, 1974, not less than two thirds by July 1, 1978, and the remainder by July 1, 1981. A recommendation of the Governor for designation as wildland becomes effective only if provided by an act of the General Assembly. Nothing contained in this title may be construed, by implication or otherwise, to lessen the present statutory authority of the Secretary with respect to maintenance of roadless areas under his jurisdiction.

§5–1208.

Prior to submitting any recommendations to the Governor with respect to the suitability of any area for preservation as wildland the Secretary shall:

(1) Give the public notice he deems appropriate of the proposed action, including publication in a newspaper having general circulation in the vicinity of the affected land;

(2) Announce and then hold a public hearing at a location convenient to the area affected. A hearing shall be announced by any means the Secretary deems appropriate, including notice in a newspaper of general circulation in the area but, if the lands involved are located in more than one county, the hearing shall be held in the county in which the greatest portion of the land lies;

(3) At least 30 days before the date of a hearing, advise the governing board of each county in which the lands are located, and State departments and units concerned and invite these officials and State units to submit their views on

the proposed action at the hearing or not later than 30 days following the date of the hearing. Any view submitted to the Secretary under the provisions of this section with respect to any area shall be included with any recommendations to the Governor and General Assembly with respect to that area.

§5–1209.

Any modification or adjustment of the boundaries of any State wildlands area shall be recommended by the Secretary after public notice of the proposal and public hearing as provided in § 5–1208 of this subtitle. The proposed modification or adjustment shall then be recommended with map and any description to the Governor. The Governor shall advise the General Assembly of his recommendations with respect to any modification or adjustment. Any recommendation shall become effective only by act of the General Assembly.

§5–1210.

The purposes of Part II of this subtitle are supplemental to the purposes for which State forests and units of the State park and wildlife refuge systems are established and administered. Nothing in Part II of this subtitle may interfere with either the purpose for which State forests are established or modify the statutory authority under which units of the State park system are created and continued. The designation of any area of any park, monument, or other unit of the State park system as wildlands may not lower the standards evolved for the use and preservation of the park, monument, or other unit of the State park system.

§5–1211.

Except as otherwise provided in this part, each unit administering any area designated as wildlands is responsible for preserving the wildland character of the area and administering the other purposes for which it was established in order to preserve its wildland character. Except as otherwise provided in Part II of this subtitle, wildland areas shall be devoted to public purposes for recreational, scenic, scientific, educational, conservation, and historical use.

§5–1212.

Except as provided in Part II of this subtitle, and subject to existing private rights, a commercial enterprise or permanent road, except fire roads, may not exist within any wildlife area designated by Part II of this subtitle. Except as necessary to meet minimum requirements for the administration of the area for the purpose of Part II of this subtitle, including measures required in emergencies involving the health and safety of persons within the area, there shall be no temporary road, use of motor vehicles, motorized equipment, motorboats, landing of aircraft, or other forms of mechanical transport, and no structure or installation within any area.

§5–1212.1.

Any area which was open to hunting, fishing, or trapping prior to wildlands designation shall continue to be available for those activities subject to the laws, regulations, and administrative policies of the Department.

§5–1213.

Within wildland areas designated by Part II of this subtitle, the use of motorboats, where they have already become established, may continue subject to any restrictions the Secretary deems desirable. In addition, necessary measures may be taken to control fires, insects, and diseases, subject to conditions the Secretary deems desirable. These regulations shall be adopted by July 1, 1972.

§5–1213.1.

In addition to any measures taken under § 5-1213 of this subtitle, in order to protect privately owned land adjoining or located in close proximity to a State wildland, each unit administering the designated wildland area shall:

(1) Maintain fire access roads located within the wildland area in a passable condition as determined by the Department; and

(2) Take or allow immediate action, as approved by the Department, to respond to any threat resulting from insects, disease, noxious weeds, or fire.

§5–1214.

Within State wildland areas designated under Part II of this subtitle, the Governor, within a specific area and in accordance with the regulations he deems desirable, may authorize prospecting for water resources, and recommend the establishment and maintenance of reservoirs, water conservation works, power projects, transmission lines, and other facilities needed in the public interest, including road construction and maintenance essential to the development and use of specified areas, upon his determination that the use in the specific area will better serve the interests of the State and its people than will its denial. The recommendations shall be made after public notice of a proposal and a public hearing as provided for in § 5–1208 of this subtitle. The proposed development shall become effective only by act of the General Assembly.

§5–1215.

If privately owned land is surrounded completely by areas designated by Part II of this subtitle as State wildland, the private owner and his successor in interest has the rights necessary to assure adequate access to the privately owned land, or the privately owned land may be exchanged for State-owned land in the same county of approximately equal value under authority available to the Secretary. However, the State may not transfer to a private owner any mineral interests unless the private

owner relinquishes or causes to be relinquished to the State the mineral interest in the surrounded land. If valid mining claims or other valid occupancies are wholly within a designated wildlands area, the Secretary, by regulations consistent with the preservation of the area as State wildlands, may permit ingress and egress to the surrounded areas by means which have been or are being customarily enjoyed with respect to other areas similarly situated.

§5–1216.

Subject to the appropriation of funds by the legislature, the Secretary may acquire privately owned land within the perimeter of any area designated by Part II of this subtitle as wildlands if the owner concurs in the acquisition.

§5–1217.

The Department may accept any gift of land or wetlands to the State, make other agreements as to these lands, purchase land or wetlands, or purchase scenic easements in the name of the State to be held, restored, and administered as State wildland areas. The Department may also designate and set aside areas in State forests and State parks as wildland areas.

§5–1218.

Property may not be acquired under Part II of this subtitle without the consent of the property owner.

§5–1220.

The Nature Conservancy may submit to the Department a proposal outlining an area in which the Nature Conservancy has secured or is considering securing title or other legal interest. The proposal shall include the location, acreage, explanation of planned use, and explanation of values which make the acreage of interest to the State.

§5–1221.

Within three months after receipt of the proposal, the Secretary shall report to the Nature Conservancy his recommendations as to the suitability or nonsuitability of the proposal in relation to the State's program of open space or wildland areas, with copies to the Board of Public Works, the President of the Senate, and the Speaker of the House of Delegates.

§5–1222.

Subject to the availability of funds and in accordance with other provisions of this article regarding open space and wildland areas, the Secretary may enter into agreements with the Nature Conservancy for the State to acquire title to or an interest in property owned by the Nature Conservancy or property on which the Nature Conservancy holds an option or a contract to purchase.

§5–1301.

(a) Any person who violates any provision of this title is guilty of a misdemeanor. Upon conviction in a court of competent jurisdiction, unless another penalty is specifically provided elsewhere in this title, the person is subject to a fine not exceeding $500, with costs imposed in the discretion of the court.

(b) Any person found guilty of a second or subsequent violation of any provision of this title in a court of competent jurisdiction, unless another penalty is specifically provided elsewhere in this title, is subject to a fine not exceeding $1,000, or imprisonment not exceeding one year, or both with costs imposed in the discretion of the court. For the purpose of this subsection, a second or subsequent violation is one which has occurred within two years of any prior violation of this title.

(c) In addition to any administrative penalty provided in this title, violation of any rule or regulation promulgated by any unit within the Department pursuant to the provisions of this title is a misdemeanor and is punishable as provided in subsections (a) and (b) of this section.

§5–1302.

(a) If any fine is imposed by the District Court for a violation of any provision of this title, the fine shall be collected pursuant to the provisions of law of the District Court system.

(b) If any fine is imposed by the circuit court for a county, the fine, less the costs of collection and not otherwise provided for, shall be paid to the Forest or Park Reserve Fund.

§5–1401.

(a) In this subtitle the following terms have the meanings indicated.

(b) "Cave" means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge, including natural subsurface water and drainage systems. The word "cave" includes or is synonymous with cavern, sinkhole, grotto, and rock shelter.

(c) "Cave life" means any life form which normally occurs in, uses, visits, or inhabits any cave or subterranean water system, excepting, herein, those animals and species covered by any of the game laws of this State.

(d) "Commercial cave" means any cave with improved trails and lighting utilized by the owner for the purpose of exhibition to the general public as a profit or nonprofit enterprise, wherein a fee is collected for entry.

(e) "Gate" means any structure or device located to limit or prohibit access or entry to any cave.

(f) "Owner" means a person who has the right of access (or possession) to the cave.

(g) "Person or persons" means any individual, partnership, firm, association, trust, or corporation.

(h) "Sinkhole" means a natural depression in a land surface communicating with a subterranean passage or drainage system.

(i) "Speleogen" means an erosional feature of the cave boundary and includes or is synonymous with anastomoses, scallops, rills, flutes, spongework, and pendants.

(j) "Speleothem" means a natural secondary mineral formation or deposit occurring in a cave. This includes or is synonymous with stalagmites, stalactites, helectites, anthodites, gypsum flowers, needles, angel's hair, soda straws, draperies, bacon, cave pearls, popcorn (coral), rimstone dams, columns, palettes, flowstone, et cetera. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite and other similar minerals.

§5–1402.

(a) (1) A person may not, without express, prior, written permission of an owner, wilfully or knowingly:

(i) Break, break-off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar, or harm the surfaces of any cave or any natural material which may be found therein whether attached or broken, including speleothems, speleogens, and sedimentary deposits;

(ii) Disturb or alter in any manner the natural condition of any cave; or

(iii) Break, force, tamper with, or otherwise disturb a lock, gate, door, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.

(2) However, the entering or remaining in a cave by itself shall not constitute a violation of this section.

(b) A person may not dispose of, dump, store, or otherwise introduce into any cave, sinkhole, or subterranean drainage system any litter, refuse, dead animals, sewage, trash, garbage, or any chemical or biological contaminant which is potentially dangerous to man or any form of cave life.

(c) Unless otherwise established by the Secretary and clearly posted at the cave entrance, caves having access within the boundaries of public properties shall be open for recreational purposes.

(d) Any person violating any provision of this section is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $500, and in addition thereto, may be imprisoned for not less than ten days nor more than six months.

§5–1403.

A person may not sell or offer for sale any speleothems in this State, or to export them for sale outside the State. A person who violates any of the provisions of this section is guilty of a misdemeanor, and, upon conviction, shall be fined not more than $500 and in addition may be imprisoned for not less than ten days nor more than six months.

§5–1404.

(a) A person may not remove, disfigure, kill, harm, disturb, keep, restrain, or in any manner alter the natural condition or environment of any cave life.

(b) Notwithstanding the provisions of subsection (a) of this section, scientific collecting permits may be obtained from the Secretary.

(c) Gates employed at the entrance or at any point within any cave shall be of open construction to allow free and unimpeded passage of air, water, insects, bats, and aquatic fauna.

(d) A person who violates any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $500 and in addition thereto may be imprisoned for not less than 15 days nor more than 6 months.

§5–1405.

(a) A person may not excavate, remove, destroy, injure, deface, or in any manner disturb any paleontological site or any part thereof, including saltpeter workings, fossils, bones, or any other paleontological features which may be found in any cave.

(b) Notwithstanding the provisions of subsection (a) of this section, a permit to excavate or remove paleontological features may be obtained from the Secretary. The permit shall be issued for a period of two years and may be renewed at expiration. It is not transferable but this does not preclude persons from working under the direct supervision of the person holding the permit.

(c) A person applying for a permit shall:

(1) Have knowledge of paleontology.

(2) Provide a detailed statement to the Secretary giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work.

(3) Provide data and results of any completed excavation, study, or collection at the first of each calendar year.

(4) Obtain the prior written permission of the Secretary if the site of the proposed excavation is on State-owned lands and prior written permission of the owner if the site of the proposed excavation is on privately owned land.

(5) Carry the permit while exercising the privileges granted.

(d) A person who violates any provision of subsection (a) of this section is guilty of a misdemeanor, and upon conviction shall be fined not less than $100 nor more than $500, and may be imprisoned for not less than ten days nor more than six months. A person who violates any of the provisions of subsection (b) of this section is guilty of a misdemeanor, and, upon conviction, shall be fined not less than $100 nor more than $500, and the permit shall be revoked.

§5–1406.

(a) An owner of a cave or the owner's authorized agents acting within the scope of their authority shall have the immunity from liability described under § 5-804(b) of the Courts and Judicial Proceedings Article.

(b) An owner of a commercial cave shall have the immunity from liability described under § 5-804(c) of the Courts and Judicial Proceedings Article.

§5–1501.

There is a Heritage Conservation Fund in the Department.

§5–1502.

The purposes of the Heritage Conservation Fund are for the State to acquire conservation easements or a fee simple or other interests in:

(1) Forestlands;

(2) Unique ecological areas of the State;

(3) Any area characterized by significant natural scenic beauty;

(4) Tidal or nontidal wetlands;

(5) Lands in the Chesapeake Bay Critical Area, as defined under § 8-1807 of this article;

(6) Any land designated as a unique ecological area under the Natural Heritage Program in the Department;

(7) Any wilderness area that remains relatively undisturbed by human

encroachment;

(8) Lands supporting rare, threatened, or endangered plants or animals;

(9) Lands that support diverse ecological communities of plants or animals;

(10) Any land whose conversion to development would significantly affect water quality or unique natural habitat; and

(11) Natural areas that have been designated by the State or submitted by a county for designation as areas of critical State concern under § 5-611 of the State Finance and Procurement Article.

§5–1503.

(a) The Department may acquire a conservation easement or a fee simple or other interest in any land described under § 5-1502 of this subtitle.

(b) The Department shall establish criteria for acquisition of conservation easements and of fee simple and other interests in lands, including a priority system that considers:

(1) The ecological uniqueness of the land;

(2) The presence of rare, threatened, or endangered plants or animals or diverse communities of plants or animals;

(3) The threat to the land by development;

(4) Whether the land is in the Chesapeake Bay Critical Area;

(5) Whether development of the land will adversely impact water quality or unique natural habitat;

(6) Whether a natural area has been designated by the State or submitted by a county for designation as an area of critical State concern under § 5-611 of the State Finance and Procurement Article; and

(7) Whether the land is forestland, nontidal wetlands, or tidal wetlands.

(c) The Department annually shall consult with the counties of the State:

(1) For suggested acquisition of lands; and

(2) To coordinate the acquisition projects under this subtitle.

§5–1504.

(a) The Department shall manage land or interests in land acquired under this subtitle to assure:

(1) The continued existence of any unique ecological features;

(2) The continued survival of any rare, threatened, or endangered plant or animal;

(3) The protection of forestlands and wetlands, although timber harvesting may be allowed under an approved forest conservation plan; and

(4) The protection of the Chesapeake Bay and its tributaries and of water quality anywhere in the State.

(b) To the extent compatible with the management requirements of subsection (a) of this section, the Department may permit recreational opportunities, including access to the Chesapeake Bay and its tributaries:

(1) Where feasible; and

(2) Where the recreation will not adversely affect the natural state of the land.

§5–1505.

(a) Appropriations for the Heritage Conservation Fund may be provided from:

(1) Special bond authorization;

(2) General funds of the State; and

(3) Other sources.

(b) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

§5–1506.

The Board of Public Works shall approve each acquisition of a conservation easement or a fee simple or other interest in property proposed by the Department under this subtitle.

§5–1601.

(a) In this subtitle the following words have the meanings indicated.

(b) "Afforestation" means the establishment of a tree cover on an area from

which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.

(c) "Agricultural activity" means farming activities including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards, nursery, and other products cultivated as part of a recognized commercial enterprise.

(d) "Agricultural and resource areas" are undeveloped areas zoned for densities of less than or equal to 1 dwelling unit per 5 acres.

(e) "Champion Tree" means the largest tree of its species within the United States, the State, county, or municipality, as appropriate.

(f) "Commercial and industrial uses" includes manufacturing operations, office complexes, shopping centers, and other similar uses and their associated storage areas, yarding, and parking areas.

(g) "Commercial logging or timber harvesting operations" means the cutting and removing of tree stems from a site for commercial purposes, leaving the root mass intact.

(h) "Critical habitat area" means a critical habitat for endangered species and its surrounding protection area. A critical habitat area shall:

(1) Be likely to contribute to the long–term survival of the species;

(2) Be likely to be occupied by the species for the foreseeable future; and

(3) Constitute habitat of the species which is deemed critical under § 4–2A–06 or § 10–2A–06 of this article.

(i) "Critical habitat for endangered species" means a habitat occupied by an endangered species as determined or listed under § 4–2A–04 or § 10–2A–04 of this article.

(j) "Department" means the Department of Natural Resources.

(k) (1) "Forest" means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.

(2) "Forest" includes:

(i) Areas that have at least 100 trees per acre with at least 50% of those trees having a 2 inch or greater diameter at 4.5 feet above the ground and larger; and

(ii) Forest areas that have been cut but not cleared.

(3) "Forest" does not include orchards.

(l) "Forest conservation" means the retention of existing forest or the creation of new forest at the levels prescribed by the State or local authority.

(m) "Forest conservation plan" means a plan approved pursuant to §§ 5–1605 and 5–1606 of this subtitle.

(n) "Forest cover" means the area of a site meeting the definition of forest.

(o) "Forest mitigation banking" means the intentional restoration or creation of forests undertaken expressly for the purpose of providing credits for afforestation or reforestation requirements with enhanced environmental benefits from future activities.

(p) "Forest stand delineation" means the methodology for evaluating the existing vegetation on a site proposed for development, taking into account the environmental elements that shape or influence the structure or makeup of a plant community.

(q) "Forested slopes" means an area meeting the definition of forest and growing on an area with a slope of 25 percent or more and covering an area of at least 10,000 square feet.

(r) "High density residential areas" means areas zoned for densities greater than 1 dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service.

(s) "Institutional development area" includes schools, colleges and universities, military installations, transportation facilities, utility and sewer projects, government offices and facilities, golf courses, recreation areas, parks, and cemeteries.

(t) "Intermittent stream" means a stream in which surface water is absent during a portion of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

(u) "Linear project" means a project whose configuration is elongated with nearly parallel sides and used to transport a utility product or public service not otherwise contained in an application for subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles. Linear projects may traverse fee simple properties through defined boundaries or through easement rights.

(v) "Local forest conservation program" means a program developed and implemented pursuant to § 5–1603 of this subtitle.

(w) "Medium density residential areas" means areas zoned for densities greater than 1 dwelling unit per 5 acres and less than or equal to 1 dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service.

(x) "Mixed use development" means a single, relatively high density development project, usually commercial in nature, which includes 2 or more types of uses.

(y) "Natural regeneration" means the natural establishment of trees and other vegetation with at least 400 woody, free–to–grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.

(z) "Net tract area" means:

(1) Except in agriculture and resource areas or linear project areas, the total area of a site, including both forested and nonforested areas, to the nearest one–tenth acre reduced by that area where forest clearing is restricted by another local ordinance or program;

(2) In agriculture and resource areas, the portion of the total tract for which land use will be changed or will no longer be used for primarily agricultural activities reduced by that area where forest clearing is restricted by another local ordinance or program; and

(3) For a linear project:

(i) The area of a right–of–way width, new access roads and storage; or

(ii) The limits of disturbance as shown on an application for sediment and erosion control approval or in a capital improvements program project description.

(aa) (1) "Nontidal wetland" means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

(2) The determination of whether an area is considered a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands", published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.

(3) "Nontidal wetlands" do not include tidal wetlands regulated under Title 16 of the Environment Article.

(bb) (1) "One hundred year floodplain" means an area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying

floodwaters during a 100–year frequency storm event.

(2) A 100–year flood is a flood which has a 1% chance of being equaled or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with a watershed less than 400 acres is excluded.

(cc) "Perennial stream" means a stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification.

(dd) "Person" includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

(ee) "Planned unit development" means a development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in land use design approved by the local jurisdiction with at least 20% of the land permanently dedicated to open space.

(ff) "Priority funding area" means an area designated as a priority funding area under § 5–7B–02 of the State Finance and Procurement Article.

(gg) (1) "Reforestation" or "reforested" means the creation of a biological community dominated by trees and other woody plants containing at least 100 trees per acre with at least 50% of those trees having the potential of attaining a 2 inch or greater diameter measured at 4.5 feet above the ground, within 7 years.

(2) "Reforestation" includes landscaping of areas under an approved landscaping plan that establishes a forest that is at least 35 feet wide and covering 2,500 square feet of area.

(3) "Reforestation" for a linear project which involves overhead transmission lines may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.

(hh) "Retention" means the deliberate holding and protecting of existing trees, shrubs or plants on the site according to established standards.

(ii) "Seedlings" means an unbranched woody plant, less than 24 inches in height and having a diameter of less than 1/2 inch caliper measured at 2 inches above the root collar.

(jj) "Selective clearing" means the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan.

(kk) "Stream buffer" means all lands lying within 50 feet, measured from the top of each normal bank of any perennial or intermittent stream.

(ll) "Stream restoration project" means an activity that:

(1) Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway, or floodplain;

(2) Avoids and minimizes impacts to forests and provides for replanting on–site an equivalent number of trees to the number removed by the project;

(3) May be performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the State or local government to achieve or maintain water quality standards; and

(4) Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity.

(mm) "Subdivision" means any division of a parcel of land into 2 or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development.

(nn) (1) Except as provided in paragraph (2) of this subsection, "tract" means property subject to an application for a grading or sediment control permit or subdivision approval.

(2) If property is included in a planned unit development, "tract" means the entire property subject to the planned unit development.

(oo) "Tree" means a large, woody plant having 1 or several self–supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

(pp) "Whip" means an unbranched woody plant greater than 24 inches in height and having a diameter of less than 1 inch caliper measured at 2 inches above the root collar.

§5–1602.

(a) Except as provided in subsection (b) of this section, this subtitle shall apply to any public or private subdivision plan or application for a grading or sediment control permit by any person, including a unit of State or local government on areas 40,000 square feet or greater.

(b) The provisions of this subtitle do not apply to:

(1) Any construction activity that is subject to § 5–103 of this title;

(2) Any cutting or clearing of forest in areas governed by the Chesapeake Bay Critical Area Protection Law (Title 8, Subtitle 18 of this article);

(3) Commercial logging and timber harvesting operations, including any harvesting conducted under the forest conservation and management program under § 8–211 of the Tax – Property Article:

(i) That were completed before July 1, 1991; or

(ii) That were completed on or after July 1, 1991 on property that is not the subject of an application for a grading permit for development within 5 years after the logging or harvesting operation. However, after this 5–year period, the property shall be subject to this subtitle;

(4) Any agricultural activity that does not result in a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices;

(5) The cutting or clearing of public utility rights–of–way or land for electric generating stations licensed pursuant to § 7–204, § 7–205, § 7–207, or § 7–208 of the Public Utilities Article, provided that:

(i) Any required certificates of public convenience and necessity have been issued in accordance with § 5–1603(f) of this subtitle; and

(ii) The cutting or clearing of the forest is conducted so as to minimize the loss of forest;

(6) Any routine maintenance of public utility rights–of–way;

(7) Any activity conducted on a single lot of any size or a linear project provided that:

(i) The activity does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest; and

(ii) The activity on the lot or linear project will not result in the cutting, clearing, or grading of any forest that is subject to the requirements of a previous forest conservation plan prepared under this subtitle;

(8) Any strip or deep mining of coal regulated under Title 15, Subtitle 5 or Subtitle 6 of the Environment Article and any noncoal surface mining regulated under Title 15, Subtitle 8 of the Environment Article;

(9) Any activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child of the owner, if the activity does not result in the cutting, clearing, or grading of more than 20,000 square feet of forest;

(10) A county that has and maintains 200,000 acres or more of its land area in forest cover;

(11) The cutting or clearing of trees to comply with the requirements of 14 C.F.R. § 77.25 relating to objects affecting navigable airspace, provided that the Federal Aviation Administration has determined that the trees are a hazard to aviation;

(12) Any stream restoration project for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least 5 years with the affected property owner; and

(13) Maintenance or retrofitting of a stormwater management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the original limits of disturbance for construction of the existing structure, or within any maintenance easement for access to the structure.

(c) For an application for subdivision or sediment and erosion control or grading for a site with more than 50% of the net tract area governed by Title 8, Subtitle 18 of this article, the Department or local authority may allow an applicant to extend critical area forest protection measures instead of meeting the requirements of this subtitle.

§5–1603.

(a) (1) A unit of local government having planning and zoning authority shall develop a local forest conservation program, consistent with the intent, requirements, and standards of this subtitle.

(2) By April 30, 1992 all units of government with planning and zoning authority shall submit a proposed forest conservation program, which meets or is more stringent than the requirements and standards of this subtitle, to the Department for its review and approval.

(3) A unit of local government which has an existing program of forest conservation, or subsequently adopts such a program prior to December 31, 1992, may continue to administer its program prior to approval by the Department of the local forest conservation program.

(4) A municipality which has planning and zoning authority may, with the concurrence of the county and the Department, assign its obligations under this subtitle to the county.

(b) (1) By July 1, 1992 the Department shall either approve a proposed local forest conservation program as submitted by the local authority or provide a written notice of program elements needing revision.

(2) Local forest conservation programs requiring revisions shall be resubmitted to the Department within 2 months of the date the Department notified

the local authority of the need for revisions.

(c) (1) All units of local government with planning and zoning authority shall submit to the Department, by December 31, 1992, their adopted forest conservation program which meets or is more stringent than the requirements and standards of this subtitle.

(2) A local forest conservation program, which has been approved by the Department, shall include:

(i) A policy document and all applicable new and amended local ordinances relating to implementation of the regulated activities, exemptions, the review, approval and appeal processes, incentives, legal instruments for protection, enforcement program, and penalties; and

(ii) A technical manual which outlines submittal requirements for forest stand delineations, required information for the approval of a forest conservation plan, specific forest conservation criteria and protection techniques.

(3) (i) A local authority shall review and amend, as appropriate, all current local ordinances, policies and procedures that are inconsistent with the intent and requirements of this subtitle such as parking, road width, setback, curb and gutter, grading, and sidewalk requirements.

(ii) A local forest conservation program, when approved by the Department, may:

1. Allow clustering and other innovative land use techniques that protect and establish forests where open space is preserved, sensitive areas are protected, and development is physically concentrated; and

2. Waive the requirements of this subtitle for previously developed areas covered by impervious surface and located in priority funding areas at the time of the application for subdivision plan, grading, or sediment control permit approval.

(d) Failure to submit a proposed local forest conservation program under subsection (a) of this section or failure to adopt a program approved by the Department prior to December 31, 1992 under subsection (b) of this section shall result in the Department's assumption of review and approval of all forest conservation plans within the jurisdiction of that local authority.

(e) (1) (i) The Department shall conduct a review of each local authority's program at least once every 2 years from the date of initial departmental approval.

(ii) In its biennial review, the Department shall evaluate the level of compliance with the performance standards and required forest conservation.

(2) (i) If a local authority's program is found to be deficient by the Department, then the Department shall give notice and allow the local authority 90 days for compliance.

(ii) If, after 90 days, a local authority has failed to comply with the terms of a notice given by the Department, the Department may do one or more of the following:

1. Assume review and approval of all forest conservation plans within the jurisdiction of the local authority until the deficiencies are corrected;

2. On a finding by an auditor made in consultation with the Office of the Attorney General that a local authority has misappropriated local forest conservation funds, the Department may require the local authority to submit payment to the State Conservation Fund for the amount of any misappropriated local conservation funds; and

3. Request that the Attorney General investigate payments and expenditures of funds collected by the local authority under this subtitle.

(f) After December 31, 1992, the Public Service Commission shall give due consideration to the need to minimize the loss of forest and the provisions for afforestation and reforestation set forth in this subtitle together with all applicable electrical safety codes, when reviewing applications for a certificate of public convenience and necessity issued pursuant to § 7–204, § 7–205, § 7–207, or § 7–208 of the Public Utilities Article.

(g) A local authority or the Department in its administration of a State forest conservation program in jurisdictions which do not have an approved local program in effect may establish reasonable and appropriate procedures for the recovery of all costs incurred in the development, implementation, administration, and enforcement of the local forest conservation program or the State forest conservation program for jurisdictions without an approved forest conservation program.

§5–1604.

(a) Except as provided in subsection (b)(2) and (3) of this section, after December 31, 1992, or after the date on which a local program has been adopted under § 5-1603 of this subtitle, whichever occurs first, a person making application for subdivision or grading or sediment control permits on areas greater than 40,000 square feet shall submit a forest stand delineation for the entire site prepared by a licensed forester, licensed landscape architect, or other qualified professionals that may be approved by the State or a local authority in the manner required by the approved program.

(b) (1) The forest stand delineation shall be used during the preliminary review process to determine the most suitable and practical areas for forest conservation. Subject to paragraphs (2) and (3) of this subsection, and except when waived by the Department during approval or review of a local program, the forest

stand delineation shall contain the following components:

(i) A topographic map delineating intermittent and perennial streams, and steep slopes over 25%;

(ii) A soils map delineating soils with structural limitations, hydric soils, or soils with a soil K value greater than 0.35 on slopes of 15% or more;

(iii) Forest stand maps indicating species, location, and size of trees and showing dominant and codominant forest types; and

(iv) Any other requirements necessary to carry out the purposes of this subtitle established in regulations adopted by the Department or imposed by a local authority.

(2) A concept plat or plan, preliminary plat or plan, sediment and erosion control plan, site plan, or other appropriate document, verified by a site visit if appropriate, may substitute for the forest stand delineation required by paragraph (1) of this subsection if:

(i) There is no forest on the site; or

(ii) No forest on the site is to be cut, cleared, or graded for the proposed use, and all forest on the site is to be subject to a long-term protective agreement.

(3) The Department shall provide for, and a local authority may adopt, a simplified process or processes for forest stand delineation under this section, including:

(i) Limiting required forest sampling to areas not proposed for protection under long-term protective agreements as long as all priority areas on the site are protected; and

(ii) Minimizing overlapping mapping and sampling requirements for sites where no disturbance of priority forest retention areas is contemplated.

(c) Within 30 days from receipt of the forest stand delineation, the Department or local authority shall notify the applicant whether the forest stand delineation is complete and correct. If the Department or local authority fails to notify the applicant about the delineation within 30 days, the delineation shall be treated as complete and correct. The Department or local authority may require further information or provide for an extension of this deadline for an additional 15 days for extenuating circumstances.

§5–1605.

(a) Upon receipt of notice that the forest stand delineation is complete and correct, the applicant shall submit to the State or local authority a proposed forest

conservation plan for the site.

(b) The forest conservation plan shall be developed by a licensed forester, licensed landscape architect, or other qualified professionals that may be approved by the State or a local authority.

(c) A proposed forest conservation plan shall contain:

(1) A map of the site drawn at the same scale as the grading or subdivision plan;

(2) A table listing the net tract area in square feet, the square foot area of forest conservation required for the site, and the square foot area of forest conservation provided by the applicant on-site and off-site, if applicable;

(3) A clear graphic indication of the forest conservation provided on the site showing areas where both retention of existing forest or afforestation, by any and all methods, is planned;

(4) An anticipated construction timetable, including the sequence for tree conservation procedures;

(5) An afforestation or reforestation plan with a timetable and description of needed site and soil preparation, species, size, and spacing to be utilized;

(6) Locations and types of protective devices to be used during construction activities to protect trees and areas of forest designated for conservation;

(7) Limits of disturbance delineated;

(8) Stockpile areas delineated;

(9) A binding 2-year management agreement that details how the areas designated for afforestation or reforestation will be maintained to ensure protection or satisfactory establishment including:

(i) Watering; and

(ii) Reinforcement planting provisions if survival falls below required standards; and

(10) Any other requirement established in regulations adopted by the Department, or imposed by a local authority.

(d) Within 45 days from receipt of the forest conservation plan, the Department or local authority shall notify the applicant whether the forest conservation plan is complete. If the Department or local authority fails to notify the applicant about the forest conservation plan within 45 days, the plan shall be treated as complete and

approved. The Department or local authority may require further information or provide for an extension of this deadline for an additional 15 days for extenuating circumstances. In addition, at the request of the applicant, the State or local authority may extend this deadline for extenuating circumstances.

§5–1606.

(a) (1) For the following land use categories, tracts having less than 20% of the net tract area in forest cover shall be afforested up to 20% of the net tract area:

(i) Agriculture and resource areas; and

(ii) Medium density residential areas.

(2) For the following land use categories, tracts having less than 15% of the net tract area in forest cover shall be afforested up to 15% of the net tract area:

(i) Institutional development areas;

(ii) High density residential areas;

(iii) Mixed use and planned unit development areas; and

(iv) Commercial and industrial use areas.

(3) Afforestation requirements must conform to the conditions in §§ 5-1607 and 5-1610 of this subtitle, including payment into the Forest Conservation Fund, if afforestation on-site or off-site cannot be reasonably accomplished.

(4) (i) The afforestation requirements under this subsection shall be accomplished within 1 year or 2 growing seasons after the completion of the development project.

(ii) If afforestation cannot be reasonably accomplished on-site or off-site, the requirement to contribute money to a Forest Conservation Fund under § 5-1610 of this subtitle shall be met within 90 days after the completion of the development project.

(5) Linear projects that involve no change in land use may not be subject to afforestation requirements.

(b) There is a forest conservation threshold established for all land use categories as provided in subsection (c) of this section. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirement changes from a ratio of 1/4 acre planted for every 1 acre removed to a ratio of 2 acres planted for every 1 acre removed.

(c) After every reasonable effort to minimize the cutting or clearing of trees and

other woody plants is exhausted in the development of a subdivision plan and grading and sediment control activities and implementation of the forest conservation plan, the forest conservation plan shall provide for reforestation, or payment into the Forest Conservation Fund, according to the formula set forth in subsection (b) of this section and consistent with the following forest conservation thresholds for the applicable land use category:

(1) Agricultural and resource areas: 50% of net tract area;

(2) Medium density residential areas: 25% of net tract area;

(3) Institutional development areas: 20% of net tract area;

(4) High density residential areas: 20% of net tract area;

(5) Mixed use and planned unit development areas: 15% of net tract area; and

(6) Commercial and industrial use areas: 15% of net tract area.

(d) (1) Subject to the provisions of paragraph (2) of this subsection, for all existing forest cover measured to the nearest 1/10 acre cleared on the net tract area above the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of 1/4 acre planted for every 1 acre removed.

(2) Each acre of forest retained on the net tract area above the applicable forest conservation threshold shall be credited against the total number of acres required to be reforested under paragraph (1) of this subsection.

(e) For all existing forest cover measured to the nearest 1/10 acre cleared on the net tract area below the applicable forest conservation threshold, the area of forest removed shall be reforested at a ratio of 2 acres planted for every 1 acre removed.

(f) (1) The reforestation requirements under this section shall be accomplished within 1 year or 2 growing seasons after completion of the development project.

(2) If reforestation cannot be reasonably accomplished on-site or off-site, the requirement to contribute money to a Forest Conservation Fund under § 5-1610 of this subtitle shall be met within 90 days after completion of the development project.

§5–1607.

(a) The preferred sequence for afforestation and reforestation shall be established by the State or local authority in accordance with the following after all techniques for retaining existing forest cover on-site have been exhausted:

(1) Those techniques that enhance existing forest and involve selective

clearing or supplemental planting on-site;

(2) On-site afforestation or reforestation may be utilized where the retention options have been exhausted. In those cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section;

(3) (i) Off-site afforestation or reforestation in the same watershed or in accordance with an approved master plan may be utilized where the applicant has demonstrated that no reasonable on-site alternative exists, or where:

1. Any on-site priority areas for afforestation or reforestation have been planted in accordance with subsection (d) of this section; and

2. The applicant has justified to the satisfaction of the State or local jurisdiction that environmental benefits associated with off-site afforestation or reforestation would exceed those derived from on-site planting;

(ii) In these cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section; and

(iii) Off-site afforestation or reforestation may include the use of forest mitigation banks which have been so designated in advance by the State or local forest conservation program which is approved by the Department; and

(4) The State or local jurisdiction may allow an alternative sequence for a specific project if necessary to achieve the objectives of a local jurisdiction's land use plans or policies or to take advantage of opportunities to consolidate forest conservation efforts.

(b) Standards for meeting afforestation or reforestation requirements shall be established by the State or local program using one or more of the following methods:

(1) Forest creation in accordance with a forest conservation plan using one or more of the following:

(i) Transplanted or nursery stock;

(ii) Whip and seedling stock; or

(iii) Natural regeneration where it can be shown to adequately meet the objective of the forest conservation plan.

(2) The use of street trees in a municipal corporation with a tree management plan, in an existing population center designated in a county master plan that has been adopted to conform with the Economic Growth, Resource Protection, and Planning Act of 1992, or in any other designated area approved by the Department as

part of a local program, under criteria established by the local program, subject to the approval of the Department, using:

(i) Street trees as a permissible step in the priority sequence for afforestation or reforestation and, based on a mature canopy coverage, may grant full credit as a mitigation technique; and

(ii) Acquisition as a mitigation technique of an off–site protective easement for existing forested areas not currently protected in perpetuity, in which case the afforestation or reforestation credit granted may not exceed 50% of the area of forest cover protected.

(3) When all other options, both on–site and off–site, have been exhausted, landscaping as a mitigation technique, conducted under an approved landscaping plan that establishes a forest at least 35 feet wide and covering at least 2,500 square feet of area.

(c) (1) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that reasonable efforts have been made to protect them and the plan cannot reasonably be altered:

(i) Trees, shrubs, and plants located in sensitive areas including 100–year floodplains, intermittent and perennial streams and their buffers, coastal bays and their buffers, steep slopes, and critical habitats; and

(ii) Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site.

(2) The following trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and they shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the State or local authority, that the applicant qualifies for a variance under § 5–1611 of this subtitle:

(i) Trees, shrubs, or plants identified on the list of rare, threatened, and endangered species of the U.S. Fish and Wildlife Service or the Department;

(ii) Trees that are part of a historic site or associated with a historic structure or designated by the Department or local authority as a national, State, or local Champion Tree; and

(iii) Trees having a diameter measured at 4.5 feet above the ground of:

1. 30 inches; or

2. 75% of the diameter, measured at 4.5 feet above the ground, of the current State Champion Tree of that species as designated by the Department.

(d) The following shall be considered priority for afforestation or reforestation:

(1) Establish or enhance forest buffers adjacent to intermittent and perennial streams and coastal bays to widths of at least 50 feet;

(2) Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and, where practical, forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement;

(3) Establish or enhance forest buffers adjacent to critical habitats where appropriate;

(4) Establish or enhance forested areas in 100-year floodplains;

(5) Establish plantings to stabilize slopes of 25% or greater and slopes of 15% or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;

(6) Establish buffers adjacent to areas of differing land use where appropriate, or adjacent to highways or utility rights-of-way;

(7) Establish forest areas adjacent to existing forests so as to increase the overall area of contiguous forest cover, when appropriate; and

(8) Use native plant materials for afforestation or reforestation, when appropriate.

(e) (1) As part of the development of a forest conservation program, the State or local government shall develop provisions for:

(i) Preservation of areas described in subsections (c) and (d)(1) and (3) of this section;

(ii) Retention as forest of all land forested, afforested, or reforested under this subtitle; and

(iii) Limitation of uses of forest to those that are not inconsistent with forest conservation, such as recreational activities and forest management under subsection (f) of this section.

(2) The provisions required in paragraph (1) of this subsection may include protective agreements for areas of forest conservation, including conservation easements, deed restrictions, and covenants.

(f) An owner may place land that is forested, afforested, or reforested under

this subtitle in the forest conservation and management program under § 8–211 et seq. of the Tax – Property Article or in a forest management plan prepared by a licensed forester and approved by the local authority or the State. Reforestation shall be required when the final regeneration harvest is complete or if determined to be necessary due to the lack of adequate natural regeneration.

§5–1608.

(a) The review of the forest conservation plan shall be concurrent with the review process of the State or local authority for the subdivision plan, or the grading or sediment control permit, whichever may be submitted first.

(b) Before the approval of the final subdivision plan, or the issuance of the grading or sediment control permit by the State or local authority, the applicant shall have an approved forest conservation plan that shall include the requirements in §§ 5-1605, 5-1606, and 5-1607 of this subtitle.

(c) (1) Any person found to be in noncompliance with this subtitle, regulations adopted under this subtitle, the forest conservation plan or the associated 2-year management agreement shall be assessed by the Department or local authority, the penalty of 30 cents per square foot of the area found to be in noncompliance with required forest conservation.

(2) This amount shall be paid into the appropriate local or State Forest Conservation Fund.

§5–1609.

(a) (1) By December 31, 1991, the Department, after consulting with local government and the real estate development, building, and environmental communities, shall adopt regulations, including the development of guidance manuals to:

(i) Implement this subtitle and set requirements and standards which establish:

1. Standards of performance required in forest stand delineations and forest conservation plans including the submittal process;

2. Criteria for local forest conservation programs; and

3. Implementation processes for the Department's administration in the absence of a local forest conservation program;

(ii) Assist and guide local authorities in the development of their local forest conservation program by providing:

1. Training of local officials; and

2. A model local government ordinance that meets the requirements of this subtitle; and

(iii) Assist developers, planners, surveyors, engineers, foresters, biologists, and landscape architects in:

1. Developing methodology and gathering natural resource information required in the preparation of a forest stand delineation and a forest conservation plan;

2. Determining the size, location, and orientation of forest areas to be retained;

3. Determining the size, location, and orientation of areas to be afforested or reforested;

4. Implementing protection techniques and devices used in preserving specimen trees or areas designated for retention during construction; and

5. Determining species, spacing, and timing of afforestation or reforestation.

(2) All provisions of the guidance manual that are not specifically noted as standards or minimum requirements shall be deemed recommendations by the Department for the development of the local program.

(b) By December 31, 1992, the Department shall prepare and provide to local authorities a statewide forest resource inventory that shall:

(1) Be updated every 5 years or as deemed appropriate by the Department; and

(2) Include a list of potential sites for reforestation or afforestation of both publicly and privately owned land on a county by county basis.

§5–1610.

(a) (1) In this section the following words have the meanings indicated.

(2) "Fund" means the Forest Conservation Fund.

(3) "Priority funding area" has the meaning stated in § 5–7B–02 of the State Finance and Procurement Article.

(b) There is a Forest Conservation Fund in the Department.

(c) Except as provided in subsection (h) of this section, if any person subject to this subtitle demonstrates to the satisfaction of the appropriate State or local authority that the requirements for reforestation or afforestation on–site or off–site cannot be

reasonably accomplished, the person shall contribute money to the Fund:

(1) On or before September 30, 2014:

(i) For a project inside a priority funding area, at a rate of 30 cents per square foot of the area of required planting; and

(ii) For a project outside a priority funding area, at a rate of 36 cents per square foot of the area of required planting; and

(2) After September 30, 2014:

(i) For a project inside a priority funding area, at a rate adjusted for inflation as determined by the Department annually by regulation; and

(ii) For a project outside a priority funding area, at a rate that is 20% higher than the rate set under item (2)(i) of this subsection.

(d) Money collected by the State or a local authority under § 5–1608(c) or § 5–1612 of this subtitle for noncompliance with this subtitle or regulations adopted under this subtitle or for noncompliance with a forest conservation plan or the associated 2–year management agreement shall be deposited in the Fund.

(e) (1) The Department shall accomplish the reforestation or afforestation for which the money is deposited within 2 years or 3 growing seasons, as appropriate, after receipt of the money.

(2) Money deposited in the Fund under subsection (c) of this section shall remain in the Fund for a period of 2 years or 3 growing seasons, and at the end of that time period, any portion that has not been used to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.

(f) (1) (i) Money deposited in the Fund under subsection (c) of this section may only be spent on reforestation and afforestation, including site identification, acquisition, and preparation, maintenance of existing forests, and achieving urban canopy goals, and may not revert to the General Fund of the State.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(2) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the reforestation or afforestation requirement under this subsection shall occur in the county and watershed in which the project is located.

(ii) If the reforestation or afforestation cannot be reasonably accomplished in the county and watershed in which the project is located, then the

reforestation or afforestation shall occur in the county or watershed in the State in which the project is located.

(iii) If the reforestation or afforestation cannot be reasonably accomplished in the county or watershed in which the project is located, then the reforestation or afforestation shall be accomplished through purchase of credits in, establishment, or maintenance of a forest mitigation bank in accordance with regulations of the Department. The Reforestation Fund may not be used to finance administrative activities associated with a mitigation bank and any credits created by the Reforestation Fund may not be sold to compensate for additional forest impacts.

(g) Money deposited in the Fund under subsection (d) of this section may be used by the Department for the purpose of implementing this subtitle.

(h) (1) In lieu of a State Forest Conservation Fund, any local authority with an approved forest conservation program may establish a forest conservation fund, to be administered by the local authority, to allow a payment by any person who has demonstrated to the satisfaction of the local authority that the requirements for reforestation and afforestation on–site and off–site cannot be reasonably accomplished.

(2) (i) Subject to subparagraph (ii) of this paragraph, the rates shall be:

1. For a project inside a priority funding area, at least the same as the rates established for the State Forest Conservation Fund under subsection (c) of this section; and

2. For a project outside a priority funding area, 20% higher than the rates established under item 1 of this subparagraph.

(ii) Subject to subparagraph (iii) of this paragraph, if a local jurisdiction establishes rates for projects that are higher than the minimum rates established under subsection (c) of this section, the local authority may use a rate for a project:

1. Inside a priority funding area that is 20% lower than the rate calculated under subparagraph (i)2 of this paragraph; or

2. Outside a priority funding area that is 20% higher than the rate calculated under subparagraph (i)1 of this paragraph.

(iii) The rate established under subparagraph (ii)1 of this paragraph for a project inside a priority funding area may not be lower than the rate established for the State Forest Conservation Fund under subsection (c) of this section.

(i) (1) Money deposited in the local forest conservation fund under subsection (h) of this section may only be spent on reforestation and afforestation, including the costs directly related to site identification, acquisition, prepurchase, and preparation, maintenance of existing forests, and achieving urban canopy goals, and may not revert

to any other local general fund.

(2) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the reforestation or afforestation requirement under this subsection shall occur in the county and watershed in which the project is located.

(ii) If the reforestation or afforestation cannot be reasonably accomplished in the county and watershed in which the project is located, then the reforestation or afforestation shall occur in the county or watershed in the State in which the project is located.

(iii) If the reforestation or afforestation cannot be reasonably accomplished in the county or watershed in which the project is located, then the reforestation or afforestation shall be accomplished through purchase of credits in, establishment, or maintenance of a forest mitigation bank in accordance with regulations of the local forest conservation program. The Reforestation Fund may not be used to finance administrative activities associated with a mitigation bank and any credits created by the Reforestation Fund may not be sold to compensate for additional forest impacts.

(j) Money collected by the local authority under § 5–1608(c) of this subtitle for noncompliance with this subtitle or regulations or ordinances adopted under this subtitle for noncompliance with a forest conservation plan or the associated 2–year management agreement shall be deposited in the local fund. The rate shall be 30 cents per square foot of the area found to be in noncompliance with the required forest conservation.

(k) Money deposited in a local forest conservation fund under subsection (j) of this section may be used by the local authority for purposes related to implementing this subtitle.

§5–1610.1.

(a) The Department shall develop standards and adopt regulations for the creation and use of forest mitigation banks, including criteria for tracking, crediting, maintaining, bonding, and reporting mitigation bank activities.

(b) A local jurisdiction may develop procedures for establishing forest mitigation banks as part of its forest conservation program.

(c) Mitigation banks may be permitted only in priority areas as identified in § 5-1607(d) of this subtitle or as identified in a comprehensive plan adopted by a local jurisdiction.

(d) The establishment of mitigation banks and their use may not alter the sequence for retention, reforestation, or afforestation on a development site as outlined in § 5-1607 of this subtitle.

(e) Criteria established by local or State programs for the use and establishment of forest mitigation banks shall include protection and conservation in perpetuity of forest mitigation banks consistent with reasonable management plans, through methods that include easements, covenants, or similar mechanisms that shall be in place at the time credits are withdrawn.

(f) This section may not be construed to require the Department or a local jurisdiction to:

(1) Establish or fund State or local mitigation banks;

(2) Fund the establishment of forest mitigation banking by the private sector; or

(3) Use State or local government land for forest mitigation banking.

(g) (1) Credits in a mitigation bank may not be approved for debiting until construction of the mitigation bank is complete.

(2) A mitigation bank shall maintain sufficient credits in reserve to cover anticipated expenses of completion of the mitigation bank.

§5–1611.

(a) In the preparation of the State or local forest conservation programs, the State and local authorities shall provide for the granting of variances to the requirements of this subtitle, where owing to special features of a site or other circumstances, implementation of this subtitle would result in unwarranted hardship to an applicant.

(b) Variance procedures adopted under this section shall:

(1) Be designed in a manner consistent with the spirit and intent of this subtitle; and

(2) Assure that the granting of a variance will not adversely affect water quality.

§5–1612.

(a) (1) The enforcement provisions in this section and § 5–1608 of this subtitle are in lieu of any other provision in this title.

(2) In addition to the enforcement authority granted the Department, the enforcement provisions of this section may be exercised by any local authority that has adopted a forest conservation program, in addition to any enforcement provisions available to the local authority.

(b) The Department or a local authority may revoke an approved forest conservation plan for cause, including violation of conditions of the plan, obtaining a plan approval by misrepresentation, failing to disclose a relevant or material fact, or change in conditions. The Department or a local authority shall notify the violator in writing and provide an opportunity for a hearing.

(c) The Department or a local authority may issue a stop work order against any person who violates any provision of this subtitle or any regulation, order, approved plan, or management agreement.

(d) (1) A person who violates any provision of this subtitle or any regulation, order, plan, or management agreement under this subtitle is liable for a penalty not exceeding $1,000 which may be recovered in a civil action brought by the Department or a local authority. Each day a violation continues is a separate violation under this subtitle.

(2) The court may issue an injunction requiring the person to cease the violation and take corrective action to restore or reforest an area.

(e) A local authority conducting enforcement activity in accordance with this section or § 5–1608(c) of this subtitle shall give notice to the Department within 15 days after the commencement of the enforcement activity.

§5–1613.

On or before July 1 of each year, the Department shall submit, subject to § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee a statewide report, compiled from local authorities' reports to the Department, on:

(1) The number, location, and type of projects subject to the provisions of this subtitle;

(2) The amount and location of acres cleared, conserved, and planted, including any areas which utilize forest mitigation bank credits or areas located in the 100 year floodplain, in connection with a development project;

(3) The amount of reforestation and afforestation fees and noncompliance penalties collected and expended;

(4) The costs of implementing the forest conservation program;

(5) The size, location, and protection of any local forest mitigation banks which are created under a local or State program;

(6) The number, location, and type of violations and type of enforcement activity conducted in accordance with this subtitle; and

(7) 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.

§5–1701.

(a) (1) The Board of Public Works shall adopt regulations establishing procedures and standards for awarding any oil or natural gas lease for production or reserve under lands or waters of the State.

(2) An area leased for reserve may not be put into production until the lessee obtains a lease for production pursuant to § 5-1702 of this subtitle.

(b) The Board of Public Works shall adopt regulations establishing a system by which persons may periodically nominate areas beneath lands or waters of the State for possible leasing for production or reserve of oil or natural gas.

(c) The Board of Public Works may not enter into any lease under this section that would preclude or interfere with the public or private harvesting of finfish or shellfish.

§5–1702.

(a) Before the Board of Public Works may solicit bids for or award any lease for production of oil or natural gas from beneath lands or waters of the State, and after receiving the written recommendation of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (if the leased area is located in the State's critical areas) and the advisory comments of the Secretaries of Budget and Management, Natural Resources, the Environment, and Business and Economic Development and the Director of Planning, the Board of Public Works shall direct the Secretary of Natural Resources in consultation with the Secretaries of the Environment, Business and Economic Development, and Budget and Management and the Director of Planning to prepare a statement of environmental, fiscal, and economic impact of the proposed lease.

(b) (1) The statement of environmental, fiscal, and economic impact shall be prepared and filed within 6 months after the direction of the Board of Public Works. However, the Board of Public Works may extend this time limit for not more than an additional 12 months for good cause.

(2) The statement of environmental, fiscal, and economic impact and any written background and supporting material shall be available for public inspection.

(3) The Board of Public Works shall provide by regulation for recovery by the Department of Natural Resources from bidders or lessees, as appropriate, of the costs of preparing a statement of environmental, fiscal, and economic impact.

(c) The statement of environmental, fiscal, and economic impact shall include

the following information:

(1) An assessment of the probable deleterious effects of the proposed drilling operation and production facilities, including the probabilities and consequences of accidental discharge of oil or gas to the environment during drilling, production, and transportation, on:

(i) Finfish, shellfish, and other marine or freshwater organisms;

(ii) Birds and other wildlife that use the air and water resources;

(iii) Air and water quality; and

(iv) Land and water resources;

(2) An areawide environmental impact statement, including, where applicable, the probable environmental effects of pollution on the Chesapeake Bay, its tributaries, and the areas surrounding the proposed lease site;

(3) An inventory of existing economic and environmental conditions at the proposed lease site and in the immediate area;

(4) A project description of what is to be constructed, the manner and construction schedule, and the method of construction;

(5) A complete description of any proposed production facility, including at least its anticipated size, effluent load, and production levels;

(6) Recommendations for minimizing any adverse economic, fiscal, or environmental impacts;

(7) An examination of the secondary environmental effects of induced economic development due to the drilling and production; and

(8) An evaluation of the need for the production facility and the relative merit of other possible sites.

§5–1703.

Any person who drills for oil or gas on the lands or in the waters of the State is strictly liable for any damages that occur in exploration, drilling, or producing operations or in the plugging of the person's oil or gas wells, including liability to the State for any environmental damage.

§5–1801.

(a) The General Assembly finds that:

(1) On September 14, 1862, the Union and Confederate Armies fought a

major battle along a seven mile stretch of South Mountain, which was the first battle of the Civil War fought on Maryland soil.

(2) The South Mountain Battlefield has been recognized as one of the 11 most endangered historic places in America for 2000.

(3) In order to preserve the land where the battle was fought and to provide the public with access to appreciate the land where the battle was fought, it is declared to be the public policy of this State to establish the first Civil War State Battlefield at South Mountain and to provide the authority and resources to develop and operate the Battlefield.

(b) (1) The Department shall manage the development and operation of the South Mountain Battlefield.

(2) The Department shall exercise the same powers of adopting regulations and managing the Battlefield that:

(i) Are exercised by the Department for a State park; and

(ii) Are consistent with the historic significance of the Battlefield.

(3) (i) The Department may set and charge fees based upon the approximate cost of operating the Battlefield to cover the cost of operating the Battlefield.

(ii) Any excess revenue at the end of a fiscal year shall be remitted to the General Fund.

(c) The South Mountain Battlefield shall encompass the property owned by the State along South Mountain between the northern portion of Washington Monument State Park in Washington and Frederick counties and the property near the town of Brownsville, south of Gathland State Park in Washington County.

(d) Subject to the availability of funds, the Governor shall appropriate the necessary funds in the State budget each year to the Department for the construction, operation, maintenance, and administration of the South Mountain Battlefield.

§5–1901.

(a) In this section, "Fund" means the Calvert County Youth Recreational Opportunities Fund.

(b) There is a Calvert County Youth Recreational Opportunities Fund.

(c) The purpose of the Fund is to increase youth recreational opportunities in Calvert County.

(d) The Secretary shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) Revenue distributed to the Fund under § 2–202(b)(1)(ii) of the Tax – General Article;

(2) Money appropriated in the State budget to the Fund; and

(3) Any other money from any other source accepted for the benefit of the Fund.

(g) The Fund may be used only for projects that are approved by the Secretary to advance youth recreational opportunities in Calvert County and that receive contributions from the county for the projects.

(h) (1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

(j) Money expended from the Fund for youth recreational opportunities in Calvert County is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for youth recreational opportunities in Calvert County.

§8–101.

(a) In this title the following words have the meanings indicated.

(b) "County" includes Baltimore City unless otherwise indicated.

(c) "Department" means Department of Natural Resources.

(d) "Person" includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

(e) (1) "Pollution" means every contamination or other alteration of the physical, chemical, or biological properties, of any waters of the State.

(2) "Pollution" includes change in temperature, taste, color, turbidity, or odor of the waters of the State or the discharge or deposit of any organic matter, harmful organism, or liquid, gaseous, solid, radioactive, or other substance into any waters of the State as will render the waters of the State harmful, detrimental, or injurious to public health, safety, or welfare, domestic, commercial, industrial, agricultural, recreational, other legitimate beneficial uses, or livestock, wild animals, birds, fish, or other aquatic life.

(f) "Secretary" means Secretary of the Department of Natural Resources.

(g) "Waters of the State" includes:

(1) Both surface and underground waters within the boundaries of the State subject to its jurisdiction;

(2) That portion of the Atlantic Ocean within the boundaries of the State;

(3) The Chesapeake Bay and its tributaries;

(4) All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and

(5) The floodplain of free–flowing waters determined by the Department of the Environment on the basis of the 100–year flood frequency.

§8–201.

There is a Chesapeake Bay and Coastal Zone Advisory Commission in the Department.

§8–202.

(a) The Department shall be responsible for planning, development, management, and conservation of the Chesapeake Bay and any other tidal waters, including their shoreline and bottom, and any resources associated with these waters. Also, the Department may:

(1) Plan and develop public recreational facilities in or on the waters of the Chesapeake Bay and other tidal waters;

(2) Assist other State units to plan public recreational facilities for the Chesapeake Bay and other tidal waters;

(3) Cooperate with other units to carry out measures to protect tidal water

fronts and waterways of the State against erosion and deposit; and

(4) Act for the State to develop further navigation aids and improvement of waterways in the Chesapeake Bay and other tidal water areas of the State.

(b) The Department may operate, sell, buy, lease, exchange, rent, or repair any vehicle, vessel, boat, net, or other equipment necessary for its work. The Department may furnish a vehicle, vessel, or boat which the Department owns or operates with any required arms, ammunition, or equipment. The Department's authority under this subsection is subject to the provisions of the Code relating to budget and procurement.

(c) In addition to powers and duties stated in this title, the Department may exercise authority reasonably necessary to carry out the purposes of this title.

§8–203.

The Secretary shall take every necessary step to enact appropriate intergovernmental agreements with other states to preserve the optimal state of the Chesapeake Bay through organization of an interstate body to plan, manage, coordinate, and enforce the proper use of the Chesapeake Bay, so every user of the Bay area can obtain maximum advantage of the Bay.

§8–204.

(a) The Department is the unit of State government that coordinates public access to the Chesapeake Bay and its tributaries.

(b) The Department shall:

(1) Identify and designate areas for public access to the waters of the State in each county that is located on the tidal waters of the State;

(2) Coordinate with local and State agencies responsible for planning, purchasing, developing, and maintaining access areas;

(3) Make recommendations to guide public agencies in the identification, development, and management of access areas; and

(4) Serve as a repository for all information and inventories concerning shorefront access.

(c) (1) This section may not be construed to expand the authority that the Department has on July 1, 1988 to require or promote condemnation of real property along the Big Blackwater River and the Little Blackwater River.

(2) The State may not acquire by eminent domain real property along the Big Blackwater River or the Little Blackwater River without first proving that the acquisition is necessary to preserve the natural qualities and unpolluted state of the

Big Blackwater River and the Little Blackwater River.

§8–2A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) "BayStat Program" means the program established under § 8–2A–03 of this subtitle.

(c) (1) "Nonpoint source pollution control project" means a project to improve water quality by a reduction of nitrogen, phosphorus, or sediment pollution.

(2) "Nonpoint source pollution control project" includes:

(i) An agricultural best management implementation practice, including cover crops, riparian forested buffer, manure processing, grassed waterways, animal waste storage structures, and livestock fencing;

(ii) An urban or suburban stormwater practice;

(iii) A sustainable forest management practice, including a forest stewardship plan or a nonornamental urban and suburban tree planting project;

(iv) Stream and wetland restoration;

(v) Riparian buffer planting;

(vi) A project that demonstrates the effectiveness of an innovative nonpoint source pollution reduction measure provided that the measure is capable of integration into existing nonpoint source pollution programs;

(vii) Technical assistance necessary to implement a nonpoint source pollution control project;

(viii) Improvement of a municipal park located on or adjacent to a waterway, provided that the improvement is limited to state–of–the–art and sustainable nonpoint source pollution control measures that demonstrably improve water quality by reducing nitrogen, phosphorus, and sediment pollution; and

(ix) Strategic monitoring of water quality improvements from nonpoint source pollution control projects that have been funded, in whole or in part, with grants from the Trust Fund.

(d) "Tributary strategies" means each of Maryland's 10 watershed–specific plans as amended from time to time to reduce the amount of nitrogen, phosphorus, and sediment pollution that enters the Chesapeake and Atlantic Coastal Bays and their tributaries.

(e) "Trust Fund" means the Chesapeake and Atlantic Coastal Bays 2010 Trust

Fund.

§8–2A–02.

(a) There is a Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

(b) The purpose of the Fund is to provide financial assistance necessary to advance Maryland's progress in meeting the goals established in the Chesapeake 2000 Agreement for the restoration of the Chesapeake Bay and its tributaries, including the Patuxent River, and to restore the health of the Atlantic Coastal Bays and their tributaries, by focusing limited financial resources on nonpoint source pollution control projects in all regions of the State.

(c) The Secretary shall administer the Fund.

(d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(e) The Fund consists of:

(1) Money appropriated in the State budget for the Fund;

(2) Money distributed to the Fund under §§ 2–1104 and 2–1302.1 of the Tax – General Article; and

(3) Any other money from any other source accepted for the benefit of the Fund.

(f) (1) The Fund may be used only for the implementation of nonpoint source pollution control projects to achieve the State's tributary strategy developed in accordance with the Chesapeake 2000 Agreement and to improve the health of the Atlantic Coastal Bays and their tributaries.

(2) It is the intent of the General Assembly that, when possible, moneys in the Fund shall be granted to local governments and other political subdivisions for agricultural, forestry, stream and wetland restoration, and urban and suburban stormwater nonpoint source pollution control projects.

(g) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund shall be retained to the credit of the Fund.

(h) Money expended from the Fund for the restoration of the Chesapeake

and Atlantic Coastal Bays and their tributaries, including the Patuxent River, is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for bay restoration.

§8–2A–03.

(a) (1) There is a BayStat Program to:

(i) Measure and evaluate efforts to restore the Chesapeake and Atlantic Coastal Bays; and

(ii) Administer the Trust Fund.

(2) The BayStat Subcabinet shall oversee the administration of the BayStat Program.

(3) The BayStat Subcabinet is composed of:

(i) The Secretary of Natural Resources;

(ii) The Secretary of the Environment;

(iii) The Secretary of Planning;

(iv) The Secretary of Agriculture;

(v) The President of the University of Maryland Center for Environmental Science;

(vi) The Dean of the College of Agriculture and Natural Resources at the University of Maryland, College Park; and

(vii) The chair of the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.

(b) The BayStat Program shall:

(1) Provide accurate and timely data to policymakers and the public about the efficacy and cost–effectiveness of local, State, and federal programs to restore the Chesapeake and Atlantic Coastal Bays;

(2) Track and assess the progress of State and federal programs to improve the health of the Chesapeake and Atlantic Coastal Bays;

(3) Assess the effectiveness of enforcement programs in curbing pollution and achieving Chesapeake and Atlantic Coastal Bays restoration goals and institute actions to improve the effectiveness of enforcement programs;

(4) Adopt measurable goals for Chesapeake and Atlantic Coastal Bays

restoration;

(5) Identify new threats to the health of the Chesapeake and Atlantic Coastal Bays;

(6) Increase public awareness of, and participation in, efforts to restore the vitality of the Chesapeake and Atlantic Coastal Bays; and

(7) Direct the administration of the Trust Fund.

(c) The BayStat Subcabinet shall:

(1) Report annually to the public regarding:

(i) The health of the Chesapeake Bay tributary basin;

(ii) The health of the Atlantic Coastal Bays and their tributaries;

(iii) The status of local, State, and federal programs to restore the Chesapeake and Atlantic Coastal Bays; and

(iv) Estimated nutrient reductions achieved through projects financed by the Trust Fund; and

(2) (i) Develop an annual work plan that identifies the planned work to be funded with money from the Trust Fund for the next fiscal year, including annual nutrient and sediment reduction targets, performance measures, and accountability criteria; and

(ii) Develop an annual expenditure plan that identifies planned expenditures for the work plan and includes an accounting of all moneys distributed from the Trust Fund in the previous fiscal year.

(d) The Governor shall submit the annual work and expenditure plans to the General Assembly as part of the annual budget submission.

(e) On an annual basis the BayStat Subcabinet shall prepare a final work and expenditure plan based on the budget approved by the General Assembly.

§8–2A–04.

(a) The BayStat Program shall direct the administration of the Trust Fund in accordance with this section.

(b) (1) The BayStat Program shall implement nonpoint source pollution reduction measures to achieve the tributary strategies by targeting funds, geographically and by practice, to proven, scientifically based projects that provide the most cost–effective and measurable water quality benefits to the Chesapeake and Atlantic Coastal Bays.

(2) To the maximum extent practicable, the BayStat Program shall distribute the Trust Fund moneys on a competitive basis.

(c) (1) The BayStat Program shall distribute funds from the Trust Fund to the BayStat Subcabinet agencies in accordance with the final work and expenditure plans.

(2) The BayStat Subcabinet agencies shall administer the funds in accordance with the final work and expenditure plans, including the distribution of funds:

(i) Through grants to:

1. Counties;

2. Bicounty agencies;

3. Municipalities;

4. Forest conservancy district boards;

5. Soil conservation districts;

6. Academic institutions; and

7. Nonprofit organizations having a demonstrated ability to implement nonpoint source pollution control projects;

(ii) To the Chesapeake and Atlantic Coastal Bays Nonpoint Source Fund established under § 9–1605.3 of the Environment Article;

(iii) To the Maryland Agricultural Cost–Share Program established under Title 8, Subtitle 7 of the Agriculture Article for nonpoint source pollution control projects; and

(iv) To the Mel Noland Woodland Incentives Fund established under § 5–307 of this article.

(3) (i) The BayStat Program shall develop solicitations, guidelines, and applications for Trust Fund grants that shall include consideration of the extent to which a proposed project, both geographically and by practice, will deliver the greatest, most cost–effective, and measurable nonpoint source pollution reduction per Trust Fund dollar.

(ii) The BayStat Program shall encourage and consider multi–year, multi–partner proposals, local match or cost–share agreements, or similar actions proposed by a grant applicant in evaluating a Trust Fund grant application.

(d) Any grant agreement regarding funds from the Trust Fund shall:

(1) Specify the use of the funds provided under the grant, accountability measures, and performance requirements;

(2) Take into account the need for efficient, multi–year funding and administration; and

(3) Include provisions for verification that practices are being implemented.

(e) (1) A recipient of funds from the Trust Fund in any fiscal year shall submit an annual report to the BayStat Program by November 1 of the next fiscal year.

(2) The report required under paragraph (1) of this subsection shall include:

(i) For agencies receiving moneys from the Trust Fund:

1. A description of how the funds were allocated, including:

A. The number and amounts of grants awards; and

B. Direct expenditures by the agency;

2. How funding was leveraged; and

3. Estimated or calculated nutrient reductions associated with Trust Fund expenditures.

(ii) For recipients of competitive grants from the Trust Fund, a description of funded projects, including:

1. Project location;

2. Description of practices implemented;

3. Timeframes for project completion;

4. Estimated or calculated nutrient reductions; and

5. Provisions for long–term maintenance of practices.

(f) Funds from the Trust Fund may not be used to enable an individual cited for noncompliance with a nonpoint source pollution control law or regulation to achieve compliance.

(g) (1) There is a BayStat Program Scientific Advisory Panel.

(2) The Governor shall appoint the chair and members of the BayStat Program Scientific Advisory Panel.

(3) The BayStat Program Scientific Advisory Panel shall include scientists and other technical experts with demonstrated expertise in the disciplines related to protection and restoration of the Chesapeake and Atlantic Coastal Bays.

(4) The BayStat Program Scientific Advisory Panel shall:

(i) On or before August 1, annually provide recommendations to the BayStat Subcabinet on the use of funds of the Trust Fund for the following fiscal year;

(ii) Monitor the distribution of funds from the Trust Fund;

(iii) Review the categories of grants made in the previous year to assess nutrient loading reduction estimates and cost efficiencies and the effectiveness of any innovative nonpoint source pollution reduction measure;

(iv) Review the proposed annual work plan and advise the BayStat Subcabinet of any recommended changes;

(v) On request by the BayStat Subcabinet, review individual grant applications; and

(vi) Annually review any Trust Fund moneys that are not distributed on a competitive basis to assess whether those moneys may be distributed on a competitive basis.

(h) The BayStat Subcabinet agencies may distribute to an administrative cost account the amount that is necessary to administer grant programs, not to exceed 1.5% of the allocations to the BayStat Subcabinet agencies.

§8–301.

Chesapeake Bay Commission Agreement
Article I
Membership and Organization

Section 101. The Chesapeake Bay Commission, hereinafter designated as "Commission", is hereby created.

Section 102. The Commission shall consist of 21 members, 7 from Virginia, 7 from Maryland, and 7 from Pennsylvania. In each state, 5 of the members shall be members of the General Assembly. In Maryland, 2 senators designated by the President of the Senate and 3 delegates designated by the Speaker of the House shall serve as members. The Governor of Maryland or his designee shall serve as a member. In addition, the President of the Senate and the Speaker of the House of Delegates shall jointly select one Maryland member who is not a legislator or an employee of the Executive Branch. In Virginia, 2 senators designated by the Committee on Privileges and Elections and 3 delegates designated by the Speaker of the House of Delegates shall serve as members. The Governor of Virginia or his designee shall

serve as a member. In addition, the Senate Committee on Privileges and Elections and the Speaker of the House of Delegates shall jointly select one Virginia member who is not a legislator or an employee of the Executive Branch. In Pennsylvania, 2 senators designated by the President Pro Tempore of the Senate and 3 representatives designated by the Speaker of the House of Representatives shall serve as members. The Governor of Pennsylvania or his designee shall serve as a member. In addition, the President Pro Tempore of the Senate shall select one Pennsylvania member who is not a legislator or an employee of the Executive Branch.

Section 103. Legislators serving as members of the Commission shall serve terms coterminous with their current terms of office.

The nonlegislative members shall serve at the pleasure of their respective appointing authorities for a term of not more than 4 years. Nonlegislative members may be reappointed at the end of the 4-year term.

Section 104. The Commission members shall serve without compensation from the Commission but may be reimbursed by the Commission for necessary expenses incurred in and incident to the performance of their duties. In addition, Commission members from each state may receive from their respective states other compensation to which they may be entitled under the laws of their respective states.

Section 105. Commission meetings shall be held at least once each quarter, and at such other times as the Commission may determine. In order to constitute a quorum for the transaction of any business, at least 11 Commission members, including at least 3 Commission members from each state, must be present. Approval of proposed action shall require the majority vote of the Commission members present.

Section 106.

(a) The Commission members shall serve as the governing body of the Commission, and, except as hereinafter provided, shall exercise and discharge all powers, functions, and responsibilities assigned to the Commission. The Commission shall provide for the organization of internal procedures of the Commission and to this end shall adopt suitable bylaws. The Commission shall have a chairman and 2 vice chairmen, chosen by the respective delegations, whose offices shall rotate annually among the signatory states and may at no time be held by members from the same signatory. The Commission may maintain one or more offices for the transaction of its business. The Commission may, without regard to the civil service or the laws of any signatory relative to public officers and employees, create and abolish offices, employments, and positions as it deems necessary for the purposes of the Commission, affix and provide for the duties, conditions of employment, qualifications, appointment, removal, term, compensation, and other rights and benefits of the Commission's officers and employees, and shall appoint the principal officers of the Commission and allocate among them administrative functions, powers, and duties. The Commission may delegate to the officers and employees of the Commission any powers, functions, and responsibilities under this agreement as it deems suitable,

except that it may not delegate its power to make recommendations to the respective legislatures, to issue reports or to adopt the annual expense budget.

(b) Full-time officers and employees of the Commission on a salary basis shall be considered employees of a participating governmental unit for the purposes of pension benefits under Division II of the State Personnel and Pensions Article and for the purposes of health insurance, Social Security, and other employee benefits.

Article II

Purposes, Powers and Duties

Section 201. The purposes of the signatories in enacting this agreement are to assist the legislatures of Maryland, Virginia, and Pennsylvania in evaluating and responding to problems of mutual concern relating to the Chesapeake Bay; to promote intergovernmental cooperation; to encourage cooperative coordinated resource planning and action by the signatories and their agencies; to provide, where appropriate, through recommendation to the respective legislature, uniformity of legislative application; to preserve and enhance the functions, powers, and duties of existing offices and agencies of government; and to recommend improvements in the existing management system for the benefit of the present and future inhabitants of the Chesapeake Bay region.

Section 202. In pursuit of the purposes and duties set forth in this article, the Commission may exercise the following powers:

(1) The Commission may collect, compile, analyze, interpret, coordinate, tabulate, summarize, and distribute technical and other data relative to the Chesapeake Bay and its environs. It may conduct or contract for studies, except those for primary scientific research, and may prepare reports on existing or potential problems within the Bay region.

(2) The Commission may prepare, publish, and disseminate information in reports related to the resources of the region.

(3) The Commission may serve as an advisory board to any requesting agency of the member states on matters of interstate concern.

(4) The Commission may make application for grants, services, or other aids as may be available from public or private sources to finance or assist in effectuating any purposes of this agreement; and receive and accept the same on such terms and conditions as may be required by the law of the respective signatory states.

(5) The Commission may purchase administrative supplies and may lease sufficient office space if such space is not otherwise made available for its use.

(6) The Commission may exercise such other powers as are granted by this agreement and take such actions as are necessary or appropriate for performing the duties set forth in this agreement.

Section 203. In carrying out the purposes set forth in this article, the Commission shall have the following duties:

(1) The Commission shall:

(i) Identify specific Bay management concerns requiring intergovernmental coordination and cooperation; and

(ii) Recommend to the various federal, state, and local governments, which are involved in the Bay region, legislative and administrative actions necessary to effectuate coordinated and cooperative management for the Chesapeake Bay.

(2) In administering the provisions of this agreement the Commission shall consider the needs of the region for industrial and agricultural development and for gainful employment and maintenance for a high quality environment.

(3) The Commission shall respect and support the primary role of the respective signatory states and their administrative agencies in managing the resources of the region.

(4) The Commission shall collect, analyze, and disseminate information pertaining to the region and its resources for the respective legislative bodies. The Commission shall prepare an annual report indicating the status of environmental and economic issues involving the Chesapeake Bay and the progress of coordinative efforts by the member states.

(5) The Commission shall represent common interests of the signatories as they are affected by the activities of the federal government and shall assist in the monitoring of those activities in the Chesapeake Bay region.

(6) The Commission may provide a forum to serve as an advisory mediator for programmatic conflicts between or among the member states when such action is requested by the conflicting member states.

Article III
Budget and Financing

Section 301. The Commission shall annually adopt a budget, which shall include the Commission's estimated expenses for administration and operation. In establishing the annual current expense budget, the Commission shall balance total expenses against the Commission's estimate of revenues from all sources, either previously appropriated by a signatory state or receivable from any person or governmental agency by contract or grant with that person or governmental agency. The chairman of the Commission shall certify to the respective signatories, and submit to persons in other governmental agencies, statements of the amounts requested from them in accordance with existing cost-sharing established by this agreement or by the parties. The chairman of the Commission shall transmit certified copies of such budgets to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures.

Section 302. The amount required for the Commission's current expense budget shall be apportioned equally among the signatory parties unless a different apportionment is agreed to by unanimous vote of the Commission.

Section 303. The annual expense budget for each fiscal year shall be equally apportioned between the respective signatory states.

Article IV
Amendments to Agreement

Section 401. This agreement shall not be amended or modified except with the concurrence of the legislatures of the State of Maryland, the Commonwealth of Virginia, and the Commonwealth of Pennsylvania. Amendments shall not become effective until adopted in the same manner as the original agreement.

Article V
Duration of Agreement

Section 501. The duration of this agreement among the State of Maryland, the Commonwealth of Virginia, and the Commonwealth of Pennsylvania shall be for an initial period of 10 years from its effective date, and it shall be continued for additional periods of 10 years unless one or more of the signatory states, by authority of an act of its legislature, notifies the Commission of intention to terminate the agreement at the end of the current 10-year term; provided, however, that any signatory, by act of its legislature, can withdraw from the agreement at the end of any calendar year or fiscal year.

Section 502. In the event that this agreement shall be terminated by operation of Section 501, the Commission shall be dissolved, its assets and liabilities transferred, and its corporate affairs wound up in accordance with the unanimous agreement of its signatories, or failing unanimous agreement, in such manner that the assets and liabilities of the Commission shall be shared by the respective states.

§8–401.

Many of the rivers of Maryland or portions of them and their related adjacent land areas possess outstanding scenic, geologic, ecologic, historic, recreational, agricultural, fish, wildlife, cultural, and other similar values. The policy of the State is to preserve and protect the natural values of these rivers, enhance their water quality, and fulfill vital conservation purposes by wise use of resources within their surrounding environment. Development of a Scenic and Wild Rivers Program is desirable to fulfill these purposes.

§8–402.

(a) There is a Scenic and Wild Rivers Program. The following rivers, including their tributaries, are included in the Program:

(1) Anacostia;

(2) Deer Creek;

(3) Monocacy;

(4) Patuxent;

(5) Pocomoke;

(6) Potomac (in Montgomery and Frederick counties);

(7) Severn;

(8) Wicomico in Charles County; and

(9) Youghiogheny.

(b) The Secretary shall administer the provisions of this subtitle. The Secretary shall formulate and implement a program to carry out the policy under § 8-401 of this subtitle for each designated river including any other river designated subsequently as part of the system. The Program shall provide for the preparation of a plan and for the wise management of resources according to the policy under § 8-401 of this subtitle. Activities such as fishing, hunting, hiking, horseback riding, natural and geological interpretation, scenic appreciation, and other programs by which the general public can appreciate and enjoy the value of these areas as scenic and wild rivers in a setting of natural solitude shall be featured in a management plan to the extent these activities are practicable in the scenic or wild river.

(c) The Secretary shall prepare a study and plan for the use and development of the water and related land resources of Deer Creek in Harford County. The study and plan shall evaluate Deer Creek as a water, agricultural, and scenic resource, and evaluate its shoreline and related land in terms of zoning, parks, and recreational areas, public and private use. The study and plan shall be made in consultation and cooperation with every affected unit of Harford County. Upon completion, the Secretary shall file the study and plan with appropriate recommendations with the Harford County Planning Commission, the Harford County executive, and the Harford County Council for inclusion and implementation in the county's land use planning and zoning as the county deems appropriate. The original plan for Deer Creek in Harford County as approved under this section may be changed or restudied only if the Deer Creek local Scenic and Wild River Advisory Board and the Harford County Council approve.

(d) (1) In this subtitle the following words have the meanings indicated.

(2) "Scenic river" means a free-flowing river whose shoreline and related land are predominantly forested, agricultural, grassland, marshland, or swampland with a minimum of development for at least 2 miles of the river length.

(3) "Wild river" means a free-flowing river whose shoreline and related

land are:

(i) Undeveloped;

(ii) Inaccessible except by trail; or

(iii) Predominantly primitive in a natural state for at least 4 miles of the river length.

(e) Upon completion of the plan, the Secretary shall submit the plan, with any appropriate recommendations, to the governing body of every county where the affected river is located, for their approval and recommendations.

(f) By July 1, 1990 the Secretary shall inventory and study every other river and shoreline and related land in the State and identify the rivers and their related shorelines or portions of them that are eligible for inclusion into the Scenic and Wild Rivers Program as either a scenic or wild river. Upon completion of each inventory and study, the Secretary shall submit the inventory and study, with any recommendations for additions to the scenic and wild rivers system, to:

(1) The governing body of every county where the river is located, for their approval and recommendations; and

(2) The next regular session of the General Assembly.

§8–403.

(a) (1) There is a Scenic and Wild Rivers Review Board. The Board consists of the Secretaries of Natural Resources, Agriculture, and the Environment and the Director of Planning and a member of the Garrett County Commissioners, who shall be a voting member of the Board only on matters pertaining to the wild portion of the Youghiogheny River.

(2) The members of the Board shall select the chairperson.

(3) A member of the Board:

(i) May not receive any compensation for the member's services; but

(ii) Shall be reimbursed for necessary travel expenses and disbursements made in order to attend any meeting or perform any other official duty.

(b) In addition to the duties set forth elsewhere in this subtitle, the Scenic and Wild Rivers Review Board shall:

(1) Review:

(i) Any inventory, study, plan, and regulation that is prepared under this subtitle; and

(ii) The recommendations on the inventory, study, plan, and regulation of the Secretary, any local governing body, or any local advisory board;

(2) Meet regularly; and

(3) Appoint, with the advice and consent of the appropriate local governing body, a local scenic and wild river advisory board for each river that is included in the Scenic and Wild Rivers Program.

(c) (1) Each local scenic and wild river advisory board consists of at least 7 members, except for the Youghiogheny local Scenic and Wild River Advisory Board that consists of at least 8 members.

(2) Each member of a local scenic and wild river advisory board shall reside in the county through which the scenic and wild river flows.

(3) The Scenic and Wild Rivers Review Board shall select the members of each local advisory board as follows:

(i) At least 2 members shall own land contiguous to the scenic or wild river, except for the Youghiogheny River where at least 3 members shall own land contiguous to that portion of the river designated by § 8-408(a) of this subtitle as a wild river;

(ii) At least 2 members who own land that is not contiguous to the scenic or wild river;

(iii) 1 member shall represent the local governing body; and

(iv) 2 members from the county soil conservation district.

(d) If a scenic or wild river flows through more than 1 county, the local advisory board shall consist of no more than the following members:

(1) 2 residents of each county through which the scenic or wild river flows who own land contiguous to the scenic or wild river;

(2) 2 residents of each county through which the scenic or wild river flows who do not own land contiguous to the scenic or wild river;

(3) 2 representatives of the local governing body of each county through which the scenic or wild river flows; and

(4) 1 representative of each soil conservation district through which the scenic or wild river flows.

(e) Each local scenic and wild river advisory board shall:

(1) Review any inventory, study, plan, and regulation that is proposed

under this subtitle and is applicable to any river in its jurisdiction;

(2) Make recommendations on the inventory, study, plan, and regulation to its local governing body and to the Scenic and Wild Rivers Review Board;

(3) Select its own chairperson; and

(4) Adopt its own administrative regulations for the operation of the local advisory board.

(f) (1) Each member of a local advisory board may not:

(i) Receive compensation for service; or

(ii) Be reimbursed for expenses incurred in travel or for attending meetings or performing any official duty.

(2) The Secretary shall schedule meetings for each local advisory board. However, in the event of emergencies, the chairperson of a local advisory board may schedule meetings for the local advisory board.

(g) Upon completion of an approved management plan, the local governing body may establish a scenic river advisory board for each designated scenic or wild river within its jurisdiction. Each board, as constituted by the local authority, may recommend policies, laws, and regulations in furtherance of the aims of this subtitle to the appropriate local governing body. If a scenic or wild river flows through more than 1 county, the scenic river advisory board may consist of an equal number of members from each county.

§8–404.

The Scenic and Wild Rivers Review Board may recommend for inclusion in the Scenic and Wild Rivers Program rivers, streams, and portions of rivers, streams, and tributaries, and the related adjacent lands which fall within the following descriptions:

(1) Trout streams and wetland areas;

(2) Spawning and propagation areas;

(3) Streams and rivers with scenic and aesthetic value of statewide significance;

(4) Existing or proposed public land adjacent to the rivers and streams;

(5) Sections of any river or stream where no development exists on either side of the river or stream for a distance of one-quarter mile from the mean high water line of the river or stream;

(6) Sections of any river or stream where limited development exists but

is compatible with the wise use of the resources;

(7) Sections of any river or stream where encroachment is imminent and would lead to degradation of the river or stream, to some form of pollution, or adversely affect the intent of this subtitle; or

(8) Sections of any river or stream that are important as food production areas, areas supporting migratory waterfowl, and spawning areas for shellfish.

§8–405.

Before specific plans for use and development of water and related land resources are approved, including constructing improvements, diversions, roadways, crossings, channelizations, locks, canals, or other uses that change the character of a river or waterway or destroy its scenic value, the Secretary shall give full consideration and evaluation of the river as a scenic and wild resource.

§8–406.

A dam or other structure impeding the natural flow of a scenic and wild river may not be constructed, operated, or maintained in a scenic and wild river, and channelization may not be undertaken, unless the Secretary specifically approves.

§8–407.

Every State unit shall recognize the intent of the Scenic and Wild Rivers Program and take whatever action is necessary to protect and enhance the scenic and wild qualities of the designated river. The Secretary shall utilize the Scenic and Wild Rivers Program and all related information to assist and cooperate with any other State or local unit that exercises jurisdiction and authority over land use planning and management.

§8–408.

(a) That segment of the Youghiogheny River between Millers Run and the southern corporate limits of Friendsville is designated a wild river.

(b) In §§ 8–408 through 8–411 of this subtitle, "scenic corridor" means the visual corridor of the Youghiogheny River in that segment of the Youghiogheny River designated as wild that:

(1) An individual can see from the river or its contiguous shorelines; and

(2) The Secretary demonstrates by field investigation and defines by regulations.

(c) (1) By July 1, 1985 the Secretary shall:

(i) Define by field investigation the boundaries of the scenic corridor of the Youghiogheny River; and

(ii) Submit to the property owner a map indicating the proposed boundaries which affect the property owner.

(2) The Youghiogheny local Scenic and Wild River Advisory Board shall verify the field investigation that the Secretary uses to define the extent of the scenic corridor.

(d) (1) By July 1, 1985 the Secretary shall verify the boundaries of the scenic corridor of the Youghiogheny River with each property owner whose property is included in the scenic corridor:

(i) By an opportunity for an on–site review of the visual boundaries; or

(ii) If an on–site review is not possible, by constructive notice in a certified letter, return receipt requested, bearing a postmark of the United States Postal Service, that states the boundaries of the scenic corridor in a way that is easily understood.

(2) (i) The Secretary shall submit to each property owner a map indicating the proposed boundaries that affect the property owner.

(ii) If the property owner is not satisfied with the proposed boundaries shown to the property owner by the Department, within 30 days after the property owner has been shown the proposed boundaries, the property owner may request, in writing, a field survey of the boundaries.

(iii) If funding for the requested field survey is not immediately available:

1. The Department shall request funding for the field survey in the next fiscal budget; and

2. The field survey is contingent on that funding being provided.

(3) This subsection does not prevent the Secretary from proceeding to adopt regulations to define the scenic corridor under subsections (b) and (c) of this section.

(e) (1) The provisions of this subsection do not apply to any area in the scenic corridor that has been mined and is not reclaimed.

(2) A person may not mine any minerals by the strip or open pit mining method in the scenic corridor.

§8–409.

(a) In this section, "development" means any structure, appurtenance, other addition, modification, or alteration that is constructed, placed, or made on or to land or water.

(b) (1) In addition to other regulatory authorities that are provided by this subtitle, the Secretary, in coordination with the Youghiogheny River local Advisory Board and the Board of Garrett County Commissioners, shall prepare regulations that are necessary to:

(i) Implement the approved management plan for the Youghiogheny River; and

(ii) Regulate use and development in the scenic corridor where the use and development would affect the primitive qualities and characteristics of the wild river segment of the Youghiogheny River.

(2) The Board of Garrett County Commissioners and the Scenic and Wild Rivers Review Board shall review the regulations of the Secretary before the Secretary adopts the regulations.

(3) On the adoption of the regulations under paragraph (2) of this subsection, the Secretary shall administer and enforce the regulations.

§8–410.

(a) If the prohibitions of § 8–408 of this subtitle or of any regulation that the Secretary adopts for the Scenic and Wild Rivers Program would constitute a taking of a property right without just compensation in violation of the Constitution of the United States or the Maryland Constitution, funds under Program Open Space may be used to purchase or otherwise pay for any property that is taken, providing that the acquisition has been previously approved by the General Assembly.

(b) (1) As to any water or land areas within that portion of the Youghiogheny River that is designated by § 8–408(a) of this subtitle as a wild river, funds under the open space program may be used to purchase any restriction, whether drafted in the form of an easement, covenant, or condition, that prohibits or limits the use of any of the water or land areas or any improvement or appurtenance to the water or land areas for any of the purposes listed in § 2–118(b) of the Real Property Article.

(2) The restriction creates an incorporeal property interest in the water or land areas or the improvement or appurtenance to the water or land areas, so restricted, that is enforceable in both law and equity in the same manner as an easement or servitude with respect to the water or land areas or the improvement or appurtenance to the water or land areas, if the restriction is executed in compliance with the requirements of the Real Property Article for the execution of deeds or the Estates and Trusts Article for the execution of wills.

§8–411.

(a) (1) Notwithstanding the regulatory authorities that are provided by this subtitle, the Secretary, in the process of administering the Scenic and Wild Rivers Program, shall consider, protect, and ensure protection of the rights of property ownership.

(2) The Secretary may not adopt any regulation that would constitute a taking of a right of property ownership that violates the Constitution of the United States or the Maryland Constitution.

(b) The State may not acquire by eminent domain land in the scenic corridor of the wild segment of the Youghiogheny River without first proving that the acquisition is necessary to preserve the wild segment of the Youghiogheny River, as provided in this subtitle.

§8–4A–01. IN EFFECT

The Governor is hereby authorized and directed to execute a Compact on behalf of the State of Maryland with the State of West Virginia, with participation through concurrence by the United States Army Corps of Engineers legally joining in the form substantially as follows:

Jennings Randolph Lake Project Compact
Preamble

WHEREAS, the signatory parties hereto desire to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, for which they have a joint responsibility; and they declare as follows:

1. The Congress, under Public Law 87–874, authorized the development of the Jennings Randolph Lake Project for the North Branch of the Potomac River substantially in accordance with House Document Number 469, 87th Congress, 2nd Session for flood control, water supply, water quality, and recreation; and

2. Section 4 of the Flood Control Act of 1944 (CH 665, 58 Stat. 534) provides that the Chief of Engineers, under the supervision of the Secretary of War (now Secretary of the Army), is authorized to construct, maintain and operate public park and recreational facilities in reservoir areas under control of such Secretary for the purpose of boating, swimming, bathing, fishing, and other recreational purposes, so long as the same is not inconsistent with the laws for the protection of fish and wildlife of the State(s) in which such area is situated; and

3. Pursuant to the authorities cited above, the U.S. Army Engineer District (Baltimore), hereinafter "District", did construct and now maintains and operates the Jennings Randolph Lake Project; and

4. The National Environmental Policy Act of 1969 (P.L. 91–190) encourages productive and enjoyable harmony between man and his environment, promotes efforts which will stimulate the health and welfare of man, and encourages cooperation with State and local governments to achieve these ends; and

5. The Fish and Wildlife Coordination Act (16 U.S.C. 661–666c) provides for the consideration and coordination with other features of water–resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation; and

6. The District has Fisheries and Wildlife Plans as part of the District's project Operational Plan Management; and

7. In the respective States, the Maryland Department of Natural Resources (hereinafter referred to as Maryland DNR) and the West Virginia Division of Natural Resources (hereinafter referred to as West Virginia DNR) are primarily responsible for providing a system of control, propagation, management, protection, and regulation of natural resources and boating in Maryland and West Virginia and the enforcement of laws and regulations pertaining to those resources as provided in Annotated Code of Maryland Natural Resources Article and West Virginia Chapter 20, respectively, and the successors thereof; and

8. The District, the Maryland DNR, and the West Virginia DNR are desirous of conserving, perpetuating and improving fish and wildlife resources and recreational benefits of the Jennings Randolph Lake Project; and

9. The District and the States of Maryland and West Virginia wish to implement the aforesaid acts and responsibilities through this Compact and they each recognize that consistent enforcement of the natural resources and boating laws and regulations can best be achieved by entering this Compact;

Now, therefore

The States of Maryland and West Virginia, with the concurrence of the United States Department of the Army, Corps of Engineers, hereby solemnly covenant and agree with each other, upon enactment of concurrent legislation by The Congress of the United States and by the respective state legislatures, to the Jennings Randolph Lake Project Compact, which consists of this preamble and the articles that follow:

Article I – Name, Findings, and Purpose

1.1 This compact shall be known and may be cited as the Jennings Randolph Lake Project Compact.

1.2 The legislative bodies of the respective signatory parties, with the concurrence of the U.S. Army Corps of Engineers, hereby find and declare:

1. The water resources and project lands of the Jennings Randolph Lake

Project are affected with local, state, regional, and national interest, and the planning, conservation, utilization, protection and management of these resources, under appropriate arrangements for inter–governmental cooperation, are public purposes of the respective signatory parties.

2. The lands and waters of the Jennings Randolph Lake Project are subject to the sovereign rights and responsibilities of the signatory parties, and it is the purpose of this compact that, notwithstanding any boundary between Maryland and West Virginia that preexisted the creation of Jennings Randolph Lake, the parties will have and exercise concurrent jurisdiction over any lands and waters of the Jennings Randolph Lake Project concerning natural resources and boating laws and regulations in the common interest of the people of the region.

Article II – District Responsibilities

The District, within the Jennings Randolph Lake Project,

2.1 Acknowledges that the Maryland DNR and West Virginia DNR have authorities and responsibilities in the establishment, administration and enforcement of the natural resources and boating laws and regulations applicable to this project, provided that the laws and regulations promulgated by the States support and implement, where applicable, the intent of the Rules and Regulations Governing Public Use of Water Resources Development Projects administered by the Chief of Engineers in Title 36, Chapter III, Part 327, Code of Federal Regulations,

2.2 Agrees to practice those forms of resource management as determined jointly by the District, Maryland DNR and West Virginia DNR to be beneficial to natural resources and which will enhance public recreational opportunities compatible with other authorized purposes of the project,

2.3 Agrees to consult with the Maryland DNR and West Virginia DNR prior to the issuance of any permits for activities or special events which would include, but not necessarily be limited to: fishing tournaments, training exercises, regattas, marine parades, placement of ski ramps, slalom water ski courses and the establishment of private markers and/or lighting. All such permits issued by the District will require the permittee to comply with all State laws and regulations,

2.4 Agrees to consult with the Maryland DNR and West Virginia DNR regarding any recommendations for regulations affecting natural resources including, but not limited to, hunting, trapping, fishing or boating at the Jennings Randolph Lake Project which the District believes might be desirable for reasons of public safety, administration, or public use and enjoyment,

2.5 Agrees to consult with the Maryland DNR and West Virginia DNR relative to the marking of the lake with buoys, aids to navigation, regulatory markers and establishing and posting of speed limits, no wake zones, restricted or other control areas and to provide, install and maintain such buoys, aids to navigation

and regulatory markers as are necessary for the implementation of the District's Operational Management Plan. All buoys, aids to navigation and regulatory markers to be used shall be marked in conformance with the Uniform State Waterway Marking System,

2.6 Agrees to allow hunting, trapping, boating and fishing by the public in accordance with the laws and regulations relating to the Jennings Randolph Lake Project,

2.7 Agrees to provide, install and maintain public ramps, parking areas, courtesy docks, etc., as provided for by the approved Corps of Engineers Master Plan, and

2.8 Agrees to notify the Maryland DNR and the West Virginia DNR of each reservoir drawdown prior thereto excepting drawdown for the reestablishment of normal lake levels following flood control operations and drawdown resulting from routine water control management operations described in the reservoir regulation manual including releases requested by water supply owners and normal water quality releases. In case of emergency releases or emergency flow curtailments, telephone or oral notification will be provided. The District reserves the right, following issuance of the above notice, to make operational and other tests which may be necessary to insure the safe and efficient operation of the dam, for inspection and maintenance purposes, and for the gathering of water quality data both within the impoundment and in the Potomac River downstream from the dam.

Article III – State Responsibilities

The State of Maryland and the State of West Virginia agree:

3.1 That each State will have and exercise concurrent jurisdiction with the District and the other State for the purpose of enforcing the civil and criminal laws of the respective States pertaining to natural resources and boating laws and regulations over any lands and waters of the Jennings Randolph Lake Project;

3.2 That existing natural resources and boating laws and regulations already in effect in each State shall remain in force on the Jennings Randolph Lake Project until either State amends, modifies or rescinds its laws and regulations;

3.3 That the Agreement for Fishing Privileges dated June 24, 1985 between the State of Maryland and the State of West Virginia, as amended, remains in full force and effect;

3.4 To enforce the natural resources and boating laws and regulations applicable to the Jennings Randolph Lake Project;

3.5 To supply the District with the name, address and telephone number of the person(s) to be contacted when any drawdown except those resulting from normal regulation procedures occurs;

3.6 To inform the Reservoir Manager of all emergencies or unusual activities occurring on the Jennings Randolph Lake Project;

3.7 To provide training to District employees in order to familiarize them with natural resources and boating laws and regulations as they apply to the Jennings Randolph Lake Project; and

3.8 To recognize that the District and other Federal Agencies have the right and responsibility to enforce, within the boundaries of the Jennings Randolph Lake Project, all applicable Federal laws, rules and regulations so as to provide the public with safe and healthful recreational opportunities and to provide protection to all federal property within the project.

Article IV – Mutual Cooperation

4.1 Pursuant to the aims and purposes of this Compact, the State of Maryland, the State of West Virginia and the District mutually agree that representatives of their natural resource management and enforcement agencies will cooperate to further the purposes of this Compact. This cooperation includes, but is not limited to, the following:

4.2 Meeting jointly at least once annually, and providing for other meetings as deemed necessary for discussion of matters relating to the management of natural resources and visitor use on lands and waters within the Jennings Randolph Lake Project;

4.3 Evaluating natural resources and boating, to develop natural resource and boating management plans and to initiate and carry out management programs;

4.4 Encouraging the dissemination of joint publications, press releases or other public information and the interchange between parties of all pertinent agency policies and objectives for the use and perpetuation of natural resources of Jennings Randolph Lake Project; and

4.5 Entering into working arrangements as occasion demands for the use of lands, waters, construction and use of buildings and other facilities at the project.

Article V – General Provisions

5.1 Each and every provision of this Compact is subject to the laws of the States of Maryland and West Virginia and the laws of the United States, and the delegated authority in each instance.

5.2 The enforcement and applicability of natural resources and boating laws and regulations referenced in this Compact shall be limited to the lands and waters of the Jennings Randolph Lake Project, including but not limited to the prevailing reciprocal fishing laws and regulations between the States of Maryland and West Virginia.

5.3 Nothing in this Compact shall be construed as obligating any party hereto to the expenditure of funds or the future payment of money in excess of appropriations authorized by law.

5.4 The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of the Jennings Randolph Lake Project Compact is declared to be unconstitutional or inapplicable to any signatory party or agency of any party, the constitutionality and applicability of the Compact shall not be otherwise affected as to any other provision, party, or agency. It is the legislative intent that the provisions of this Compact be reasonably and liberally construed to effectuate the stated purposes of the Compact.

5.5 No member of or delegate to Congress, or signatory shall be admitted to any share or part of this Compact, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

5.6 When this Compact has been ratified by the legislature of each respective State, when the Governor of West Virginia and the Governor of Maryland have executed this Compact on behalf of their respective States and have caused a verified copy thereof to be filed with the Secretary of State of each respective State, when the Baltimore District Engineer of the U.S. Army Corps of Engineers has executed its concurrence with this Compact, and when this Compact has been consented to by the Congress of the United States, then this Compact shall become operative and effective.

5.7 Either State may, by legislative act, after one year's written notice to the other, withdraw from this Compact. The U.S. Army Corps of Engineers may withdraw its concurrence with this Compact upon one year's written notice from the Baltimore District Engineer to the Governor of each State.

5.8 This Compact may be amended from time to time.

Each proposed amendment shall be presented in resolution form to the Governor of each State and the Baltimore District Engineer of the U.S. Army Corps of Engineers. An amendment to this Compact shall become effective only after it has been ratified by the legislatures of both signatory States and concurred in by the U.S. Army Corps of Engineers, Baltimore District. Amendments shall become effective thirty days after the date of the last concurrence or ratification.

8–4A–01. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 37 OF 2004 **

The Governor is hereby authorized and directed to execute a Compact on behalf of the State of Maryland with the State of West Virginia, with participation through concurrence by the United States Army Corps of Engineers legally joining in the form substantially as follows:

Jennings Randolph Lake Project Compact

Preamble

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1. The Congress, under Public Law 87–874, authorized the development of the Jennings Randolph Lake Project for the North Branch of the Potomac River substantially in accordance with House Document Number 469, 87th Congress, 2nd Session for flood control, water supply, water quality, and recreation; and

2. Section 4 of the Flood Control Act of 1944 (CH 665, 58 Stat. 534) provides that the Chief of Engineers, under the supervision of the Secretary of War (now Secretary of the Army), is authorized to construct, maintain and operate public park and recreational facilities in reservoir areas under control of such Secretary for the purpose of boating, swimming, bathing, fishing, and other recreational purposes, so long as the same is not inconsistent with the laws for the protection of fish and wildlife of the State(s) in which such area is situated; and

3. Pursuant to the authorities cited above, the U.S. Army Engineer District (Baltimore), hereinafter "District", did construct and now maintains and operates the Jennings Randolph Lake Project; and

4. The National Environmental Policy Act of 1969 (P.L. 91–190) encourages productive and enjoyable harmony between man and his environment, promotes efforts which will stimulate the health and welfare of man, and encourages cooperation with State and local governments to achieve these ends; and

5. The Fish and Wildlife Coordination Act (16 U.S.C. 661–666c) provides for the consideration and coordination with other features of water–resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation; and

6. The District has Fisheries and Wildlife Plans as part of the District's project Operational Plan Management; and

7. In the respective States, the Maryland Department of Natural Resources (hereinafter referred to as Maryland DNR) and the West Virginia Division of Natural Resources (hereinafter referred to as West Virginia DNR) are primarily responsible for providing a system of control, propagation, management, protection, and regulation of natural resources, criminal activities, and boating in Maryland and West Virginia and the enforcement of laws and regulations pertaining to those resources as provided in Annotated Code of Maryland Natural Resources Article and West Virginia Chapter 20, respectively, and the successors thereof; and

8. The District, the Maryland DNR, and the West Virginia DNR are

desirous of conserving, perpetuating and improving fish and wildlife resources and recreational benefits of the Jennings Randolph Lake Project; and

9. The District and the States of Maryland and West Virginia wish to implement the aforesaid acts and responsibilities through this Compact and they each recognize that consistent enforcement of the natural resources, criminal, and boating laws and regulations can best be achieved by entering this Compact;

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1.2 The legislative bodies of the respective signatory parties, with the concurrence of the U.S. Army Corps of Engineers, hereby find and declare:

1. The water resources and project lands of the Jennings Randolph Lake Project are affected with local, state, regional, and national interest, and the planning, conservation, utilization, protection and management of these resources, under appropriate arrangements for inter–governmental cooperation, are public purposes of the respective signatory parties.

2. The lands and waters of the Jennings Randolph Lake Project are subject to the sovereign rights and responsibilities of the signatory parties, and it is the purpose of this compact that, notwithstanding any boundary between Maryland and West Virginia that preexisted the creation of Jennings Randolph Lake, the parties will have and exercise concurrent jurisdiction over any lands and waters of the Jennings Randolph Lake Project concerning natural resources, criminal, and boating laws and regulations in the common interest of the people of the region.

Article II – District Responsibilities

The District, within the Jennings Randolph Lake Project,

2.1 Acknowledges that the Maryland DNR and West Virginia DNR have authorities and responsibilities in the establishment, administration and enforcement of the natural resources, criminal, and boating laws and regulations applicable to this project, provided that the laws and regulations promulgated by the States support and implement, where applicable, the intent of the Rules and Regulations Governing Public Use of Water Resources Development Projects administered by the Chief of Engineers

in Title 36, Chapter III, Part 327, Code of Federal Regulations,

2.2 Agrees to practice those forms of resource management as determined jointly by the District, Maryland DNR and West Virginia DNR to be beneficial to natural resources and which will enhance public recreational opportunities compatible with other authorized purposes of the project,

2.3 Agrees to consult with the Maryland DNR and West Virginia DNR prior to the issuance of any permits for activities or special events which would include, but not necessarily be limited to: fishing tournaments, training exercises, regattas, marine parades, placement of ski ramps, slalom water ski courses and the establishment of private markers and/or lighting. All such permits issued by the District will require the permittee to comply with all State laws and regulations,

2.4 Agrees to consult with the Maryland DNR and West Virginia DNR regarding any recommendations for regulations affecting natural resources including, but not limited to, hunting, trapping, fishing or boating at the Jennings Randolph Lake Project which the District believes might be desirable for reasons of public safety, administration, or public use and enjoyment,

2.5 Agrees to consult with the Maryland DNR and West Virginia DNR relative to the marking of the lake with buoys, aids to navigation, regulatory markers and establishing and posting of speed limits, no wake zones, restricted or other control areas and to provide, install and maintain such buoys, aids to navigation and regulatory markers as are necessary for the implementation of the District's Operational Management Plan. All buoys, aids to navigation and regulatory markers to be used shall be marked in conformance with the Uniform State Waterway Marking System,

2.6 Agrees to allow hunting, trapping, boating and fishing by the public in accordance with the laws and regulations relating to the Jennings Randolph Lake Project,

2.7 Agrees to provide, install and maintain public ramps, parking areas, courtesy docks, etc., as provided for by the approved Corps of Engineers Master Plan, and

2.8 Agrees to notify the Maryland DNR and the West Virginia DNR of each reservoir drawdown prior thereto excepting drawdown for the reestablishment of normal lake levels following flood control operations and drawdown resulting from routine water control management operations described in the reservoir regulation manual including releases requested by water supply owners and normal water quality releases. In case of emergency releases or emergency flow curtailments, telephone or oral notification will be provided. The District reserves the right, following issuance of the above notice, to make operational and other tests which may be necessary to insure the safe and efficient operation of the dam, for inspection and maintenance purposes, and for the gathering of water quality data both within the impoundment and in the

Potomac River downstream from the dam.

Article III – State Responsibilities

The State of Maryland and the State of West Virginia agree:

3.1 That each State will have and exercise concurrent jurisdiction with the District and the other State for the purpose of enforcing the civil and criminal laws of the respective States pertaining to natural resources and boating laws and regulations, and criminal activities over any lands and waters of the Jennings Randolph Lake Project;

3.2 That existing natural resources, criminal, and boating laws and regulations already in effect in each State shall remain in force on the Jennings Randolph Lake Project until either State amends, modifies or rescinds its laws and regulations;

3.3 That the Agreement for Fishing Privileges dated June 24, 1985 between the State of Maryland and the State of West Virginia, as amended, remains in full force and effect;

3.4 To enforce the natural resources, criminal, and boating laws and regulations applicable to the Jennings Randolph Lake Project;

3.5 To supply the District with the name, address and telephone number of the person(s) to be contacted when any drawdown except those resulting from normal regulation procedures occurs;

3.6 To inform the Reservoir Manager of all emergencies or unusual activities occurring on the Jennings Randolph Lake Project;

3.7 To provide training to District employees in order to familiarize them with natural resources, criminal, and boating laws and regulations as they apply to the Jennings Randolph Lake Project; and

3.8 To recognize that the District and other Federal Agencies have the right and responsibility to enforce, within the boundaries of the Jennings Randolph Lake Project, all applicable Federal laws, rules and regulations so as to provide the public with safe and healthful recreational opportunities and to provide protection to all federal property within the project.

Article IV – Mutual Cooperation

4.1 Pursuant to the aims and purposes of this Compact, the State of Maryland, the State of West Virginia and the District mutually agree that representatives of their natural resource management and enforcement agencies will cooperate to further the purposes of this Compact. This cooperation includes, but is not limited to, the following:

4.2 Meeting jointly at least once annually, and providing for other meetings as deemed necessary for discussion of matters relating to the management of natural resources and visitor use on lands and waters within the Jennings Randolph Lake Project;

4.3 Evaluating natural resources and boating, to develop natural resource and boating management plans and to initiate and carry out management programs;

4.4 Encouraging the dissemination of joint publications, press releases or other public information and the interchange between parties of all pertinent agency policies and objectives for the use and perpetuation of natural resources of Jennings Randolph Lake Project; and

4.5 Entering into working arrangements as occasion demands for the use of lands, waters, construction and use of buildings and other facilities at the project.

Article V – General Provisions

5.1 Each and every provision of this Compact is subject to the laws of the States of Maryland and West Virginia and the laws of the United States, and the delegated authority in each instance.

5.2 The enforcement and applicability of natural resources, criminal, and boating laws and regulations referenced in this Compact shall be limited to the lands and waters of the Jennings Randolph Lake Project, including but not limited to the prevailing reciprocal fishing laws and regulations between the States of Maryland and West Virginia.

5.3 Nothing in this Compact shall be construed as obligating any party hereto to the expenditure of funds or the future payment of money in excess of appropriations authorized by law.

5.4 The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of the Jennings Randolph Lake Project Compact is declared to be unconstitutional or inapplicable to any signatory party or agency of any party, the constitutionality and applicability of the Compact shall not be otherwise affected as to any other provision, party, or agency. It is the legislative intent that the provisions of this Compact be reasonably and liberally construed to effectuate the stated purposes of the Compact.

5.5 No member of or delegate to Congress, or signatory shall be admitted to any share or part of this Compact, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

5.6 When this Compact has been ratified by the legislature of each respective State, when the Governor of West Virginia and the Governor of Maryland have executed this Compact on behalf of their respective States and have caused

a verified copy thereof to be filed with the Secretary of State of each respective State, when the Baltimore District Engineer of the U.S. Army Corps of Engineers has executed its concurrence with this Compact, and when this Compact has been consented to by the Congress of the United States, then this Compact shall become operative and effective.

5.7 Either State may, by legislative act, after one year's written notice to the other, withdraw from this Compact. The U.S. Army Corps of Engineers may withdraw its concurrence with this Compact upon one year's written notice from the Baltimore District Engineer to the Governor of each State.

5.8 This Compact may be amended from time to time.

Each proposed amendment shall be presented in resolution form to the Governor of each State and the Baltimore District Engineer of the U.S. Army Corps of Engineers. An amendment to this Compact shall become effective only after it has been ratified by the legislatures of both signatory States and concurred in by the U.S. Army Corps of Engineers, Baltimore District. Amendments shall become effective thirty days after the date of the last concurrence or ratification.

§8–701.

(a) In this subtitle the following words have the meanings indicated.

(b) "Certificate" means any certificate of number or title issued.

(c) (1) "Dealer" means any person who:

(i) Engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise; and

(ii) Has an established place of business for sale, trade, and display of vessels.

(2) "Dealer" includes:

(i) A yacht broker; and

(ii) A holder of a lien created under Title 16, Subtitle 2 of the Commercial Law Article who sells the vessel pursuant to that title, including an auctioneer and a company commonly known as a lien and recovery company.

(d) "Governing body" means the county commissioners, county executive and county council of any county, the Mayor and City Council of Baltimore, and the elected officials of any municipal corporation in the State, subject to Article XI-E of the Maryland Constitution.

(e) "Lienholder" means a person holding a security interest.

(f) "Manufacturer" means any person engaged in the business of manufacturing or importing new and unused vessels, or new and unused outboard motors, for the purpose of sale or trade.

(g) "Marine repair contractor" means a person or entity engaged full time in the business of providing maintenance, repair, or similar services to vessels.

(h) "Motorboat" means any vessel equipped with propelling machinery, whether or not the machinery is the principal source of propulsion.

(i) "Operate" means to navigate or otherwise use a vessel.

(j) "Operator" means the person who operates or has charge of the navigation or use of a vessel.

(k) (1) "Owner" means a person, other than a lienholder, having property in or title to a vessel.

(2) "Owner" includes a person entitled to use or possess a vessel subject to an interest in another person, reserved, or created by agreement and securing payment of performance of an obligation.

(3) "Owner" does not include a lessee under a lease not intended as security.

(l) "Parasailing" means a parachute or other device which causes a person to become airborne when towed by a vessel.

(m) "Personal watercraft" means a Class A vessel that:

(1) Has an inboard motor which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion;

(2) Is designed for the operator and passenger to ride on the outside surfaces of the vessel rather than inside the vessel;

(3) Has the probability that the operator and passenger may, in the normal course of use, fall overboard; and

(4) Is designed with no open load-carrying area which would retain water.

(n) "Security interest" means an interest which:

(1) Is reserved or created by an agreement which secures payment or performance of an obligation; and

(2) Is valid against third parties generally.

(o) (1) "Ship lifeboat" means a lifeboat used solely for lifesaving purposes.

(2) "Ship lifeboat" does not include dinghies, tenders, speedboats, or other types of craft carried aboard a vessel and used for other than lifesaving purposes.

(p) "State of principal use" means the jurisdiction on whose waters a vessel is used or to be used most during a calendar year which is the period from January 1 through December 31.

(q) "Title tax" means the tax imposed under § 8-716 of this subtitle.

(r) "Use" means to operate, navigate, or employ a vessel. A vessel is in use whenever it is upon the water, whether it is moving, anchored, or tied up to any manner of dock or buoy. A vessel is also in use if it is kept in any structure in readiness for use.

(s) (1) "Vessel" means every description of watercraft, including an ice boat but not including a seaplane, that is used or capable of being used as a means of transportation on water or ice.

(2) "Vessel" includes the motor, spars, sails, and accessories of a vessel.

(t) "Waters of the State" means any water within the jurisdiction of the State, the marginal sea adjacent to the State, and the high seas when navigated as part of a ride or journey to or from the shore of the State.

§8–702.

It is the intent of this subtitle to foster the development, use, and enjoyment of all the waters of Maryland. The State shall cooperate to the fullest possible extent with neighboring states and the federal government in connection with assistance and rescue operations and in enforcement of laws and regulations relating to recreational boating safety.

§8–703.

(a) The Department shall administer the provisions of this subtitle. In addition, the Department shall:

(1) Develop plans, within the limits of available income, for the improvement and promotion of the waters of the State for recreational purposes;

(2) Promote safety of life and property through an educational program directed to boat owners, boat operators, and others concerning the inherent hazards to vessels and people on the waters, including precautions to be observed, and emergency action;

(3) Plan a regulatory program and its related cooperation with officials of other states, the federal government, and local governments;

(4) Improve the State's waterways by deepening channels, acquiring and developing access areas, clearing waterways by removing logs, debris, and other material obstructing or detrimental to navigation, building docks, and clearing waters of aquatic vegetation;

(5) Cooperate with federal, State, or local agencies which make funds available for the purposes of this subtitle;

(6) In order to protect life and property, tow disabled vessels on any waters of the State to the nearest safe harbor or to a location where commercial towing facilities are available. The Department may not engage in towing in competition with commercial towing services;

(7) Designate and mark channels in the waters of the State; and

(8) By April 1, 1990, for any attended boat launching facility or marina that is owned or operated by the Department on July 1, 1989 or that is purchased, built, or otherwise acquired by the Department on or after July 1, 1989, install a pump-out station on-site at any attended boat launching facility or marina that is adequate to handle the sewage capacity from vessels expected to use the boat launching facility or marina.

(b) The Department may take possession of any document the Department issues pursuant to this subtitle:

(1) After the document's expiration, revocation, cancellation, or suspension; or

(2) If the document is issued unlawfully or erroneously.

§8–703.1.

(a) The Department shall develop and implement by August 1, 1987 an educational program to advise boaters, boatyards, marine suppliers, and other users of antifouling paints on:

(1) The provisions of Title 5, Subtitle 9 of the Agriculture Article, § 9-321.1 of the Environment Article, and this section;

(2) The toxic propensities to marine life of antifouling paints containing tributyltin compounds; and

(3) The availability of substitute paints.

(b) The Department shall:

(1) Publish for use by the public a detailed listing of antifouling paints in use in the State that contain tributyltin and those that do not; and

(2) Publish, to the extent possible, which antifouling paints containing tributyltin have acceptable release rates, as defined in § 5-901 of the Agriculture Article.

(c) The Department shall develop the educational program under subsection (a) of this section and the materials used in the program in coordination with the State Department of Agriculture and in consultation with the marine trades and with representatives of the boating public.

§8–703.2.

(a) Notwithstanding any other provision of this subtitle, the Department may adopt boating regulations exclusively applicable to Jennings Randolph Lake.

(b) Regulations adopted under this section:

(1) Shall be developed in coordination with the State of West Virginia;

(2) Shall allow for joint enforcement of boating activities by Maryland and West Virginia authorities in accordance with the Jennings Randolph Lake Project Compact; and

(3) May differ from Maryland boating laws that would otherwise apply.

(c) Regulations adopted under this section may:

(1) Provide age limits for the operation of a vessel;

(2) Establish vessel noise limits;

(3) Impose safety requirements regarding vessels;

(4) Impose other standards and requirements for the operation of a vessel;

(5) Provide for rules of the road for vessels;

(6) Provide requirements regarding the operation of personal watercraft;

(7) Impose restrictions on the operation of vessels while towing an individual on water skis or similar devices; and

(8) Address other areas pertaining to activities at the Jennings Randolph Lake Project that the Department considers appropriate.

§8–704.

(a) The Department may adopt regulations necessary to carry out the provisions of this subtitle, including the determination of the state of principal use for the purpose of assessing the vessel excise tax.

(b) In order to protect the public safety, welfare, and recreational interests in waters of the State, the Department may adopt a program relating to the placement of buoys, mooring buoys, and other apparatus used to secure, berth, or moor vessels in the waters of the State. The Department shall consult with any county affected by the program.

(c) The Department shall adopt regulations governing the following:

(1) The numbering of vessels for identification, safety equipment on vessels, and operations of any vessels subject to this subtitle so that each vessel of a type or size complying with the regulations may be operated with equal freedom or under similar requirements as other vessels of that type or size on all waters of the State. The numbering system used shall conform to the one adopted by the federal government. These regulations may not conflict with any federal law or regulation applicable to vessels on the waters in the State;

(2) The issuance of certificates of title and certificates of boat number;

(3) Instructions for making reports and handling personnel and boats in case of accidents;

(4) Abandonment, destruction, theft, recovery, sale, or transfer of ownership;

(5) Change of address of owner;

(6) Use of boats from other jurisdictions on the waters of the State;

(7) Issuance of certificates of number for boats changing their state of principal use to Maryland;

(8) Cooperation with local governments and the federal authority for special events or to meet emergency situations; and

(9) Issuance of certificates of number to owners of fleets or boats for hire or rent.

(d) (1) The Department shall adopt regulations prohibiting the operation of personal watercraft above idle speed in any area of water with a depth of less than 18 inches.

(2) Except as provided in paragraph (1) of this subsection, the Department may adopt regulations limiting the use of personal watercraft in any area of water with a depth of less than 1 meter.

(e) Department regulations do not become effective unless advertised publicly in at least 2 daily newspapers of general circulation and at least 1 weekly newspaper serving the area or areas involved at least 45 days before the effective date. If 50 citizens

of the State file a petition with the Department at least 15 days prior to the effective date, the Department shall conduct a public hearing on the proposed regulations.

(f) A municipality or other local authority may not establish any regulation of a local nature which does not conform with the Department's regulations.

(g) On any proposed regulation affecting the equipment or operation of any vessel subject to this subtitle, the Secretary shall solicit the advice and opinions of officials of representative boating associations, yacht clubs, and local, State, or federal governments or officials, having knowledge or experience with the subject matter of the proposed regulations. These representatives and officials serve as an advisory committee appointed by the Secretary to review the proposed regulations.

(h) The Department, with the endorsement of the Secretary of Natural Resources and the Secretary of the Environment, after a public hearing following 60 days' notice, shall adopt and publish sound level limits governing the noise generated by the operation of pleasure craft on the waters of the State. The sound level limits shall be established at the most restrictive level consistent with the environmental noise standards adopted by the Department of the Environment which is achievable through the application of the best available technology and at a reasonable cost. The Department shall adopt regulations for the administration and enforcement of the sound level limits, taking into account accepted scientific and professional methods for measurement of sound levels.

(i) The Department shall adopt regulations to prohibit a person from:

(1) Operating an unauthorized vessel over a power boat race course; or

(2) Swimming across a boundary of a power boat race course.

§8–704.1.

(a) Except as provided in subsection (b) of this section, the Department may not furnish to any person the name, address, or other identifying information about the owner of the registered vessel.

(b) This section does not prevent the Department from furnishing information under this section:

(1) To another governmental agency;

(2) If not requested for the purpose of preparing a mailing list, to a person requesting the information in connection with the compilation of statistical data;

(3) As to the owners of vessels registered under this subtitle, to a person whose request for the information is determined by the Department to be limited to, and necessary for, the protection of the ownership, safe operation, proper maintenance, or repair of the vessel; or

(4) To a financial institution, as defined in § 1–101(i) of the Financial Institutions Article, or its agents, employees, or contractors, requesting information under § 4–317 of the General Provisions Article.

§8–705.

(a) A governing body may establish and designate areas of land or water within its jurisdiction as waterways improvement districts, subject to the provisions of subsection (c) of this section.

(b) A governing body:

(1) Shall act as the district council for the district; and

(2) May carry out the duties vested by law or which are reasonably necessary.

(c) A governing body shall refer every proposed district to the section of waterways improvement of the Department for a report and evaluation of benefits to be achieved by creating the proposed district. The Department shall review the proposed district and submit a report to the governing body containing recommendations on feasibility and need for the proposed district. The report shall include the area within the district, the work or project to be carried out within the district pursuant to § 8-707 of this subtitle, and the estimated cost for the work or project recommended.

§8–706.

The Department shall carry out the administrative duties concerning the waterways improvement districts. In addition, the Department shall:

(1) Review proposals and petitions to establish waterways improvement districts and report to the governing body on each proposed district as provided in § 8-705 of this subtitle;

(2) Provide engineering design for waterways projects and supervise or provide supervision for these projects;

(3) Clear debris, aquatic vegetation, and obstructions from waters of the State;

(4) Provide liaison with the United States Army Corps of Engineers on projects under § 107 of the Rivers and Harbors Act;

(5) Prepare requests for appropriation of funds necessary to pay the State's share of the cost of projects;

(6) Administer the Waterway Improvement Fund to provide interest-free

loans to any governing body for a waterway improvement project as provided in § 8-708(d) of this subtitle; and

(7) Administer the Waterway Improvement Fund to provide interest-free loans to a governing body for the benefit of a residential property owner, or group of residential property owners, with land abutting a channel adjacent to a main channel or harbor for dredging the adjacent channel as provided in § 8-708.1 of this subtitle.

§8–707.

(a) There is a Waterway Improvement Fund for the purposes specified in this subtitle. Except as provided in § 8–709 of this subtitle, any money received into the Waterway Improvement Fund shall be used solely for the following projects:

(1) Marking channels and harbors and establishing aids to navigation in cooperation with and as an extension of operations of the United States Coast Guard;

(2) Clearing debris, aquatic vegetation, and obstruction from waters of the State;

(3) Dredging channels and harbors and construction of jetties and breakwaters in cooperation with and as an extension of operations of the United States Army Corps of Engineers;

(4) Constructing and maintaining marine facilities beneficial to the boating public, including constructing pump–out stations for use by the general boating public at public and private marinas. The Secretary may use the funds to install pump–out stations for use by the general boating public and to supplement maintenance costs at the discretion of the Secretary. Before approving the construction of any pump–out station at a public or private marina, the Secretary shall consult with the Department of the Environment to assure that the wastewater collection and treatment system of the marina is adequate to handle any increased flow. The Department may adopt regulations to govern the use and operation of pump–out stations for use by the general boating public constructed or supported by State funds under this section;

(5) Improvement, reconstruction, or removal of bridges, drawbridges, or similar structures over or across waters, if those structures delay, impede, or obstruct the boating public. With the approval of the Board of Public Works, funds from another public or any private source may be received and used to supplement and increase the funds in the Waterway Improvement Fund for the purpose of this subsection. Also, the Board of Public Works may enter into an agreement with a private company or person which owns such a structure, for the improvement, reconstruction, or removal of the structure, in order to provide a sharing of the cost of the improvement, reconstruction, or removal;

(6) Evaluation of water–oriented recreation needs and recreational capacities of Maryland waterways and development of comprehensive plans for

waterway improvements;

(7) To provide matching grants to local governments for the construction of marine facilities for marine firefighting, marine police, or medical services and for the acquisition of vessels and equipment for vessels for marine firefighting, police, medical, and communication equipment for promoting safety of life and property and general service to the boating public utilizing the waters of the State. The ownership, operation, and maintenance of any equipment acquired under this subtitle shall be the responsibility of the local governing body;

(8) Structural and nonstructural shore erosion control under subsection (b) of this section;

(9) Acquisition of equipment and State vessels for firefighting, policing, first aid and medical assistance, and communications, in order to promote safety of life and property and general service to the boating public utilizing waters of the State;

(10) Boating information and education; and

(11) To provide interest–free loans to a governing body for the benefit of a residential property owner, or group of residential property owners, with land abutting a channel adjacent to a federal, State, county, or municipal main channel or harbor for dredging the adjacent channel.

(b) Moneys from the Waterway Improvement Fund may be appropriated for structural and nonstructural shore erosion control projects under Subtitle 10 of this title, provided that the funds appropriated:

(1) In any fiscal year do not exceed 15% of the total excise tax revenues, exclusive of loan repayments, attained by the Waterway Improvement Fund in the preceding fiscal year; and

(2) May only be expended for projects that address shoreline areas where:

(i) Significant erosion is being caused by a combination of boat traffic and other factors, including:

1. An exposed point of land or shore in a narrow creek or cove;

2. Shore composition of easily erodible soils;

3. A steep, seaward, near–shore slope; or

4. A high rate of boating traffic passing close to the shore;

(ii) The shoreline has the following characteristics:

1. Evidence of erosion is clearly visible; and

2. Proximity to navigable waters where dredging responsibility is not clearly accepted by the federal government; or

(iii) Erosion has been significantly increased due to the construction or replacement of public waterway improvement structures.

(c) (1) Funds specified under subsection (b) of this section may be appropriated in a lump sum for the general purpose of shore erosion control, without specifying individual projects pursuant to § 8–709(a) of this subtitle.

(2) By January 1 of each year, the Department shall issue a written report to the Senate Budget and Taxation Committee and the House Appropriations Committee that shall contain for each grant or loan made under subsection (b) of this section:

(i) The amount of each grant or loan;

(ii) The name and address of each recipient;

(iii) The location of the property for which the grant or loan was made; and

(iv) If the recipient is a corporation, the name of each officer of the corporation.

§8–708.

(a) Except as provided in § 8–708.1 of this subtitle, projects for dredging and marking channels and harbors, construction of jetties and breakwaters, and clearing debris, aquatic vegetation, and obstructions in navigable waters, as well as construction of marine facilities located within lands owned by the Department and construction of pump–out stations for use by the general boating public at public and private marinas, shall be financed solely by the Waterway Improvement Fund. Any funds available from the federal government, any governing body, or any gift also may be used for these purposes.

(b) Except for the construction of pump–out stations for use by the general boating public at public and private marinas, the governing body and the Waterway Improvement Fund jointly shall finance projects to construct marine facilities beneficial to the boating public. The contribution of the Waterway Improvement Fund shall be limited to not more than 50% of the cost of each project. However, the Waterway Improvement Fund may finance completely any construction project beneficial to the boating public which costs less than $100,000 regardless of its location.

(c) (1) The governing body shall pay its share of matching projects under subsection (b) of this section or shall repay the Waterway Improvement Fund for any loan authorized under subsection (d) of this section either by:

(i) Means of appropriations from general funds; or

(ii) Levying a special assessment or tax against each property owner whose property lies within the district.

(2) The governing body may accept and use any gift for the cost of any project as part of the governing body's share of any matching fund project.

(d) In addition to the methods of financing provided in subsections (a) and (b) of this section, a governing body may borrow interest–free funds from the Waterway Improvement Fund for a waterway improvement project within a waterway improvement district. However, the amount borrowed from the Waterway Improvement Fund for these districts may not exceed 21% of the total attained revenue of the Waterway Improvement Fund from the previous fiscal year. A single project may not exceed 7% of the total attainment. The governing body shall repay the funds at a uniform rate over a period not to exceed 25 years as provided by agreement between the State and the governing body.

(e) The contribution of the Waterway Improvement Fund shall be limited to not more than 50% of the cost of each acquisition, and the total amount of funds expended in any fiscal year for acquisitions and projects specified in § 8–707(a)(7) and (9) of this subtitle may not exceed the amount of the motor fuel tax revenue paid to the Waterway Improvement Fund in the preceding fiscal year, as provided for in § 2–1104 of the Tax – General Article.

(f) Notwithstanding any other provision of this subtitle, funds deposited in the Waterway Improvement Fund may be used for amortization and payment of interest on bonds issued for financing projects authorized under this subtitle.

§8–708.1.

(a) Projects for dredging channels adjacent to federal, State, county or municipal main channels or harbors may be financed by interest-free loans to a governing body for the benefit of a residential property owner or a group of residential property owners with land abutting the adjacent channel.

(b) (1) Except as provided in paragraph (2) of this subsection, unless every residential property owner with land abutting the adjacent channel agrees to participate in the financing of the dredging project, the dredging project may not be approved.

(2) If all residential property owners abutting a channel adjacent to a main channel or harbor agree to exempt a residential property owner or group of residential property owners from participating in the financing of the dredging project, the residential property owner or group of residential property owners shall be exempt.

(c) Repayments of the principal on loans made under this section shall be made by the governing body in accordance with § 8-708(c) of this subtitle.

§8–709.

(a) The Department shall include in its annual budget request an itemized list of requests for the use of any available money from the Waterway Improvement Fund for the projects under § 8–707 of this subtitle. The Department's list shall include a brief description of each project, an estimate of its cost, and the benefits to be derived from it. The list shall designate which projects are financed solely by the Waterway Improvement Fund, which are matching fund projects, and which are interest–free loan projects.

(b) Notwithstanding the provisions of subsection (a) of this section, in any fiscal year the Department may expend from the Waterway Improvement Fund without legislative approval a total sum of not more than $225,000. Of this amount, a sum of not more than $125,000 may be expended for small projects under § 8–707(a)(3) and (4) of this subtitle, subject to the limitation that a single project of this kind may not exceed $5,000 in cost to the Waterway Improvement Fund, and a sum of not more than $100,000 may be expended for boating safety and education.

(c) Notwithstanding the provisions of subsection (a) of this section, the Department may propose an appropriation from the Waterway Improvement Fund to support marine operations of the Natural Resources Police not exceeding:

(1) $1,700,000 in the Department's fiscal year 2006 budget; and

(2) $2,000,000 in the Department's fiscal year 2007 budget, and every year thereafter.

(d) Notwithstanding the provisions of subsection (a) of this section:

(1) For fiscal year 2006 through fiscal year 2009, as provided in the State budget, the Department may use up to the following percentage of the moneys in the Waterway Improvement Fund for administrative expenses directly relating to implementing the purposes of the Waterway Improvement Fund:

(i) In fiscal year 2006, 8%;

(ii) In fiscal year 2007, 6%;

(iii) In fiscal year 2008, 4%; and

(iv) In fiscal year 2009, 2%; and

(2) For fiscal years after fiscal year 2009, the Department may use up to $750,000 in the Waterway Improvement Fund for administrative expenses directly relating to implementing the purposes of the Waterway Improvement Fund.

§8–709.1.

(a) This section applies to any public or private marina that is located on the navigable waters of the State.

(b) Except as provided under § 9-333 of the Environment Article, on or after July 1, 1989 a person may not construct:

(1) Any additional slips at an existing marina that would result in a total slip capacity of more than 10 slips; or

(2) A new marina with more than 10 slips on the navigable waters of the State.

§8–710.

(a) A manufacturer or dealer may not conduct his business in the State unless licensed as a manufacturer or dealer pursuant to regulations the Department adopts.

(b) An out-of-state or foreign manufacturer or dealer shall be exempted from licensing solely for purposes of displaying and selling vessels at a boat show, boat exposition, or outdoor recreation show if the show or exposition is 14 consecutive days or less duration, admission taxes are paid on charges for admission to the show or exposition, and the manufacturer or dealer does not principally own, control, or manage the show or exposition.

(c) Application for a manufacturer's or dealer's license is made on the form the Department prescribes and contains the name and address of the applicant. If the applicant is a partnership, the application shall include the name and address of each partner. If the applicant is a corporation, the application shall contain the names of the principal officers of the corporation, the state of incorporation, the addresses of every place where the business is conducted, the nature of the business, and any other information the Department requires. Every application shall be verified by oath or affirmation of the applicant if an individual, or by the partner or officer if the applicant is a partnership or corporation. A license fee fixed by the Department not to exceed $25 shall accompany every application.

(d) After receiving the required application and fee, the Department issues a license certificate to the applicant which entitles him to conduct business as a manufacturer or dealer during the calendar year in which the license is issued. Every license expires on December 31 of each year in which issued. The license may be renewed upon annual application and payment of the required fee.

(e) (1) The Department may refuse to issue a license or, after written notice to the licensee and a hearing, may cancel a license when the Department determines that the applicant or licensee has failed to comply with the provisions of this subtitle.

(2) On petition of the Consumer Protection Division of the Office of the

Attorney General, and after written notice to a licensee and a hearing, the Department may revoke or suspend the license of a dealer if the Department determines that the licensee has violated § 13-301 or § 13-303 of the Commercial Law Article.

(f) If, during the period for which a dealer's or manufacturer's license is issued, there is any change in the factual information furnished to the Department by the licensee in connection with obtaining or retaining the license or a renewal of the license, the change shall be truly, fully, and promptly communicated to the Department in writing on forms provided by the Department. The applicant shall sign the form and certify that the information given is true and correct.

§8–710.1.

(a) Prior to the issuance of a boat dealer's or manufacturer's license, each applicant shall file with the Department acceptable evidence of a bond or other security deemed sufficient and adequate by the Department for the payment of fees and taxes the applicant receives based upon the applicant's volume of sales and the class of boat dealer's or manufacturer's license which the applicant has requested. The bond shall be for the use and benefit of the Department and any member of the public who suffers or sustains any loss by reason of any violation of this subtitle by the licensee, the licensee's agent, or the licensee's employee. The Department may also use the bond to recover any penalty and interest charged to the licensee based on a failure to pay the fees or taxes received by the applicant.

(b) If any licensee fails to file acceptable evidence that the bond required by this section has been extended prior to the expiration of the bond, the licensee's dealer's or manufacturer's license automatically is suspended upon expiration of the bond. The suspension shall terminate when the licensee files with the Department acceptable evidence of a bond or other security deemed sufficient and adequate by the Department for the payment of fees and taxes the licensee receives based upon the licensee's volume of sales and the class of boat dealer's and manufacturer's license which the licensee has been issued.

(c) An applicant for a boat dealer's or manufacturer's license who also is applying for a title service agent's license or a trailer dealer's license with the Motor Vehicle Administration may file evidence of a bond or other security deemed adequate and sufficient by both the Motor Vehicle Administration and the Department with respect to the applicant's obligations and liabilities under this section and § 15-308 or § 15-604 of the Transportation Article.

§8–710.2.

(a) The Department may design temporary certificates of boat number and furnish them to any licensed boat dealer.

(b) (1) For any vessel that is to be used principally in Maryland, a licensed dealer may issue 1 temporary certificate of boat number to the person who buys the

vessel from the dealer.

(2) A dealer may not issue a temporary certificate of boat number unless:

(i) The taxes and other fees as required by this subtitle are paid to the dealer; and

(ii) An application for Maryland certificate of boat title and number or a purchaser's application for transfer of a Maryland certificate of boat title is completed and signed by the purchaser of the vessel.

(3) (i) Before issuing a temporary certificate of boat number, the dealer shall complete the certificate by writing in the information required by the Department.

(ii) A temporary certificate of boat number is not valid unless the dealer completes the certificate as required by this subsection.

(4) The dealer may not issue more than 1 temporary certificate for any vessel. If the temporary certificate is lost, stolen, or destroyed, the owner must apply to the Department for a certificate of boat number.

(5) Within 30 days after a dealer issues a temporary certificate of boat number, the dealer shall mail a copy of the temporary certificate to the Department.

(c) A temporary certificate of boat number expires when the first of either of the following occurs:

(1) A certificate of boat number for the vessel is issued by the Department; or

(2) 60 days expire from the date the temporary certificate was issued by the dealer.

(d) In addition to any other sanction under this subtitle, on failure of a dealer to forward to the Department taxes and fees within 30 days of collection, the Department may declare forfeited the bond or other security filed by the dealer under this subtitle.

(e) The Department may require the return of all temporary certificates from any dealer who has not complied with any provision of this subtitle.

§8–710.3.

(a) A licensed boat dealer shall collect the excise tax on all sales of vessels to be titled and numbered and on all sales of vessels to be federally documented to be used in the State as required under §§ 8-712 and 8-716 of this subtitle.

(b) A licensed boat dealer who operates a bare-boat charter shall insure that any owner of a vessel in the fleet of the dealer to be used in the State has:

(1) Complied with §§ 8-712 and 8-716 of this subtitle; and

(2) Numbered the vessel to be chartered in the State as the state of principal use.

§8–711.

(a) Every vessel whose construction is begun after October 31, 1972 shall have a hull identification number assigned and affixed as required by the Federal Boat Safety Act of 1971. The Department shall determine the procedures for application and for issuance of the hull identification number.

(b) A person may not destroy, remove, alter, cover, or deface the manufacturer's hull identification number, the plate bearing it, or any hull identification number the Department assigns to any vessel without the Department's permission.

§8–712.

(a) (1) Any vessel equipped with propulsion machinery of any type on the waters of the State shall be numbered for identification in accordance with this subtitle and any regulation pursuant to it. This provision does not apply to the following vessels:

(i) A vessel which has a valid document issued by the United States Coast Guard or its successor;

(ii) A vessel with a valid number awarded pursuant to federal law or a federally approved numbering system of another state, if the number awarded is displayed in accordance with the requirements of that system, and the certificate of number is available for inspection whenever the vessel is in use;

(iii) A vessel from a country other than the United States temporarily using the waters of the State for less than 90 days;

(iv) A vessel used for public service and owned by the United States government, another state, or any political subdivision;

(v) A ship's lifeboat;

(vi) A vessel propelled only by sail;

(vii) A vessel numbered according to the Federal Boat Safety Act of 1971; or

(viii) A vessel manually propelled.

(2) The Department, by regulation, for the period the Department prescribes may exempt any vessel or class of vessels from the numbering provisions of this subtitle, if the vessel or class of vessels is exempted from the federal numbering

requirements by statute, or rule or regulation.

(b) The owner of any vessel to be numbered by this subtitle shall file an application for a certificate of number with the Department. The application is on forms the Department approves, accompanied by the requisite fee, and signed by every vessel owner.

(c) (1) Certificates of number issued under this section shall be valid for a period not to exceed 2 years. The owner of the vessel may apply every other year for renewal of the certificate. The renewed certificate shall expire on December 31 of the calendar year following the year the certificate is issued. The fee for a 2-year certificate for vessels is $24. Vessels 16 feet in length or less and equipped with a 7 1/2 horsepower motor or less are exempt from this fee. The fee to replace a lost, destroyed, or corrected certificate is $2. The Department shall record any transaction or transfer of numbered boats. The Department may record any amount of money owing on a vessel required to be numbered at the time of sale. The Department may not effect a transfer of ownership until the amount of money owed as shown on the records of the Department is fully paid or recorded on the new title. Any vessel that is required to be numbered under this section that is exempt prior to January 1, 1974 shall be exempt from payment of this title tax.

(2) Emergency rescue boats and fire boats that belong to fire departments or rescue squads in Maryland:

(i) Shall be exempt from all registration fees; but

(ii) Shall apply for a registration renewal every 3 years.

(d) Upon receipt of the application in approved form, the Department shall issue to the applicant a certificate of boat number which shall contain the boat number issued to the vessel and additional information the Department prescribes by regulation. The certificate of boat number shall be available for inspection when the vessel is in use. The owner shall paint on or attach the boat number to each side of the forward half of the vessel's hull or superstructure for which the boat number is issued, displaying the boat number in the manner required by Department regulations and maintaining the boat number in legible condition.

(e) If a vessel required to be numbered under this subtitle is sold, transferred, abandoned, lost, stolen, or destroyed, the vessel's certificate expires at the time of the sale, transfer, abandonment, loss, theft, or destruction and then is invalid.

(f) There is a $5 service charge for every check returned unpaid.

(g) The Department shall inform each holder of a certificate of boat number of the manner in which the boat owner may obtain a current copy of the U. S. Coast Guard rules and regulations applicable to the type of boat registered under the owner's boat number.

(h) If a person who applies for the issuance or renewal of a certificate of boat number for a vessel has an outstanding warrant for failing to appear in court to answer a charging document alleging a violation under this subtitle, the Department shall refuse to issue or renew the certificate of boat number for the vessel until the person charged has complied with the provisions of § 1-205 of this article.

§8–712.1.

(a) (1) An owner of a vessel that has a valid document issued by the United States Coast Guard and that is used principally on the waters of the State for pleasure shall apply to the Department for a Maryland use sticker.

(2) The Department shall issue a Maryland use sticker to any person who submits an application and pays a fee as required by subsection (b) of this section.

(3) The Maryland use sticker issued under this section shall be valid for a period not to exceed 2 years expiring on December 31 of the calendar year following the year the sticker is issued.

(b) The owner of the vessel shall:

(1) Submit an application to the Department on the form that the Department requires and be signed by every owner of the vessel; and

(2) Pay to the Department an application fee of $10 for the 2-year sticker.

(c) Within 30 days after the sale or other transfer of a vessel that is displaying or should display a sticker under this section:

(1) The transferor shall give notice of the transfer to the Department on a form that the Department requires; and

(2) If the transferee intends to continue to use the vessel principally on the waters of the State, the transferee shall submit an application for a Maryland use sticker and pay the fee as required by subsection (b) of this section.

(d) The Maryland use sticker shall be displayed on or about the forward half of the vessel.

(e) Unless the vessel that is subject to the requirement of this section displays a current sticker:

(1) A person may not operate the vessel on the waters of the State; and

(2) The owner may not knowingly permit the vessel to be operated on the waters of the State.

§8–712.2.

(a) (1) Except as otherwise provided in paragraphs (3), (4), and (5) of this subsection, a person born on or after July 1, 1972 may not operate on the waters of the State a vessel for pleasure that is required to be numbered in accordance with this subtitle or a vessel for pleasure that is required to be numbered in accordance with the Federal Boat Safety Act of 1971 without first obtaining a certificate of boating safety education.

(2) A person who is subject to the provisions of paragraph (1) of this subsection shall:

(i) Possess the certificate of boating safety education when operating a vessel on waters of the State; and

(ii) Show the certificate on the demand of a Natural Resources police officer or other law enforcement officer.

(3) The following persons are exempt from the requirements of this section:

(i) A person who is operating a vessel in connection with commercial purposes;

(ii) A person who is a resident of another state and who is visiting the State for 60 days or less in a vessel that is numbered in another state if:

1. The person is 16 years old or older; or

2. The person has been issued a boating safety certificate in accordance with the provisions of subsection (c)(6) of this section;

(iii) A person who is visiting the State for 90 days or less in a vessel from a country other than the United States;

(iv) A person operating a vessel on a body of water located on private property; and

(v) Any other person exempted by regulation of the Department.

(4) When a vessel numbered in accordance with this subtitle or in accordance with the Federal Boat Safety Act of 1971 is operated for pleasure on waters of the State, at least 1 person on the vessel must:

(i) Possess the certificate of boating safety education; or

(ii) Be exempt from the certification requirements of paragraph (1) of this subsection.

(5) A person who is under the age of 16 and who operates a vessel numbered in accordance with this subtitle or in accordance with the Federal Boat Safety Act of 1971 must:

(i) Possess a certificate of boating safety education;

(ii) 1. If operating a vessel under 11 feet in length, be under the supervision of a person who has obtained a certificate of boating safety education and is aboard the vessel; or

2. If operating a vessel 11 feet in length or greater, be under the supervision of a person who is 18 years or older and has obtained a certificate of boating safety education and is aboard the vessel; or

(iii) Be under the supervision of a person who was born before July 1, 1972 and is aboard the vessel.

(b) (1) The Department shall:

(i) Adopt regulations that establish criteria for a course of instruction in boating safety education;

(ii) Administer a verbal test when appropriate;

(iii) Coordinate a statewide program of boating safety instruction and certification and ensure that a course of boating safety education is available within each county; and

(iv) Ensure that a course of boating safety education is available at the earliest practicable age for children in boating communities.

(2) Any course of boating safety education that is offered through a public school is not required to be more than 6 classes, or exceed a total of 8 hours.

(3) The following persons may offer the course of instruction in boating safety education if approved by the Department:

(i) The Department;

(ii) The U.S. Coast Guard Auxiliary;

(iii) The U.S. Power Squadron;

(iv) A political subdivision;

(v) A municipal corporation;

(vi) An agency;

(vii) A public or nonpublic school;

(viii) A group;

(ix) A firm;

(x) An association; or

(xi) Any other person.

(c) (1) The Department or the Department's designee shall issue a certificate of boating safety education to a person who:

(i) Passes the course prescribed by the Department in boating safety education; or

(ii) Passes a boating safety equivalency examination administered by persons authorized to offer the course on boating safety education.

(2) Upon request, the Department shall provide, without charge, boating safety education materials to persons who plan to take the boating safety equivalency examination.

(3) (i) Once issued, the certificate of boating safety education:

1. Is valid for the lifetime of the person to whom the certificate was issued; and

2. May not be revoked by the Department or a court of law.

(ii) The Department shall replace, without charge, a lost or destroyed certificate if the Department issued the certificate or has a record that the certificate was issued by the U.S. Coast Guard or the U.S. Power Squadron.

(4) (i) The Department or the Department's designee may issue a 30-day temporary certificate of boating safety education to a person who signs an affidavit stating that the person has read and understood the boating safety education materials provided by the Department.

(ii) The 30-day temporary certificate of boating safety education issued in accordance with subparagraph (i) of this paragraph may be renewed for 1 additional 30-day period.

(5) In lieu of a certificate of boating safety education issued by the Department, a license issued by the U.S. Coast Guard, or a boating safety certificate issued by a unit of the U.S. Coast Guard Auxiliary, the U.S. Power Squadron, or a local board of education, is sufficient to comply with the requirements of this section.

(6) In lieu of a certificate of boating safety education issued by the

Department, a boating safety certificate issued in another state in accordance with criteria of the National Association of State Boating Law Administrators is sufficient to comply with the requirements of this section.

(d) On or after July 1, 1988 a person who is subject to the provisions of subsection (a)(1) of this section and who operates on waters of the State a vessel for pleasure that is required to be numbered in accordance with this subtitle or a vessel for pleasure that is required to be numbered in accordance with the Federal Boat Safety Act of 1971, in violation of any requirement of this section, is guilty of a misdemeanor and on conviction is subject to:

(1) For a first offense, a fine not exceeding $25; and

(2) For any subsequent offense that occurs within 2 years of a prior conviction under this section, a fine not exceeding $500.

(e) A juvenile charged with any violation under this section shall be charged as provided in Title 3, Subtitle 8A of the Courts Article.

(f) (1) A Natural Resources police officer or other law enforcement officer may enforce the provisions of this section only as a secondary action when the officer detains an operator of a vessel for a suspected violation of another provision of the Code or regulations adopted in accordance with another provision of the Code.

(2) A person may be cited but not apprehended solely for a violation of this section.

§8–712.3.

(a) (1) In this section the following words have the meanings indicated.

(2) "Livery vessel owner" means a person who engages in whole or in part in the business of renting, leasing, or chartering a Class A vessel for a period of less than 24 hours.

(3) "Class A vessel" means a motorboat that is less than 16 feet in length as defined by the U.S. Coast Guard in 46 C.F.R. § 24.10–17.

(4) "Seaworthy condition" means the ability to withstand ordinary stress of wind, waves, and other weather that the vessel might normally be expected to encounter.

(b) A livery vessel owner or an agent or employee of the livery vessel owner may not rent or offer for rent a Class A vessel to be operated on the waters of the State unless:

(1) Each vessel is in seaworthy condition and equipped for the waters where the vessel is intended to be used; and

(2) The livery vessel owner or agent or employee of the livery vessel owner possesses a boating safety certificate approved by the Department.

(c) A violation of subsection (b) of this section shall be considered a boating safety violation for purposes of § 8-740(a) of this subtitle.

§8–713.

A person may not operate or give permission to operate any vessel on the waters of the State unless the vessel is numbered as required by this subtitle.

§8–713.1.

(a) This section does not supersede § 4-1013(a) and (b) of this article, which provides for the display of an oyster dredge boat identification number.

(b) A person may not operate knowingly a vessel on the navigable waters of the State while the number, name, or home port designation of the vessel, as assigned or documented by the United States Coast Guard or cleared by the United States Customs Service, is concealed, covered, or defaced.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not less than 1 month and not exceeding 6 months or a fine of not less than $150 and not exceeding $500 or both.

(d) In addition to the penalties under subsection (c) of this section, the court may order that the vessel be:

(1) Forfeited to the State; and

(2) Delivered to the Department for the disposition that is most advantageous to the State in the discretion of the Department.

§8–714.

(a) If a licensed dealer or manufacturer owns a vessel mainly used in the dealer's or manufacturer's business and held for sale and that otherwise is required to be numbered under this title, the dealer or manufacturer may apply to the Department for the issuance of as many dealer's or manufacturer's certificates of number as are required for the normal operation of business and as the Department authorizes. A broker licensed as a dealer may not obtain manufacturer's or dealer's certificates.

(b) Numbers displayed by authority of manufacturer's or dealer's certificates of number may be transferred from 1 vessel to another vessel owned by the manufacturer or dealer and may be affixed in a temporary manner. These numbers shall be used only on vessels demonstrated, tested, or owned by the manufacturer or dealer, and these numbers are not valid for use on the vessels when chartered, rented, or leased by the manufacturer or dealer.

(c) Each application for the manufacturer's or dealer's certificates of number shall be on forms the Department approves and be accompanied by a fee of $24. The certificate of number issued under this section is valid for a period not to exceed 2 years and shall expire on December 31 of the calendar year following the year the certificate is issued.

§8–715.

(a) Except as provided in subsection (d) of this section, any owner of a vessel principally used on the waters of the State and to be numbered shall apply to the Department for a certificate of title for the vessel.

(b) Each certificate of title shall contain the information and shall be issued in a form the Department prescribes.

(c) The Department may not issue or renew a certificate of number to any vessel required to be registered and numbered in the State unless the Department has issued a certificate of title to the owner.

(d) A person who on July 1, 1965 is the owner of a vessel with a valid certificate of number issued by the State is not required to file an application for a certificate of title for the vessel unless the person:

(1) Transfers any part of the person's interest in the vessel; or

(2) Renews the certificate of number for the vessel.

(e) Every owner of a vessel subject to titling under the provisions of this subtitle shall apply to the Department for issuance of a certificate of title for the vessel within 30 days after acquisition. The application shall be on forms the Department prescribes, and accompanied by the required fee and tax. The application shall be signed and sworn to before a notary public or other person who administers oaths, or a certification signed in writing containing substantially the representation that statements made are true and correct to the best of the applicant's knowledge, information, and belief, under penalty of perjury. The application shall contain the date of sale and gross price of the vessel or the fair market value if no sale immediately preceded the transfer, and any additional information the Department requires. If the application is made for a vessel last previously registered or titled in another state or foreign country, the application shall contain this information and any other the Department requires.

(f) If a dealer buys or acquires a used vessel for resale, the dealer shall report the acquisition to the Department on forms the Department provides, or the dealer may apply for and obtain a certificate of title as provided in this subtitle. If a dealer buys or acquires a used non-Maryland numbered vessel, the dealer shall apply for a certificate of title in the dealer's name within 15 days. If a dealer buys or acquires a new vessel for resale, the dealer may apply for a certificate of title in the dealer's name. These transactions are exempt from title tax.

(g) Every dealer transferring a vessel requiring titling under this subtitle shall assign the title to the new owner or, in the case of a new vessel, assign the certificate of origin. Within 30 days, the dealer shall forward all title taxes, fees, and applications to the Department.

(h) The Department shall maintain a record of any certificate of title the Department issues.

(i) A person may not sell, assign, or transfer a vessel titled by the State without delivering to the purchaser or transferee a certificate of title with an assignment on the certificate of title showing title in the purchaser or transferee. A person may not purchase or otherwise acquire a vessel required to be titled by the State without obtaining a certificate of title for the vessel in the person's name.

§8–716. IN EFFECT

(a) (1) In this section the following words have the meanings indicated.

(2) "Commissioning procedures" means the initial outfitting of a vessel immediately after the purchase of the vessel, including the installation of rigging, electronic gear, propulsion machinery, generators, or other related gear.

(3) "Fair market value" means:

(i) As to the sale of any vessel by a licensed dealer or a dealer licensed by another state or a foreign country, the total purchase price, as certified by the dealer on a form acceptable to the Department, less the value of any vessel that is traded in as part of the consideration for the sale, which trade–in value may not exceed the value for the trade–in vessel as shown in a national publication of used vessel values adopted by the Department;

(ii) As to any other vessel that is sold by any person other than a licensed dealer, the greater of:

1. The total purchase price; or

2. $100; or

(iii) As to any other vessel that is sold by any person other than a licensed dealer, either:

1. The total purchase price, if verified by means of a certified bill of sale approved by the Department, in which the actual price paid for the vessel is stated; or

2. The valuation shown in a national publication of used vessel values adopted by the Department if a certified bill of sale does not accompany the application.

(4) "Sea trial" means a period of on–the–water operations, not to exceed 1 day, that is conducted:

(i) For the purpose of testing the effectiveness of specific maintenance, repairs, or commissioning procedures; or

(ii) For a vessel held for resale by a licensed dealer under this section.

(5) "Total purchase price" means the price of a vessel, including simultaneously purchased motors, spars, sails, and accessories exclusive of trailer, agreed on by the buyer and seller, with no deduction for trade–in or other nonmonetary consideration.

(6) "Used principally in this State" means that this State is the state of principal use as defined in § 8–701(p) of this subtitle, except that in calculating where the vessel is used or used most, a vessel is not considered to be in use for any period of time that it is held for maintenance, repair, or commissioning for 30 consecutive days or more.

(7) (i) "Vessel" has the meaning indicated in § 8–701(s) of this subtitle.

(ii) "Vessel" does not include a ship's lifeboat, a vessel propelled only by sail, or vessel manually propelled.

(b) The Department shall charge a $2 fee to issue a certificate of title, a transfer of title, or a duplicate or corrected certificate of title.

(c) (1) Subject to the limitation under paragraph (3) of this subsection and except as provided in § 8–715(d) of this subtitle and in subsections (e) and (f) of this section, and in addition to the fees prescribed in subsection (b) of this section, an excise tax is levied at the rate of 5% of the fair market value of the vessel on:

(i) The issuance of every original certificate of title required for a vessel under this subtitle;

(ii) The issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel;

(iii) The sale within the State of every other vessel; and

(iv) The possession within the State of a vessel used or to be used principally in the State.

(2) Notwithstanding the provisions of this subsection, no tax is paid on issuance of any certificate of title if the owner of the vessel for which a certificate of title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland sales and use tax on the vessel as required by law at the time of acquisition. The Department may require the applicant for titling to submit satisfactory proof that the applicant owned

the vessel prior to June 1, 1965.

(3) The excise tax imposed under this subsection may not exceed $15,000 for any vessel.

(d) If the tax is not collected by a licensed dealer pursuant to § 8–716.1 of this subtitle, the owner, whether or not applying for the issuance of a title, shall remit the tax directly to the Department within 30 days of the date of sale or, in the case of a vessel purchased outside the State, within 30 days of the date upon which the possession within the State became subject to the tax.

(e) A person is not required to pay the tax provided for in subsection (c) of this section resulting from:

(1) A transfer between members of the immediate family as determined by Department regulations;

(2) A transfer between members of the immediate family as determined by Department regulations of a documented vessel for which the transferor applied for and was issued a valid use sticker under § 8–712.1 of this subtitle;

(3) A transfer to a licensed dealer of a vessel for resale, rental, or leasing purposes;

(4) The holding of a vessel that is titled or numbered in another state or is federally documented, provided:

(i) The vessel is held for resale or listed for resale by a licensed dealer; and

(ii) The vessel owner signs an affidavit that there will be no use of the vessel on the waters of the State other than for a sea trial;

(5) Purchase of a vessel by the State or any political subdivision;

(6) Purchase of a vessel by an eleemosynary organization which the Secretary has approved;

(7) The purchase within the State of a vessel if the owner paid or incurred a liability for the Maryland sales and use tax on the vessel prior to July 1, 1986;

(8) The possession within the State of a vessel which was purchased outside the State if the owner paid or incurred a liability for the Maryland use tax on the vessel prior to July 1, 1986;

(9) The possession of a vessel in the State that is not used or to be used principally on the waters of the State and for which the issuance of a title is not sought or required under this subtitle, except that:

(i) A vessel is not deemed used on the waters of the State if the vessel is used for 90 days or less of a calendar year; and

(ii) If a vessel is used for more days than 90 days in a calendar year, the period of 90 days shall be counted in the determination of principal use under this subtitle;

(10) The possession within the State of a vessel if the current owner, before July 1, 1986:

(i) 1. Was licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, soft–shell clams, hard–shell clams, oysters, or any other fish; and

2. Used the vessel for any of the commercial fishing purposes described in item 1 of this item; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

2. Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article;

(11) The possession within the State of a vessel that:

(i) Is owned by a nonprofit organization that:

1. Is qualified as tax exempt under § 501(c)(4) of the Internal Revenue Code; and

2. Is engaged in providing a program to render its best efforts to contain, clean up, and otherwise mitigate spills of oil or other substances occurring in United States coastal and tidal waters; and

(ii) Is used for the purposes of the organization;

(12) The possession within the State of a vessel for a period of not more than one year if the current owner is a member of the armed services and is serving on active duty in this State; or

(13) The sale of a vessel within the State if:

(i) The vessel is purchased from a licensed dealer;

(ii) The issuance of a title is not sought or required;

(iii) The vessel is not used or to be used principally on the waters of this State;

(iv) The vessel is duly registered in another jurisdiction within 30 days of the date of purchase; and

(v) The dealer and the purchaser execute an agreement certifying the state of principal use for the vessel which is filed with the Department within 30 days of the date of purchase.

(f) (1) This subsection applies to possession within the State of a vessel if:

(i) The vessel was formerly:

1. Titled or numbered in another jurisdiction; or

2. Federally documented and principally used in another jurisdiction;

(ii) The present owner has paid a sales or excise tax on the vessel to the other jurisdiction; and

(iii) The jurisdiction to which the tax was paid would allow an exemption or credit under its sales or excise tax for excise tax on a vessel formerly paid to the State.

(2) For a vessel described in paragraph (1) of this subsection:

(i) If the rate of the tax paid to the other jurisdiction is not less than the rate under subsection (c) of this section, the tax imposed under subsection (c) of this section does not apply to possession of the vessel within the State;

(ii) If the rate of the tax paid to the other jurisdiction is less than the rate under subsection (c) of this section, the rate of the tax imposed under subsection (c) of this section on possession of the vessel within the State is the difference between the tax rate paid to the other jurisdiction and the rate under subsection (c) of this section; and

(iii) The Department may require the taxpayer to submit satisfactory proof of the payment of a tax to another jurisdiction and the rate of tax paid and, where applicable, evidence of principal use of a federally documented vessel in another jurisdiction.

(3) This subsection is applicable to any vessel incurring a liability for Maryland boat excise tax on or after July 1, 1986.

(g) (1) A person may claim a credit against any tax imposed under subsection (c) of this section on a vessel for sales tax the person has paid to the State, to another state, or to the District of Columbia on materials and equipment that are incorporated into the vessel, if:

(i) 1. The person is licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, soft–shell clams, hard–shell clams, oysters, or any other fish; and

2. The vessel is to be used for any of the commercial fishing purposes described in item 1 of this item; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

2. Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article.

(2) The Department may require a person claiming the credit allowed under this subsection to submit satisfactory proof of payment of the sales tax and that the materials or equipment have been incorporated into the vessel.

(h) If the Department determines there has been an overpayment of the tax on a vessel, or an overpayment has resulted for any other reason, the Department may submit the overpayment and supporting data whether accompanied by a written claim or not to the State Comptroller for refund to the appropriate person.

(i) (1) For purposes of subsection (a)(4) of this section, a vessel is deemed to be held for maintenance, repair, or commissioning if:

(i) The maintenance, repair, or commissioning work is provided in exchange for compensation;

(ii) The maintenance, repair, or commissioning work is performed pursuant to a schedule preestablished with one or more marine contractors; and

(iii) The total cost of the maintenance, repair, or commissioning work is at least two times the reasonable current market cost of docking or storing the vessel.

(2) Time spent conducting sea trials shall be included when calculating the period of time a vessel is held for maintenance, repair, or commissioning under subsection (a)(4) of this section.

8–716. // EFFECTIVE JULY 1, 2016 PER CHAPTER 180 OF 2013 //

(a) (1) In this section the following words have the meanings indicated.

(2) "Commissioning procedures" means the initial outfitting of a vessel immediately after the purchase of the vessel, including the installation of rigging, electronic gear, propulsion machinery, generators, or other related gear.

(3) "Fair market value" means:

(i) As to the sale of any vessel by a licensed dealer or a dealer licensed by another state or a foreign country, the total purchase price, as certified by the dealer on a form acceptable to the Department, less the value of any vessel that is traded in as part of the consideration for the sale, which trade–in value may not exceed the value for the trade–in vessel as shown in a national publication of used vessel values adopted by the Department;

(ii) As to any other vessel that is sold by any person other than a licensed dealer, the greater of:

1. The total purchase price; or

2. $100; or

(iii) As to any other vessel that is sold by any person other than a licensed dealer, either:

1. The total purchase price, if verified by means of a certified bill of sale approved by the Department, in which the actual price paid for the vessel is stated; or

2. The valuation shown in a national publication of used vessel values adopted by the Department if a certified bill of sale does not accompany the application.

(4) "Sea trial" means a period of on–the–water operations, not to exceed 1 day, that is conducted:

(i) For the purpose of testing the effectiveness of specific maintenance, repairs, or commissioning procedures; or

(ii) For a vessel held for resale by a licensed dealer under this section.

(5) "Total purchase price" means the price of a vessel, including simultaneously purchased motors, spars, sails, and accessories exclusive of trailer, agreed on by the buyer and seller, with no deduction for trade–in or other nonmonetary consideration.

(6) "Used principally in this State" means that this State is the state of principal use as defined in § 8–701(p) of this subtitle, except that in calculating where the vessel is used or used most, a vessel is not considered to be in use for any period of time that it is held for maintenance, repair, or commissioning for 30 consecutive days or more.

(7) (i) "Vessel" has the meaning indicated in § 8–701(s) of this subtitle.

(ii) "Vessel" does not include a ship's lifeboat, a vessel propelled only by sail, or vessel manually propelled.

(b) The Department shall charge a $2 fee to issue a certificate of title, a transfer of title, or a duplicate or corrected certificate of title.

(c) (1) Except as provided in § 8–715(d) of this subtitle and in subsections (e) and (f) of this section, and in addition to the fees prescribed in subsection (b) of this section, an excise tax is levied at the rate of 5% of the fair market value of the vessel on:

(i) The issuance of every original certificate of title required for a vessel under this subtitle;

(ii) The issuance of every subsequent certificate of title for the sale, resale, or transfer of the vessel;

(iii) The sale within the State of every other vessel; and

(iv) The possession within the State of a vessel used or to be used principally in the State.

(2) Notwithstanding the provisions of this subsection, no tax is paid on issuance of any certificate of title if the owner of the vessel for which a certificate of title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland sales and use tax on the vessel as required by law at the time of acquisition. The Department may require the applicant for titling to submit satisfactory proof that the applicant owned the vessel prior to June 1, 1965.

(d) If the tax is not collected by a licensed dealer pursuant to § 8–716.1 of this subtitle, the owner, whether or not applying for the issuance of a title, shall remit the tax directly to the Department within 30 days of the date of sale or, in the case of a vessel purchased outside the State, within 30 days of the date upon which the possession within the State became subject to the tax.

(e) A person is not required to pay the tax provided for in subsection (c) of this section resulting from:

(1) A transfer between members of the immediate family as determined by Department regulations;

(2) A transfer between members of the immediate family as determined by Department regulations of a documented vessel for which the transferor applied for and was issued a valid use sticker under § 8–712.1 of this subtitle;

(3) A transfer to a licensed dealer of a vessel for resale, rental, or leasing purposes;

(4) The holding of a vessel that is titled or numbered in another state or is federally documented, provided:

(i) The vessel is held for resale or listed for resale by a licensed dealer; and

(ii) The vessel owner signs an affidavit that there will be no use of the vessel on the waters of the State other than for a sea trial;

(5) Purchase of a vessel by the State or any political subdivision;

(6) Purchase of a vessel by an eleemosynary organization which the Secretary has approved;

(7) The purchase within the State of a vessel if the owner paid or incurred a liability for the Maryland sales and use tax on the vessel prior to July 1, 1986;

(8) The possession within the State of a vessel which was purchased outside the State if the owner paid or incurred a liability for the Maryland use tax on the vessel prior to July 1, 1986;

(9) The possession of a vessel in the State that is not used or to be used principally on the waters of the State and for which the issuance of a title is not sought or required under this subtitle, except that:

(i) A vessel is not deemed used on the waters of the State if the vessel is used for 90 days or less of a calendar year; and

(ii) If a vessel is used for more days than 90 days in a calendar year, the period of 90 days shall be counted in the determination of principal use under this subtitle;

(10) The possession within the State of a vessel if the current owner, before July 1, 1986:

(i) 1. Was licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, soft–shell clams, hard–shell clams, oysters, or any other fish; and

2. Used the vessel for any of the commercial fishing purposes described in item 1 of this item; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

2. Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article;

(11) The possession within the State of a vessel that:

(i) Is owned by a nonprofit organization that:

1. Is qualified as tax exempt under § 501(c)(4) of the Internal Revenue Code; and

2. Is engaged in providing a program to render its best efforts to contain, clean up, and otherwise mitigate spills of oil or other substances occurring in United States coastal and tidal waters; and

(ii) Is used for the purposes of the organization;

(12) The possession within the State of a vessel for a period of not more than one year if the current owner is a member of the armed services and is serving on active duty in this State; or

(13) The sale of a vessel within the State if:

(i) The vessel is purchased from a licensed dealer;

(ii) The issuance of a title is not sought or required;

(iii) The vessel is not used or to be used principally on the waters of this State;

(iv) The vessel is duly registered in another jurisdiction within 30 days of the date of purchase; and

(v) The dealer and the purchaser execute an agreement certifying the state of principal use for the vessel which is filed with the Department within 30 days of the date of purchase.

(f) (1) This subsection applies to possession within the State of a vessel if:

(i) The vessel was formerly:

1. Titled or numbered in another jurisdiction; or

2. Federally documented and principally used in another jurisdiction;

(ii) The present owner has paid a sales or excise tax on the vessel to the other jurisdiction; and

(iii) The jurisdiction to which the tax was paid would allow an exemption or credit under its sales or excise tax for excise tax on a vessel formerly paid to the State.

(2) For a vessel described in paragraph (1) of this subsection:

(i) If the rate of the tax paid to the other jurisdiction is not less than the rate under subsection (c) of this section, the tax imposed under subsection (c) of this

section does not apply to possession of the vessel within the State;

(ii) If the rate of the tax paid to the other jurisdiction is less than the rate under subsection (c) of this section, the rate of the tax imposed under subsection (c) of this section on possession of the vessel within the State is the difference between the tax rate paid to the other jurisdiction and the rate under subsection (c) of this section; and

(iii) The Department may require the taxpayer to submit satisfactory proof of the payment of a tax to another jurisdiction and the rate of tax paid and, where applicable, evidence of principal use of a federally documented vessel in another jurisdiction.

(3) This subsection is applicable to any vessel incurring a liability for Maryland boat excise tax on or after July 1, 1986.

(g) (1) A person may claim a credit against any tax imposed under subsection (c) of this section on a vessel for sales tax the person has paid to the State, to another state, or to the District of Columbia on materials and equipment that are incorporated into the vessel, if:

(i) 1. The person is licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, soft–shell clams, hard–shell clams, oysters, or any other fish; and

2. The vessel is to be used for any of the commercial fishing purposes described in item 1 of this item; or

(ii) 1. Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

2. Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article.

(2) The Department may require a person claiming the credit allowed under this subsection to submit satisfactory proof of payment of the sales tax and that the materials or equipment have been incorporated into the vessel.

(h) If the Department determines there has been an overpayment of the tax on a vessel, or an overpayment has resulted for any other reason, the Department may submit the overpayment and supporting data whether accompanied by a written claim or not to the State Comptroller for refund to the appropriate person.

(i) (1) For purposes of subsection (a)(4) of this section, a vessel is deemed to be held for maintenance, repair, or commissioning if:

(i) The maintenance, repair, or commissioning work is provided in exchange for compensation;

(ii) The maintenance, repair, or commissioning work is performed pursuant to a schedule preestablished with one or more marine contractors; and

(iii) The total cost of the maintenance, repair, or commissioning work is at least two times the reasonable current market cost of docking or storing the vessel.

(2) Time spent conducting sea trials shall be included when calculating the period of time a vessel is held for maintenance, repair, or commissioning under subsection (a)(4) of this section.

§8–716.1.

(a) The dealer shall collect the excise tax for the Department. For collecting and remitting the tax, a dealer may keep 1.2% of the gross tax the dealer collects. A dealer may not keep 1.2% of any gross tax amounts which were not forwarded to the Department within 30 days of collection, unless a waiver has been approved by the Secretary.

(b) If the Department finds that a dealer has forwarded less than the amount of tax due and does not have adequate records or has incorrect records of sales or resales of new or used vessels and that the amount of excise tax collected for the Department on these sales cannot be determined accurately, the Department shall determine the taxable sales of the dealer for any period involved and compute the tax from the best information available. The computation shall be prima facie correct. However, if any dealer fails to keep any record of sales of vessels, the Department may determine the tax due to the Department by using a factor developed by surveying the business of the dealer, including any records available, or by surveying other taxpayers of the same type or otherwise compute the amount of tax due. This computation shall be prima facie correct.

(c) As provided in subsection (b) of this section, if the Department determines the taxable sales and computes the tax due, the Department shall levy against the dealer a deficiency assessment consisting of a penalty of 10%, plus interest at a rate of 1.5% per month, or fraction of a month, from the time the tax was due until paid. All amounts received from any dealer under this subsection shall be credited first to penalty and interest accrued and then to tax due.

(d) (1) If a person obligated to pay the tax fails to pay the tax when due, there shall be assessed against the person, in addition to the tax due, a penalty of 10% plus interest at the rate of 1.5% per month or fraction of a month from the time the tax was due until paid. This penalty and interest may be waived by the Secretary if, within 30 days from the date of mailing of the notice of assessment, the taxpayer files an appeal showing cause why the tax is not paid when due. Any amounts received from any dealer or owner under this subsection shall be credited first to penalty and interest accrued and then to tax due.

(2) If the failure to pay the tax is due to an attempt to defraud, then the

penalty shall be, in lieu of the penalty more specifically provided for under paragraph (1) of this subsection, 100% of the tax due plus interest at the rate of 1.5% per month or fraction of a month from the time due until paid.

(e) (1) If the Department finds that any dealer or other person liable for the tax imposed by this subtitle intends to depart from the State, remove the dealer's or other person's property from the State, conceal the dealer or other person or their property in the State, or do any other act tending to prejudice or render wholly or partly ineffectual proceedings to collect the tax, the Department shall notify the dealer or other person of its findings and demand an immediate payment of the tax, interest, and penalty.

(2) If the amount of tax, interest, and penalty specified in the notice of jeopardy assessment is not paid within 10 days of the service of the notice, the Department may bring any action that the Department considers advisable for the prompt collection of the tax.

(3) If, within 10 days of the service of the notice, the person liable for the tax files with the Department satisfactory evidence that the person is not in default in paying the tax or that the person will duly return and pay the tax, then the tax is not payable before the time otherwise required by this section. However, in each case, the findings of the Department as to the responsibility of the person liable for the tax are final and conclusive.

(f) (1) The tax imposed by this subtitle and all increases, interests, and penalties on the tax shall become, from the time due and payable, a personal debt of the person liable to pay the tax to the State of Maryland. An action may be brought at any time within 3 years from the time the tax shall be due and payable by the Department in the name of the State to recover the amount of any taxes, penalties, and interest due under the provisions of this subtitle, but if there is proof of fraud or gross negligence, there shall be no limitation of the period in which the action may be brought. Proof of negligence amounting to 25% or more of the tax due shall be prima facie evidence of gross negligence.

(2) The tax and all increases, interests, and penalties on the tax shall be a lien upon all the property, real or personal, of any person liable to pay the tax to the State from and after the time when notice has been given that the tax has become due and payable as provided in this section. Notice of the lien shall be filed promptly by the Department with the clerk of the circuit court of the county in which the property is located or Baltimore City. Each clerk of court accurately and promptly shall record and index all the notices of lien filed with the clerk by the Department and shall enter the lien in the judgment docket of the court, stating the name of the delinquent taxpayer, the amount of the lien and the date of the lien. The lien provided for in this section shall have the full force and effect of a lien of judgment. Unless another date is specified by law, the lien arising at the date of nonpayment, as in this section specified and provided for, shall continue with the same force and effect as a judgment lien. Any judgment lien on personal property is not effective as against an innocent purchaser for value, unless

the personal property has been levied upon by an officer of a court.

(g) If a person or entity liable for the excise tax and for the interest and penalties of the tax under this subtitle is a corporation or limited liability company or limited liability partnership, including a limited partnership registered as a limited liability limited partnership, personal liability for the excise tax and for the interest and penalties of the tax extends to:

(1) In the case of a corporation:

(i) The president, vice president, or treasurer of the corporation; and

(ii) Any officer of the corporation who directly or indirectly owns more than 20% of the stock of the corporation;

(2) In the case of a limited liability company:

(i) If the limited liability company does not have an operating agreement, all members; or

(ii) If the limited liability company has an operating agreement, those individuals who manage the business and affairs of the limited liability company; and

(3) In the case of a limited liability partnership:

(i) If the limited liability partnership does not have a written partnership agreement, all general partners; or

(ii) If the limited liability partnership has a written partnership agreement, those individuals who manage the business and affairs of the limited liability partnership.

(h) A member of a limited liability company does not manage the business and affairs of the limited liability company under subsection (g) of this section solely by doing one or more of the following:

(1) Consulting with or advising the individuals who manage the business and affairs of the limited liability company;

(2) Directing the management of the limited liability company in the same manner as a director of a corporation directs the management of a corporation; or

(3) Voting on any matter required to be voted on by the members of the limited liability company, including but not limited to:

(i) The approval or disapproval of amendments to the operating agreement;

(ii) The termination and winding up of the limited liability company;

(iii) The sale, exchange, lease, mortgage, pledge, or other transfer of a material portion of the assets of the limited liability company;

(iv) The incurring of indebtedness by the limited liability company other than in the ordinary course of its business;

(v) A change in the nature of the business of the limited liability company;

(vi) The expulsion or admission of a member;

(vii) The appointment or discharge of a manager;

(viii) The merger of the limited liability company with or into any other entity; or

(ix) Any matter related to the business of the limited liability company not otherwise enumerated in this subsection that the operating agreement states may be subject to the approval or disapproval of the members.

(i) The possession or exercise of powers other than those contained in subsection (h) of this section by a member does not necessarily constitute management by the member of the business or affairs of the limited liability company.

(j) The same rules and exceptions applicable to a member of a limited liability company set forth in subsections (h) and (i) of this section shall be applicable to individuals and members of limited liability partnerships.

(k) Notwithstanding any other provision of law, the Department may not collect or enforce any liability for the Maryland use tax that was incurred before July 1, 1986 on a vessel owned by a person who at the time the liability was incurred:

(1) (i) Was licensed by the Department to catch, for commercial purposes, finfish, eels, crabs, conch, soft–shell clams, hard–shell clams, oysters, or any other fish; and

(ii) Used the vessel for any of the commercial fishing purposes described in item (i) of this item; or

(2) (i) Was licensed as a commercial fishing guide under the provisions of § 4–210 of this article; and

(ii) Used the vessel as a charter boat with a license as provided in § 4–745(d)(2) of this article.

(l) An assessment of tax under this subtitle is prima facie correct.

(m) (1) A dealer or other person liable for the tax imposed by this subtitle may not:

(i) Willfully fail to collect the tax;

(ii) Willfully fail to remit the tax;

(iii) Willfully make any false statement or misleading omission with regard to the tax;

(iv) Willfully fail to keep records in accordance with this subtitle and any regulations pursuant to this subtitle; or

(v) Willfully evade payment of the tax by any means.

(2) Any person violating this subsection is guilty of a misdemeanor and upon conviction is subject to the penalties set forth in § 8–739 of this subtitle.

§8–716.2.

(a) For the purpose of enforcing the provisions of this subtitle, the Department or any duly authorized agent or representative:

(1) May conduct investigations and hold hearings concerning any matter covered by this subtitle at any time or place within the State of Maryland;

(2) In the conduct of any investigation or hearing, may require by subpoena or summons the attendance and testimony of witnesses and the production of any books, accounts, records, papers, and correspondence, relating to any matter which the Department is authorized by this subtitle to determine; and

(3) May sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence.

(b) In case of disobedience of any subpoena or the contumacy of any witness appearing before the Department or its duly authorized agent or representative, the Department may apply to the circuit court of any of the counties or Baltimore City for an order. The circuit court may issue an order requiring the person subpoenaed to obey the subpoena or to give evidence or produce books, accounts, records, papers, and correspondence touching the matter in question. Any failure to obey the order of court may be punished by the court as a contempt of court.

(c) A person may not be excused from testifying or producing any books, papers, records, or data in any investigation or upon any hearing when ordered to do so by the Department or its duly authorized agent or representative, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate the person or subject the person to criminal penalty, but the testimony or evidence, documentary or otherwise, may not be used in any subsequent prosecution against the individual

supplying the testimony or evidence. An individual so testifying is not exempt from prosecution and punishment for perjury committed in so testifying.

(d) Any notice authorized or required under the provisions of this subtitle may be given by mailing the notice to the person for whom the notice is intended in a postpaid envelope addressed to the person at the address given in any application made by the person pursuant to the provisions of this subtitle. If no application has been made, notice may be given by mailing the notice to the address of the person for whom the notice is intended as may be obtainable. The mailing of the notice shall be presumptive evidence of the receipt of the notice by the person to whom the notice is addressed. Any period of time which is determined according to the provisions of this subtitle by the giving of notice shall commence to run from the date of mailing of the notice.

(e) (1) Any person held liable for the tax imposed by this subtitle may apply for a revision of the tax and any penalty and interest assessed against the person by the Department. An application shall be made in writing to the Department within 30 days of the date that the person was notified of the assessment by the Department. Within 30 days of the receipt of the application, the Department shall hold a hearing on the matter in accordance with the Administrative Procedure Act in Title 10 of the State Government Article. Within 30 days after the hearing, the Department shall render a decision on the application for revision of the assessment of tax, penalty, and interest and so notify the applicant in writing by mail.

(2) Any person dissatisfied with the final decision of the Department upon application for revision of any assessment may obtain immediate judicial review of the decision under the provisions of the Administrative Procedure Act and the Maryland Rules.

§8–717.

(a) If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if there is none, the owner named in the certificate, as shown by the Department's records within 30 days shall obtain a duplicate by applying to the Department. The applicant shall furnish information concerning the original certificate and the circumstances of its loss, mutilation, or destruction as the Department requires. Mutilated or illegible certificates shall be returned to the Department with the application for a duplicate.

(b) The duplicate certificate of title shall be marked plainly "duplicate" across its face, and mailed or delivered to the applicant.

(c) If a lost or stolen original certificate of title for which a duplicate has been issued is recovered, the original shall be surrendered promptly to the Department for cancellation.

§8–718.

(a) In this subtitle, "certificate of origin" means a certification by the

manufacturer, on a form the Department approves, that:

(1) Certifies that the vessel described in the certificate has been transferred to the dealer or other person named and that the transfer of the vessel is in ordinary trade and commerce; and

(2) Describes the vessel by including:

(i) Its make, model, length, year, hull identification number, type of vessel, horsepower rating of engine, if any, and the engine number; and

(ii) Any other information that the Department requires.

(b) A manufacturer or dealer may not transfer ownership of a new vessel without supplying the transferee with the manufacturer's or importer's certificate of origin signed by the manufacturer's or importer's authorized agent. The certificate shall contain information the Department requires.

§8–719.

Every dealer shall maintain for 3 years a record of any vessel the dealer bought, sold, exchanged, or received for sale or exchange. This record shall be open to inspection by Department representatives during reasonable business hours.

§8–720.

(a) If ownership of a vessel is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, or execution sale, the transferee, within 30 days after the transferee has acquired the right to possession of the vessel by operation of law, shall mail or deliver to the Department satisfactory proof of the transferee's ownership as the Department requires, together with his application for a new certificate of title, and the required fee. A title tax is not required on these transactions.

(b) (1) The Department may transfer on its records the ownership of a vessel that has been repossessed by a secured party, if the secured party pays the fee required for transfer of a title and submits to the Department a certification that states:

(i) That the secured party has a security interest in the vessel;

(ii) That, on the basis of the security agreement or other lawful basis, the secured party has a right to the possession of and title to the vessel;

(iii) That the secured party has possession of the vessel; and

(iv) Any other information that the Department requires.

(2) A secured party that repossesses a vessel is not required to pay the

title tax.

(3) On submission of the certification to it, the Department may issue a new certificate of title if it is satisfied that the secured party is entitled to one.

§8–721.

(a) In this section, "abandoned vessel" means any vessel that:

(1) Is left illegally or has remained without permission for more than 30 days on public property, including public marinas, docks, or boatyards;

(2) Has remained at the following locations for more than 90 days without the consent of the owner or person in control of the property:

(i) A private marina or property operated by a private marina; or

(ii) A private boatyard or property operated by a private boatyard;

(3) Has remained at the following locations for more than 30 days without the consent of the owner or person in control of the property:

(i) A private dock; or

(ii) At or near waters' edge on private property;

(4) Has remained on private property other than the private property described in items (2) and (3) of this subsection for more than 180 days without the consent of the owner or person in control of the property; or

(5) Has been found adrift or unattended in or upon the waters of the State, and is found in a condition of disrepair as to constitute a hazard or obstruction to the use of the waters of the State or presents a potential health or environmental hazard.

(b) The Department may seize, remove, and take into custody any abandoned vessel. For this purpose, the Department may use its own personnel, equipment, and facilities or use other persons, equipment, and facilities for removing, preserving, or storing abandoned vessels. The Department may not be held liable for any damage to an abandoned vessel which may occur during removal, storage, or custody of the vessel.

(c) (1) No later than 15 days before an abandoned vessel is seized, removed, or taken into custody under subsection (b) of this section, the Department shall send a notice, by certified mail, return receipt requested, bearing a postmark from the United States Postal Service to the last known registered owner of the vessel, as shown on the records of the Department.

(2) As soon as reasonably possible but not later than 15 days after the Department takes an abandoned vessel into custody, the Department shall send a

notice, by certified mail, return receipt requested, bearing a postmark from the United States Postal Service to the last known registered owner of the vessel and to each secured party, as shown on the records of the Department.

(d) The notices required by subsection (c) of this section shall:

(1) Describe the vessel;

(2) Give the location where the vessel is being held;

(3) Inform the owner and secured party of a right to reclaim the vessel within 3 weeks of receipt of the notice required in subsection (c)(2) of this section upon payment to the Department of any expenses incurred during removal and custody of the vessel; and

(4) State that failure to claim the vessel will constitute:

(i) A waiver of all right, title, and interest in the vessel; and

(ii) A consent to the Department's disposition of the vessel.

(e) If the Department is unable to determine the last registered owner or the identity of any secured party of the abandoned vessel, or if the certified mail notice required under subsection (c) of this section is returned as undeliverable, the Department shall give the required notice by publication in at least 1 newspaper of general circulation in the area where the abandoned vessel was found. The notice by publication shall contain the information required under subsection (d) of this section and shall be published within 30 days of the seizure of the abandoned vessel, or within 15 days of the return of the certified mail notice as undeliverable.

(f) If the owner or secured party fails to claim the abandoned vessel within 3 weeks after the certified mail notice or after the notice by publication is given, the Department may sell the vessel at public auction, proceed to receive title to the vessel pursuant to § 8-722 of this subtitle, or otherwise dispose of the vessel.

(g) If the abandoned vessel is in such a condition of disrepair that the Department cannot remove the vessel intact, the Department may dispose of the vessel in whatever manner is reasonable without providing the notice required under subsections (c) through (e) of this section.

(h) The Department may delegate the Department's authority to remove and dispose of abandoned vessels under this section to any local jurisdiction that consents to the delegation.

§8–721.1.

(a) The owner or operator of a marina or the owner's or operator's agent may have a vessel removed from the marina by a private person if the vessel has remained

on the marina premises without permission for more than 48 hours and the owner, operator, or agent has placed in conspicuous locations signs that:

(1) State that vessels left at the marina without permission for more than 48 hours are subject to removal at the vessel owner's expense;

(2) State the location to which the vessel will be removed;

(3) State that the vessel owner will be responsible for all costs associated with the removal and storage of the vessel; and

(4) Provide the telephone number of a person who can be contacted to arrange for the reclaiming of the vessel by its owner or the owner's agent.

(b) A vessel may not be removed from a marina to a location that is more than 30 miles from the marina.

(c) The owner or operator of a marina, or the agent of the owner or operator, on finding a vessel left at the marina without permission, shall make a reasonable attempt to notify the vessel owner or the vessel owner's agent of the intended removal of the vessel before the vessel may be removed under this section.

(d) A person who removes the vessel from a marina:

(1) Shall notify the vessel owner or the vessel owner's agent at the earliest possible time after removing the vessel from the marina, and shall provide the following information:

(i) A description of the vessel including the vessel's certificate of boat number;

(ii) The date and time the vessel was removed;

(iii) The reason the vessel was removed; and

(iv) The locations from which and to which the vessel was moved;

(2) Before removing the vessel, shall have authorization of the marina owner; and

(3) May not pay any remuneration to the owner of the marina.

(e) (1) The person who removes a vessel from a marina shall immediately deliver the vessel directly to a location customarily used by the person.

(2) The person who exercises control over the vessel at the location to which the vessel is delivered after removal from a marina shall provide the vessel owner or the vessel owner's agent immediate and continuous opportunity to retake possession of the vessel.

(f) Any person who removes a vessel from a marina in violation of any provision of this section:

(1) Shall be liable for actual damages sustained by the vessel owner or the vessel owner's agent as a result of the violation; and

(2) Shall be liable to the vessel owner or the vessel owner's agent for up to triple the amount paid by the owner or the owner's agent to retake possession of the vessel, as the court may determine.

§8–722.

(a) This section applies only to abandoned vessels as defined in § 8-721 of this subtitle.

(b) Subject to the provisions of this section, a landowner, a landowner's lessee, or a landowner's agent may acquire title to any abandoned vessel on the landowner's land or the water immediately adjacent to the landowner's land. Acquisition of title divests any other person of any interest in the vessel.

(c) (1) If a vessel has a boat number or other means of identifying the vessel's owner, the person desiring to acquire title, if possible, shall secure the owner's last known address, and the lienholder, if any, appearing on the Department's records. The person shall notify this owner and the lienholder by registered letter to the last known address that, if ownership is not claimed and the vessel removed within 30 days, the person will apply for title to the vessel in the person's name. If any vessel's owner or lienholder cannot be identified or address ascertained from the Department's records, it is not necessary to send the letter.

(2) The person desiring to acquire title also shall place a notice in a newspaper of general circulation published in the county where the vessel is located, describing the vessel, the vessel's location, and any identifying number. The person shall state in the notice that, if the vessel is not claimed and removed within 30 days after the publication date of the paper, the person will apply for title to the vessel in the person's name.

(3) At the end of the 30-day period the person shall apply to the Department for title to the vessel in the person's name on forms the Department approves accompanied by the following affidavits:

(i) A statement that the vessel is an abandoned vessel as defined in § 8-721 of this subtitle;

(ii) Proof the registered letter was mailed at least 30 days before application or a detailed explanation of the unsuccessful steps taken to identify the owner or lienholder and secure the owner's or lienholder's address;

(iii) Proof a notice was printed in a newspaper as required in

paragraph (2) of this subsection;

(iv) A clear and accurate photograph of the vessel; and

(v) A tracing or certification of the hull identification number.

(4) Upon receipt of the material required in paragraph (3) of this subsection and payment of any fees and taxes due, the Department shall issue title to the vessel to the applicant.

(5) The applicant shall bear any cost incurred in receiving title to a vessel under this section.

(6) After receiving title, if the applicant destroys or otherwise disposes of the vessel, the applicant shall report this information to the Department within 15 days giving every detail.

(7) The Department may receive title to any abandoned vessel on the waters of the State or on any land owned by the State or any political subdivisions by proceeding in the same manner a property owner does as set forth in this section.

(d) A person may not obtain or attempt to obtain title to a vessel under the provisions of this section through any fraudulent means.

§8–723.

(a) In this section, "Fund" means the State Boat Act Fund.

(b) There is a State Boat Act Fund in the Department.

(c) The Secretary shall administer the Fund.

(d) (1) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(2) The Fund shall be invested and reinvested in the same manner as other State funds.

(3) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(e) Unless otherwise provided, the Fund consists of:

(1) Moneys received from any fee and other revenue the Department collects under authority of this subtitle;

(2) Moneys appropriated in the State budget to the Fund; and

(3) Any moneys received and accepted as gifts, contributions, or grants.

(f) The Department shall use the Fund:

(1) For the administration of this subtitle;

(2) To cover the costs of fulfilling the duties and responsibilities of the Department under this title; and

(3) For administrative costs calculated in accordance with § 1-103(b)(2) of this article.

(g) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(h) Within the limits of funds available, the Department may enter into any agreement with the federal government, any municipality or other political subdivision of the State, or any private agency to share the cost of any development, construction, or improvement of waterways or of facilities determined to have beneficial value to the boating public.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

§8–724.

(a) The operator of a vessel involved in a collision, accident, or other casualty shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save the persons from danger caused by the collision, accident, or casualty, to the extent the operator can do so without serious danger to the operator's own vessel, or persons aboard. The operator also shall give the operator's name, address, and the identification of the operator's vessel to any person injured and to the owner of any property damaged. The duties imposed by this subsection are in addition to any duties otherwise imposed by law.

(b) If an accident involves any vessel subject to this subtitle while on the waters of the State and results in the death, disappearance, or injury of any person or in property damage of $2,000 or more, or there is complete loss of the vessel, the operator shall file with the Department a full description of the accident, including any information the Department requires by regulation. If the operator is unable to file the report, the vessel owner shall file the report. If the accident caused the death or disappearance of any person or a person receives medical treatment beyond first aid, the report shall be made within 48 hours. Any other accident resulting in personal injury or property damage shall be reported within 10 days. This subsection does not apply to a vessel required to have a certificate of inspection under Chapter 1, Title 46, Code of Federal Regulations.

(c) If any vessel numbered in the State is involved in an accident on waters outside of the State, and the accident results in the death, disappearance, or injury of any person or in property damage of $2,000 or more, the operator or owner, within

30 days, shall file a complete report with the Department including any information the Department requires by regulation. This subsection does not exempt or excuse any operator or owner from the requirements of any federal or other State law or rule or regulation having jurisdiction over the waters in which the accident occurs. Furthermore, any accident-reporting requirement in the federal or other State law or rule or regulation may not exonerate or excuse any failure of the operator or owner of a vessel numbered in the State to report the accident in the State.

(d) The required report of a boating accident may not be referred to during any judicial proceeding. It is not subject to subpoena or admissible as evidence in any proceeding. Subject to these restrictions, information contained in a boating accident report and any statistical information based on the report is available on request for official purposes to the United States Coast Guard and its successor agency.

(e) Any person who complies with subsection (a) of this section or who gratuitously and in good faith renders or attempts to render assistance to any vessel in distress on any waters of the State without objection from any person assisted, is not liable for any civil damage as the result of any act or omission by the person in rendering assistance, if the act or omission does not amount to gross negligence.

§8–724.1.

A person may not:

(1) Interfere with the use of a public landing;

(2) Do anything to destroy the usefulness of the public landing; or

(3) Damage a wharf or structure erected on the wharf by the State, a county, or a person under a written agreement with a State unit or a county for public benefit.

§8–725.

(a) This section does not apply to:

(1) Any performer engaged in a professional exhibition; or

(2) Any person taking part in:

(i) An authorized regatta, motorboat race, or other boat race; or

(ii) Any marine parade, tournament, or exhibition.

(b) A person may not operate any machinery-propelled vessel for the purpose of towing a person on or attached to water skis, an aquaplane, a parasail, or similar device unless the vessel operator is at least 12 years old and another person, at least 12 years old, is in the vessel to observe the progress of the person being towed. Towing

may not occur between sunset and sunrise.

(c) (1) In this subsection, "personal flotation device" includes:

(i) A life jacket;

(ii) A life vest;

(iii) A life preserver;

(iv) A barefoot wet suit; or

(v) A trick skiing wet suit.

(2) A person who is in or over the waters of the State and is being towed behind a vessel must wear a personal flotation device.

§8–725.1.

(a) A person may not abandon, as defined in § 8-721 of this subtitle, any vessel upon any waters of the State.

(b) The last known registered owner shown on the certificate of title issued under § 8-715 of this subtitle shall be considered:

(1) The prima facie owner of a vessel at the time the vessel was abandoned; and

(2) The person who abandoned the vessel.

(c) (1) Any person who violates any provision of this section is guilty of a misdemeanor. Upon conviction, the person is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months, or both.

(2) Any person found guilty of a second or subsequent violation of any provision of this section is subject to a fine not exceeding $2,000 or imprisonment not exceeding 1 year, or both.

(3) Any person who violates any provision of this section is liable to the State for the cost of removal of the vessel.

(4) The provisions of this section do not apply to a vessel wrecked through an act of God or negligence of a third party.

§8–725.2.

(a) The Department shall:

(1) Develop a comprehensive management plan for the use of vessels on

the Severn River and its tributaries in accordance with the Administrative Procedure Act under Title 10 of the State Government Article; and

(2) Implement the comprehensive management plan no later than April 15, 1990.

(b) The comprehensive management plan for the use of vessels on the Severn River and its tributaries shall include, but not necessarily be limited to:

(1) Areas designated for specified uses;

(2) Noise level limits of vessels;

(3) Maximum speed limits of vessels;

(4) Other limits that address water surface capacity and the safe operation of vessels so as to maximize the recreational and aesthetic values of the Severn River and its tributaries, consistent with sound environmental practices; and

(5) A study of seaplane activity on the Severn River and its tributaries.

(c) This section may not be construed to change the authority previously granted to the Department to adopt regulations concerning the subject matter of this section.

§8–725.3.

(a) A person may not operate any vessel on the Severn River from April 15, 1989 to October 15, 1989 in excess of 40 miles per hour during the following days and times:

(1) A Saturday;

(2) A Sunday;

(3) A State holiday; and

(4) Any other day from sundown to sunrise.

(b) (1) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

(i) For the first offense, $500; and

(ii) For the second offense, $1,000 or imprisonment not exceeding 30 days or both.

(2) Paragraph (1) of this subsection does not limit or supersede any other penalty that may be imposed under this subtitle for a violation of any other law or regulation adopted under this subtitle.

(c) This section may not be construed to affect the Department's authority:

(1) To adopt regulations concerning the subject matter of this section; or

(2) To set speed limits on creeks, bays, coves, and tributaries of the Severn River.

(d) The Department shall develop an informational program to assist boaters in complying with the speed limits imposed by this section, including public education, a phase-in period for enforcement, and information to assist boaters in converting tachometer or knot meter readings to speedometer readings in miles per hour.

§8–725.4.

(a) The provisions of this section do not apply to persons who regularly catch or harvest seafood for sale while actually engaged in the catching or harvesting of the seafood.

(b) (1) Except as provided in subsection (d) of this section, a person may not operate a vessel on the waters of the State so as to exceed a noise level of 90dB(a).

(2) Noise level limits for waters of the State shall be measured using generally accepted testing procedures imposed by regulations adopted by the Department based on the Marine Environment Sound Level Measurement Procedure, SAE J 2005.

(3) An owner or lessee of a vessel may not allow the vessel to be operated on waters of the State in violation of paragraph (1) of this subsection.

(c) A person may not own or operate on any waters of the State any vessel manufactured after January 1, 1990 that is not equipped with a muffler or device or system which muffles or suppresses engine noise in accordance with regulations adopted by the Department.

(d) The Department may adopt regulations to permit exceptions to this section, including exceptions for:

(1) Economic hardship;

(2) Vessels participating or preparing to participate in a U.S. Coast Guard or Department approved race or event;

(3) The testing, repair, or development of vessel engines conducted by a bona fide engine or boat manufacturer or service person; and

(4) Vessels belonging to a volunteer fire department, ambulance company, rescue squad company, or advance life support company or a political subdivision.

(e) In addition to the provisions of subsection (b) of this section, the Department may adopt regulations to enforce this section, including regulations establishing noise limitations.

(f) (1) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

(i) For the first offense, $500; and

(ii) For the second offense, $1,000 or imprisonment of 30 days or both.

(2) Paragraph (1) of this subsection does not limit or supersede any other penalty that may be imposed under this subtitle for a violation of any other law or regulation adopted under this subtitle.

(g) All regulations adopted by the Department under this section shall be in accordance with the Administrative Procedure Act under Title 10 of the State Government Article.

§8–725.5.

(a) A person may not operate a vessel on Seneca Creek in Montgomery County at a speed in excess of 6 knots.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine of not less than $25 and not exceeding $200 or both.

§8–725.6.

(a) A person may not operate a vessel on the Monocacy River between Starner's Dam and the upstream island in Carroll and Frederick counties at a speed in excess of 6 knots.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine of not less than $25 and not exceeding $200 or both.

§8–725.7.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Marine gathering" means an intentional congregation of at least 100 vessels in the waters of the State that, by its nature, circumstances, or location, creates extra or unusual hazards to life or property.

(ii) "Marine gathering" does not include:

1. A race, a regatta, a parade, an exhibition, or other marine

event for which a permit is required by the United States Coast Guard;

2. A docking competition; or

3. Vessels docked or moored at a marina.

(3) "Permit" means a marine gathering permit issued in accordance with this section.

(b) A person may not sponsor or hold a marine gathering without obtaining a written permit from the Department.

(c) (1) The organizer or sponsor of the marine gathering shall submit a permit application to the Department and pay an application fee established by the Department.

(2) The application fee may not exceed the cost of processing the permit.

(3) The Department may not require the application to be submitted more than 45 days before the marine gathering.

(d) (1) The Department shall adopt regulations governing the application and issuance of the permit.

(2) If a permit is needed to ensure public safety, the Department shall issue a permit in accordance with paragraphs (3) and (4) of this subsection.

(3) The Department may require in the terms of a permit one or more of the following requirements:

(i) The presence of security officers at the marine gathering;

(ii) The presence of rescue personnel or lifeguards at the marine gathering;

(iii) The placement of buoys at the marine gathering; and

(iv) Limitations on the duration of the marine gathering.

(4) The Department may:

(i) Recommend additional actions to an applicant to further safeguard the participants of the marine gathering; but

(ii) Not require any additional terms or conditions in a permit beyond what may be required under paragraph (3) of this subsection.

(e) Before issuing a marine gathering permit, the Department shall notify the local law enforcement unit of the county in which the marine gathering will occur and

public safety organizations that the Department considers necessary.

(f) A police officer may terminate and disband a marine gathering:

(1) Held without the necessary permit; or

(2) In violation of the terms of a permit.

(g) (1) A person who violates this section or a regulation adopted under this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000.

(2) A person who commits a second or subsequent violation of this section or a regulation adopted under this section is:

(i) Guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000; and

(ii) Liable to the State for the cost of disbanding the marine gathering.

§8–726.

(a) A person may not throw, dump, deposit, or cause to be thrown, dumped, or deposited any trash, junk, or other refuse on any waters of the State.

(b) The operator or owner, if present, of any vessel on which occurs a violation of subsection (a) of this section is liable.

(c) The Department shall enforce the provisions of this section.

§8–726.1.

(a) This section does not:

(1) Apply to the improvement of harbors; or

(2) Affect any act of the General Assembly relating to the construction of a wharf or to the rights of a riparian owner.

(b) Ballast, ashes, filth, earth, oysters, or oyster shells may not be deposited from a vessel to a site:

(1) In the Chesapeake Bay above Sandy Point;

(2) In Herring Bay; or

(3) Below the high water mark in a river, creek, or harbor in the State.

(c) A person in command or having charge of a vessel that violates this section is guilty of a misdemeanor and on conviction is subject to a fine of not less than $20 and not exceeding $150.

(d) The Natural Resources Police Force shall enforce this section.

§8–727.

(a) (1) In this section the following words have the meanings indicated.

(2) "Elude" means to evade a police officer's visual or audible signal to stop by:

(i) Willfully failing to stop the vessel;

(ii) Fleeing on foot; or

(iii) Any other means.

(3) "Police officer" means an officer who is:

(i) In uniform, prominently displaying the officer's badge or other insignia of office; or

(ii) In a vessel that is appropriately marked as an official law enforcement vessel, whether or not the officer is in uniform.

(4) "Visual or audible signal" means a warning or command by hand, voice, emergency light, signal device, or siren.

(b) A Natural Resources police officer or any law enforcement officer enforcing the provisions of this subtitle may stop, board, or inspect any vessel subject to this subtitle.

(c) (1) Except as provided in paragraph (2) of this subsection, an individual who is on a vessel may not display or operate a flashing blue light or signal device.

(2) A police officer who is on a vessel of a county, municipal, State, or federal law enforcement agency may display and operate flashing blue lights or signal devices while responding to or at the scene of an emergency or pursuing a violator or suspected violator of the law.

(d) On the immediate approach of a law enforcement vessel lawfully using a flashing blue light or signal device, an operator of another vessel, unless otherwise directed by a police officer, shall:

(1) Yield the right-of-way; and

(2) Stop the vessel and stay in that position until the law enforcement

vessel has passed.

(e) An operator of a vessel may not elude or attempt to elude a police officer who gives a visual or audible signal to the operator to stop.

(f) (1) A person who violates subsection (c) or (d) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

(2) A person who violates subsection (e) of this section is guilty of a misdemeanor and on conviction:

(i) For a first offense, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both; and

(ii) For a subsequent offense, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 2 years or both.

§8–727.1.

(a) (1) In this section, "public safety activity" includes:

(i) Patrolling a marine parade, regatta, or special water celebration;

(ii) Traffic control;

(iii) Salvage;

(iv) Fire fighting;

(v) Medical assistance;

(vi) Assisting a disabled vessel; and

(vii) Search and rescue.

(2) "Public safety activity" does not include routine towing.

(b) Except as provided in subsection (c) of this section, an individual who is on a vessel may not display or operate a flashing, alternating red and yellow light or signal device.

(c) (1) An individual who is on a vessel engaged in a government sanctioned public safety activity or a commercial vessel performing a public safety activity may display an alternately flashing red and yellow light signal.

(2) The public safety identification light signal shall be located so that it does not interfere with the visibility of the vessel's navigation lights.

(3) The public safety identification light signal may be used only as an

identification light signal and does not convey any special privilege to the vessel displaying the light signal.

(4) An individual on a vessel using the public safety identification light signal during public safety activities shall comply with the Inland Navigation Rules adopted by the United States Coast Guard and may not presume that the light or the activity gives the vessel precedence or right–of–way.

(d) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

§8–728.

Sections 8–729 through 8–736 of this subtitle do not apply to or affect:

(1) A lien given by statute or rule of law to a supplier of services or materials for the vessel;

(2) A lien given by statute to the United States, the State, or any political subdivision of the State;

(3) A security interest in a vessel during any period in which the vessel is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling vessels;

(4) Any lien arising out of an attachment of a vessel;

(5) Any security interest claimed on proceeds, as defined in § 9–102(a)(65) of the Commercial Law Article, if the original security interest did not have to be noted on the certificate of title in order to be perfected; or

(6) Any vessel for which a certificate of title is not required under this subtitle.

§8–729.

(a) Unless excepted by § 8-728 of this subtitle, a security interest in a vessel is not valid against creditors of the owner or subsequent transferees or secured parties of the vessel unless perfected as provided under this section and §§ 8-730 through 8-732 of this subtitle.

(b) A security interest is perfected by the delivery to the Department of the existing certificate of title, if any, and an application for certificate of title on a form provided or approved by the Department containing information regarding the security interest, and upon payment of a filing fee of $15. Four dollars of this filing fee shall be treated as described in § 8-723 of this subtitle. The security interest is perfected at the time of the delivery and payment.

(c) If a vessel is already subject to a security interest when the vessel is brought into the State, the validity of the security interest in the State is to be determined by the law (including the conflict of law rules) of the jurisdiction where the vessel was when the security interest attached, subject to the following:

(1) If the parties to the transaction understood at the time the security interest attached that the vessel would be kept in the State, and the vessel was brought into the State within 30 days after the security interest attached for purposes other than transportation through the State, the validity of the security interest in the State is to be determined by the law of the State.

(2) If the security interest was perfected already under the laws of the jurisdiction where the vessel was when the security interest attached and before being brought into the State:

(i) If the name of the secured party is shown on an existing certificate of title issued by that jurisdiction, the security interest continues perfected in the State.

(ii) If the name of the secured party is not shown on an existing certificate of title issued by that jurisdiction, and if the law of that jurisdiction does not provide for certificates of title disclosing security interests, the security interest continues perfected in the State for 4 months and, after that time, if within the 4-month period the security interest is perfected in the State. This security interest may also be perfected in the State after the expiration of the 4-month period, in which case perfection dates from the time of perfection in the State.

(iii) If the security interest was not perfected under the law of the jurisdiction in which the vessel was when the security interest attached before being brought into the State, the security interest may be perfected in the State; in which case perfection dates from the time of perfection in the State.

(d) (1) Five dollars of this filing fee, which is in lieu of a recordation tax imposed under Title 12 of the Tax - Property Article, shall be deposited in a special fund which is created. These moneys shall be used for the benefit of the counties of the State, and Baltimore City, and distribution of this fund shall be made to the several counties and Baltimore City annually on the basis of the residence of the purchasers of the vessels.

(2) Moneys in the special fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

(e) Six dollars of every fee received under the provisions of § 8-730 of this subtitle shall be deposited in the General Fund.

§8–730.

(a) The provisions of this section apply if an owner creates a security interest

in a vessel.

(b) The owner immediately shall execute the application in the space provided on the certificate of title or a separate form the Department prescribes, naming the secured party on the certificate of title, showing the name and address of the secured party, the amount of the security interest, and the date of the security agreement, and cause the certificate of title and application to be delivered to the Department.

(c) At the time of delivery of the documents described in subsection (b) of this section to the Department, the secured party shall pay to the Department a filing fee as required for perfection of the security interest under § 8-729(b) of this subtitle. The security interest is perfected at the time of the delivery and payment.

(d) Upon receipt of the certificate of title, application, and the required filing fee, the Department shall endorse on the existing certificate of title or on a new certificate, which the Department then issues, the name and address of all secured parties and mail or deliver the certificate of title to the owner of the vessel.

§8–731.

(a) A secured party may assign, absolutely or otherwise, all or part of the secured party's security interest in the vessel to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the secured party as the holder of the security interest and the secured party remains liable for any obligations as secured party until the assignee is named as secured party on the certificate of title.

(b) The assignee shall deliver to the Department the certificate of title if available and an assignment by the secured party named in the certificate of title in the form the Department may prescribe accompanied by a filing fee as required for perfection of the security interest under § 8-729 (b) of this subtitle. The assignee's security interest is perfected as of the time of its creation if delivery and payment to the Department are completed within 10 days of the date of its creation; otherwise, the assignee's security interest is perfected as of the time the assignee delivers the certificate and payment to the Department.

§8–732.

(a) Upon the satisfaction of a security interest in a vessel, the secured party shall release the security interest in whatever form as may be prescribed by or acceptable to the Department, and within 15 days mail or deliver the signed and dated release of security interest to the owner and a copy of the release to the Department. The Department shall correct its records and, upon request of the owner and the receipt by the Department of the certificate of title with the release of security interest, the Department may issue a new certificate of title to the owner.

(b) If the Department determines after a hearing and following due notice to

all parties interested that an indebtedness does not constitute a security interest, the Department shall release the indebtedness upon the certificate of title or issue a new certificate of title, and mail or deliver the certificate of title to the owner. Any person aggrieved by the decision of the Department may appeal in accordance with the provisions of the Administrative Procedure Act.

§8–733.

The Department shall adopt the necessary regulations to implement the provisions of §§ 8-729 through 8-732 of this subtitle.

§8–734.

A secured party named in a certificate of title, on written request of the owner, shall disclose any pertinent information as to the security agreement and the indebtedness secured by the security agreement in accordance with § 9-208 of the Commercial Law Article.

§8–735.

The method provided in §§ 8-729 through 8-736 of this subtitle of perfecting and giving notice of security interests is exclusive.

§8–736.

(a) The Department shall prescribe and provide suitable forms of applications, certificates of title, notices of security interests, and all other notices and forms necessary to carry out §§ 8-729 through 8-736 of this subtitle.

(b) The Department may make necessary investigations to procure information required to carry out §§ 8-729 through 8-736 of this subtitle.

§8–737.

(a) A person may obtain a historical watercraft identification plaque from the Department for a boat that is:

(1) 25 years old or older; and

(2) Powered by the boat's original type of power plant.

(b) The fee for a historical watercraft identification plaque is $25. The identification plaque shall be valid for the life of the boat.

(c) The Department shall issue a historical watercraft identification plaque, of the Department's own design, to a person who applies to the Department on a form the Department supplies. When prominently displayed on the boat, a historical watercraft identification plaque shall entitle the boat owner to apply to participate in parades,

shows, and special displays. The historical watercraft identification plaque may not qualify a boat for general recreational use.

§8–738.

(a) Subject to subsection (g) of this section, a person may not operate or attempt to operate a vessel while the person:

(1) Is under the influence of alcohol;

(2) Is impaired by alcohol;

(3) Is so far impaired by any drug, combination of drugs, or combination of one or more drugs and alcohol that the person cannot operate a vessel safely; or

(4) Is impaired by any controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, unless the person is entitled to use the controlled dangerous substance under the laws of the State.

(b) (1) Except as provided under paragraph (2) of this subsection, the evidentiary presumptions and procedures established under §§ 10–302 through 10–309 of the Courts Article are applicable to any violation of this section.

(2) If at the time of testing an individual has an alcohol concentration that meets the definition of "under the influence of alcohol per se" in § 11–174.1 of the Transportation Article, as determined by an analysis of the individual's blood or breath, it shall be prima facie evidence that the individual was operating a vessel while under the influence of alcohol.

(3) Any person who operates or attempts to operate a vessel on the waters of the State is deemed to have consented, subject to §§ 10–302 through 10–309 of the Courts Article, to take a test, as defined in § 16–205.1 of the Transportation Article, if the person is detained by a police officer who has reasonable grounds to believe that the person has been operating or attempting to operate a vessel while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not operate the vessel safely, or while impaired by a controlled dangerous substance.

(c) (1) Except as provided in § 8–738.1 of this subtitle, a person may not be compelled to take a test, as defined in § 16–205.1 of the Transportation Article.

(2) The detaining police officer shall advise a person who is requested to take a test that, on receipt of a sworn statement from the officer that the person was requested to take a test and refused or was tested and the result indicated an alcohol concentration of 0.08 or more, the court may, on conviction and in addition to other penalties, prohibit the person from operating a vessel on the waters of the State for up to 1 year.

(d) It is not a defense to a charge of violating subsection (a)(3) of this section that the person charged is or was entitled under the laws of this State to use the drug, combination of drugs, or combination of one or more drugs and alcohol, unless the person was unaware that the drug or combination would make the person incapable of safely operating a vessel.

(e) (1) Notwithstanding any other provision of this title, a person who violates subsection (a)(1) of this section is guilty of a misdemeanor and upon conviction:

(i) For a first offense, shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year or both;

(ii) For a second offense, shall be subject to a fine of not more than $2,000 or imprisonment for not more than 2 years or both; and

(iii) For a third or subsequent offense, shall be subject to a fine of not more than $3,000 or imprisonment for not more than 3 years or both.

(2) Notwithstanding any other provision of this title, a person who violates subsection (a)(2), (3), or (4) of this section is guilty of a misdemeanor and upon conviction:

(i) For a first offense, shall be subject to a fine of not more than $500 or imprisonment for not more than 2 months or both; and

(ii) For a second or subsequent offense, shall be subject to a fine of not more than $1,000 or imprisonment of not more than 1 year or both.

(3) Notwithstanding any other provision of this title, the court may prohibit a person convicted of a violation of subsection (a)(1) of this section from operating a vessel on the waters of the State for up to 1 year if the person:

(i) Refused to take a test, as defined in § 16–205.1 of the Transportation Article, when requested by a police officer under subsection (b)(3) of this section; or

(ii) Was tested and the result indicated an alcohol concentration of 0.08 or more.

(f) If a person is charged with a violation of this section, the court may find the person guilty of any lesser included offense under any subsection of this section.

(g) This section applies to the following:

(1) A vessel required to be registered with the Department under this subtitle;

(2) A vessel required to have a valid number awarded in accordance with

a federal law or a federally approved numbering system of another state; and

(3) A vessel from a foreign country using the waters of this State.

§8–738.1.

(a) If a person is involved in an accident while operating or attempting to operate a vessel that results in the death of, or a life–threatening injury to, another person and the person is detained by a police officer who has reasonable grounds to believe that the person has been operating a vessel or attempting to operate a vessel while under the influence of alcohol, while impaired by alcohol, while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person could not operate a vessel safely, or while impaired by a controlled dangerous substance, the person shall be required to submit, as directed by the police officer, to a test of:

(1) The person's breath to determine alcohol concentration;

(2) One specimen of the person's blood to determine alcohol concentration or to determine the drug or controlled dangerous substance content of the person's blood; or

(3) Both the person's breath under item (1) of this subsection and one specimen of the person's blood under item (2) of this subsection.

(b) If a police officer directs that a person be tested, then the provisions of § 10–304 of the Courts Article apply.

(c) Any medical personnel who perform any test required by this section are not liable for any civil damages as a result of any act or omission related to the test, not amounting to gross negligence.

§8–738.2.

(a) A person may not:

(1) Operate a vessel recklessly or in a manner that may endanger another or the property of another on a bay, creek, lake, river, or stream in the State; or

(2) Come into a wharf or bathing shore recklessly or in a manner that may endanger a person or property.

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) For a first conviction, imprisonment not exceeding 30 days or a fine of not less than $25 and not exceeding $200 or both; and

(2) For a second or subsequent conviction, imprisonment not exceeding 60 days or a fine not exceeding $500 or both.

§8–739.

(a) Any person who violates any provision of § 8-712, § 8-712.1, § 8-712.3, § 8-713, or § 8-718 of this subtitle is guilty of a misdemeanor and on conviction is subject to:

(1) For a first offense, a fine not exceeding $500; and

(2) For any subsequent offense that occurs within 2 years of a prior violation, a fine not exceeding $1,000 or imprisonment not exceeding 1 year, or both.

(b) Any person who violates § 8-716.1 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 5 years, or both.

§8–740.

(a) If a person is convicted of 2 boating violations concerning the operation of, or safety equipment on, a vessel within a 2-year period of time, the person is required, as a condition of probation or sentencing, to complete successfully a boating safety education course that is offered or approved by the Department.

(b) Notwithstanding the provisions of subsection (a) of this section, if a person is convicted of any of the following boating safety violations in the operation of a vessel, the person is required, as a condition of probation or sentencing, to successfully complete a boating safety education course that is offered or approved by the Department:

(1) Negligent operation;

(2) Reckless operation; or

(3) Operating in violation of § 8-738 of this subtitle.

(c) The requirement to take and successfully complete the boating safety education course under subsections (a) and (b) of this section is in addition to any other punishment that a judge imposes for violation of the boating laws or regulations of the State.

§8–740.1.

(a) In this section, "ship-to-shore communication device" means a:

(1) Ship-to-shore telephone; or

(2) Another mechanical device that enables the crew and employees on a vessel to establish contact with a person on shore as may be necessary to seek assistance

under all reasonable conditions and in an emergency.

(b) This section does not apply to a vessel in interstate or foreign commerce.

(c) A person in command or an owner of a vessel may not operate the vessel on the waters of the State while carrying 25 or more paying or guest passengers in addition to the crew and employees unless the vessel is equipped with a ship-to-shore communication device.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100.

§8–741.

(a) (1) For the purposes of this section the following words have the meanings indicated.

(2) (i) "Marine sanitation device" means any equipment on board a vessel which is designed to receive, retain, treat or discharge sewage and any process to treat sewage on board.

(ii) "Marine sanitation device" includes:

1. Type I marine sanitation device, which produces an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids;

2. Type II marine sanitation device, which produces an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter; and

3. Type III marine sanitation device, which is certified to a no-discharge standard, including recirculating and incinerating marine sanitation devices and holding tanks.

(3) "Sewage" means:

(i) Human body wastes; and

(ii) The wastes from toilets and other receptacles intended to retain body waste.

(4) "Y valve" means a device capable of diverting the flow of marine sewage so that a vessel's marine sanitation device is bypassed and raw sewage is discharged directly into the water.

(b) The following vessels equipped with an installed toilet shall be equipped with an operable marine sanitation device:

(1) A vessel 65 feet in length and under shall have a Type I, II, or III marine sanitation device; or

(2) A vessel over 65 feet in length shall have a Type II or III marine sanitation device.

(c) (1) A Type I or Type II marine sanitation device shall have a certification label affixed that at a minimum shows:

(i) The name of the manufacturer;

(ii) The name and model number of the device;

(iii) The month and year of manufacture;

(iv) The marine sanitation device type;

(v) A certification number; and

(vi) A certification statement.

(2) A Type III marine sanitation device is automatically certified, and requires no label, provided it stores sewage and flushwater only, at ambient air temperature and pressure.

(d) (1) While a vessel with an installed toilet is on Maryland waters, the operator shall insure that:

(i) All pathways for overboard discharge of vessel sewage from any vessel with a Type III marine sanitation device are blocked or secured in such a way as to prevent any accidental or intentional vessel sewage discharge, by disconnecting or physically blocking those onboard sewage lines or hull fittings which would allow for overboard vessel sewage discharge; and

(ii) Any installed in-line Y valve shall be secured to prevent the overboard discharge of sewage from any vessel utilizing a Type III marine sanitation device, by bypassing, locking, securing, or disabling the valve using a padlock or nonreusable wire tie wrap, or by removal of the valve handle, or by any other method in accordance with federal regulations and standards or as approved or required by the Department.

(2) The chosen compliance method under paragraph (1)(ii) of this subsection shall totally eliminate the possibility of overboard vessel sewage discharge while in waters of the State. The method chosen shall present a physical barrier to the use of the Y valve, whether accidental or intentional, so that use of the valve cannot occur without the knowledge of the operator of the vessel.

(e) For any vessel offered as a noncaptained charter, the leasing entity shall:

(1) Ensure that the vessel complies with this section when presented to the lessor; and

(2) Include in the lease agreement, signed by the leasing party, a paragraph outlining the operator's responsibilities under this section.

(f) A person who violates a provision of this section is subject to a civil penalty not exceeding $2,000.

§8–742.

(a) Based on criteria including the protection of natural resources, health, and the environment, on or before April 15, 2000, the Department shall:

(1) Conduct and complete, in accordance with the Federal Water Pollution Control Amendments Act of 1972 (33 U.S.C. § 1251 et seq.) and the Clean Vessel Act of 1992 (P.L. 102–587), a survey of:

(i) The number, location, and utilization of operational pumpout stations and waste reception facilities at public and private marinas, mooring areas, docks, and other boating access facilities in the State; and

(ii) The number of recreational vessels operating in the waters of the State including transient vessels equipped with Type I, Type II, or Type III marine sanitation devices or portable toilets, and the areas of the waters of the State in which those vessels congregate including areas of overnight anchoring and mooring; and

(2) Identify waters of the State that support living resources that are sensitive to the discharge of sewage from boats, ships, and other vessels, using criteria established under the Federal Water Pollution Control Amendments Act of 1972 and 40 C.F.R. § 140.4.

(b) On or before April 15, 2001, the Department shall take steps to ensure that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels, as determined under the Federal Water Pollution Control Amendments Act of 1972, are reasonably available for the sensitive areas identified under subsection (a)(2) of this section.

(c) (1) The Department shall consult with the Department of the Environment in complying with subsections (a)(2) and (b) of this section.

(2) The Department shall make recommendations, if appropriate, to the Department of the Environment on any suggested changes to existing water quality standards.

§8–743.

(a) (1) In this section the following words have the meanings indicated.

(2) "Child" means an individual who is under the age of 13 years.

(3) "Personal flotation device" means a Type I, II, III, or V U.S. Coast Guard approved personal flotation device that is:

(i) The proper size for the child; and

(ii) In good and serviceable condition.

(4) (i) "Vessel" means:

1. A vessel used for recreational purposes; or

2. A vessel leased, rented, or chartered for noncommercial use.

(ii) "Vessel" does not include a vessel carrying passengers for hire under the command of an individual licensed by the U.S. Coast Guard to carry passengers for hire, or a vessel displaying a valid seafood harvester's license number while engaged in the harvesting of seafood for sale.

(b) (1) A person may not operate or permit the operation of a vessel under 21 feet in length while there is present in the vessel a child not wearing a personal flotation device which is securely and properly attached to the child.

(2) If the child is under the age of 4 years, the personal flotation device shall feature additional safety precautions, as appropriate for an infant, toddler, or young child, so as to:

(i) Hold the child securely within the personal flotation device, including a strap that is secured between the child's legs to fasten together the front and back of the personal flotation device;

(ii) Maintain the buoyancy of the child, including an inflatable headrest or high collar; and

(iii) Ensure the ready accessibility of the child from the vessel, including a web handle.

(c) Subsection (b) does not apply to:

(1) A vessel that is moored or anchored; or

(2) A child who is below deck or in an enclosed cabin.

§8–744.

(a) In this section, "for–hire water carrier" means a vessel used to accept or solicit passengers for:

(1) Transportation between points along State waters in exchange for remuneration; and

(2) Sightseeing and touring in State waters in exchange for remuneration.

(b) Before the Department registers a for–hire water carrier, the Department shall require the for–hire water carrier to show, to the Department's satisfaction, that the water carrier holds an insurance policy or a bond in an amount that is required of a motor vehicle carrying the same number of passengers in accordance with COMAR 20.95.01.18.

(c) The Department may adopt regulations to implement this section.

§8–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Benefited property" means land immediately abutting the waters of the State that is protected by an erosion control project constructed under the provisions of this subtitle.

(2) "Benefited property" includes land in the vicinity of the waters of the State that is protected by the erosion control project when:

(i) The owner of the land has rights of access to land immediately abutting the waters; and

(ii) The owner is a party to the application for assistance in the project.

(c) "Fund" means the Shore Erosion Control Construction Loan Fund.

(d) "Net project construction cost" means the construction cost paid from the Fund, equal to the project construction cost, plus any excess costs, less the property owner's cash contribution.

(e) "Project construction cost" means the estimated cost to design and construct a shore erosion control project, exclusive of supervision, inspection, and maintenance costs.

(f) "Property owner's cash contribution" means the sum an owner of property benefited by a shore erosion control project is required to pay in a lump sum prior to construction of the project.

(g) "Shore erosion control project" means a competently designed work project, which may include but is not limited to erection or placement of bulkheads, groins, or other erosion control devices, and measures required to stabilize waterside, shorelines, and banks, and to change drainage patterns, all in order to halt or retard erosion of

shorelines and deposit of eroded sediments in the waters of the State.

§8–1002.

The Department shall:

(1) Develop and implement a program to educate the public on every phase of shore and bank erosion, its causes and effects, the locations where erosion is a problem, and steps to be taken to control erosion;

(2) Review petitions for formation of shore erosion control districts presented to any county and report to the county as provided in § 21–303 of the Local Government Article;

(3) Provide technical assistance to individual property owners, municipalities, and counties having specific shore and bank erosion problems;

(4) Design or cause to be designed shore erosion control projects, including vegetative cover, in shore erosion control districts;

(5) Enter into agreements with any person to construct shore erosion control projects;

(6) Administer the Fund to provide loans to any person in support of construction of shore erosion control projects;

(7) Supervise or provide supervision of design and erection of any shore protective device the Fund finances in whole or part;

(8) Prepare requests for appropriation of funds necessary to maintain the Fund;

(9) Cooperate with the following units:

(i) The State Highway Administration for shore erosion control where essential to protect municipal, county, or State roads;

(ii) The United States Army Corps of Engineers to conduct shore erosion studies; and

(iii) The Soil Conservation Service of the United States Department of Agriculture to evaluate and apply vegetative measures for shore erosion control;

(10) Design, construct, and maintain shore erosion control works on State–owned lands if these projects are included in the budget for the Fund;

(11) Actively seek to obtain available funds from the federal government for shore erosion control projects; and

(12) Adopt regulations to implement this subtitle.

§8–1003.

(a) The owner of any property abutting on any body of water in the State may file a written application with the Department requesting State assistance in the design, construction, and financing of a shore erosion control project for the property. The application shall be in a form and contain information the Department prescribes. Each application form shall contain a notice warning that the applicant is responsible for maintenance of any project after the project is constructed.

(b) A project may not be approved unless the project lies within a physiographic unit established by the Department, is within a shore erosion control district established under Title 21, Subtitle 2 or Subtitle 3 of the Local Government Article, or is of a nature that the project's inclusion within a physiographic unit or shore erosion control district is neither necessary nor feasible in the Department's judgment.

(c) A physiographic unit project may not be approved unless every property owner within the physiographic unit participates in planning, construction, and financing of the project. However, the Department may exclude any property owner within the physiographic unit if this exclusion does not affect materially the remainder of the project.

(d) The Department shall establish a schedule of priorities for shore erosion control projects, and upon approval of an application, assign the project to a priority list number. The schedule shall take into consideration the rate of erosion, amount of silt being deposited in the waters involved, date of Department's approval, nature and amount of public benefits provided by the project, and any other factors set forth in regulations the Department adopts. If at any time the cost of an approved project at the top of the priority list exceeds the unobligated balance of the Fund, the Department may proceed with construction of a lower priority project.

(e) The property owner's cash contribution shall be placed in escrow immediately after a construction contract is awarded but before construction begins.

§8–1004.

(a) The operating budget of the Department may contain an appropriation from the Fund sufficient to provide technical and administrative services required to implement §§ 8-1002 and 8-1003 of this subtitle, including but not limited to:

(1) Review and evaluation of requests for assistance in shore erosion control;

(2) Supervision over construction of approved projects; and

(3) Inspection of completed projects to insure adequate maintenance.

(b) Costs of the services enumerated in this section:

(1) Shall be reimbursed to the Department by the property owner; and

(2) May not be considered part of the construction cost of the project.

(c) Moneys in the Fund may be used for administrative costs calculated in accordance with § 1-103(b)(2) of this article.

§8–1004.1.

(a) Notwithstanding any other provision of this subtitle, to the extent that a project consists of nonstructural shore erosion control measures, the Department may:

(1) Require the owner of the benefited property to initially incur some or all of the project costs for nonstructural measures; and

(2) Provide assistance in the form of reimbursements to the owner.

(b) To be entitled to receive any reimbursements under this section, the owner of the benefited property shall have entered into a project agreement with the Department before incurring any costs. The Department shall estimate the total amount of project costs for nonstructural measures and shall establish in the agreement as the maximum amount of assistance which will be available for the project 50% of that estimate. The Department may include in the project agreement conditions under which the owner may be entitled to receive reimbursement, including conditioning the reimbursement upon the successful establishment of any vegetative elements of the project.

(c) The Department may reimburse the owner of a benefited property for 50% of the actual project costs or for the maximum available amount established in the project agreement, whichever is less. If the Department, through its employees, agents, or contractors, has designed or installed all or part of the nonstructural measures, the Department shall include as actual project costs the value of any labor or materials contributed by the State. The value of these items already contributed by the State shall be deducted from the amount to be reimbursed to the owner.

(d) In carrying out this section, the Department may utilize any general, special, State reimbursable, or federal reimbursable funds appropriated in the budget for nonstructural shore erosion control. Appropriations and expenditures of funds for the purposes of this section may not be subject to any provision of §§ 8-1005 through 8-1007 of this subtitle.

§8–1005.

(a) (1) There is a "Shore Erosion Control Construction Loan Fund". The Department shall administer the Fund to provide interest-free loans or grants to persons, municipalities, or counties for design and construction of shore erosion control projects. The Fund shall be maintained by:

(i) Repayments of principal on loans made from the Fund, with the repayments made through a benefit charge the State levies on privately owned property benefited by shore erosion control projects. The benefit charge shall compensate the State for net project construction cost. The benefit charge shall be levied at a uniform rate over a period not exceeding 25 years;

(ii) Repayment of administrative costs under § 8-1004 of this subtitle; and

(iii) Annual appropriation of funds to restore the Fund to a level sufficient to carry out an effective shore erosion control construction loan program during the succeeding year.

(2) (i) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

(3) A property owner whose project is approved is eligible to receive an interest-free loan covering 100% of the first $60,000 of project construction cost, 50% of the next $20,000 of project construction cost, 25% of the next $20,000 of project construction cost, and 10% of the part of construction cost exceeding $100,000. However, where 2 or more property owners are included within a shore erosion control project, the land of each property owner is considered a separate shore erosion project for the purpose of computing net project construction cost under this formula.

(b) During the first month of each fiscal year, the Department shall submit to the Department of Budget and Management:

(1) An estimate of the amount of revenues the Fund expects to receive from repayment of outstanding loans; and

(2) The amount of funds required to reestablish an adequate balance in the Fund to make loans during the next fiscal year.

(c) If it appears reasonably likely that funds will be available for an approved shore erosion control project, the Department shall develop complete plans, specifications, and all information necessary to solicit firm bids for construction of the project. After selection of a contractor, in accordance with normal competitive bidding procedures, the Department shall advise the property owner of the estimated cost for the completion of all work. The property owner then may elect to abandon the project, and forfeit any initial deposit required under the regulations of the Department.

(d) (1) If, after completion of the procedures required under subsection (c) of this section, the property owner decides to proceed with the project, the provisions of this subsection shall apply.

(2) The property owner shall execute a written notice to proceed, on a form provided by the Department, and shall pay any property owner's cash contribution required under this subtitle. This action shall constitute an irrevocable commitment by the property owner to completion of the project in accordance with the provisions of this subtitle, including authorization for the Department to incur costs up to 10% in excess of the estimated cost above.

(3) Any excess costs within the 10% limit may not act to increase the property owner's cash contribution, but shall be included in the net project construction cost for purposes of assessing benefit charges at the conclusion of the project.

(4) The Department at this time shall cause a notice of lien to be recorded among the land records of the county where the benefited property is located. The notice generally shall describe the provisions of § 8-1006 of this subtitle regarding lien priority and the assumption of liability by a purchaser of a benefited property.

(5) The Department shall award a construction contract for the project, shall supervise actual construction work, and shall make reasonable efforts to ensure that the project is completed in accordance with all specifications and in a manner that conforms to normal industry practice. In this regard, the Department alone shall be responsible, in its own discretion, for negotiating any changes in the construction contract and for determining when the project is satisfactorily complete in all respects.

(6) On completion of the project, the Department shall:

(i) Endorse any property owner's cash contribution to the credit of the contractor; and

(ii) Pay the balance due the contractor from the Fund.

(7) Within 30 days of completion of the project, the Department shall certify to the Board of Public Works the net project construction cost. The Board of Public Works shall levy a benefit charge in accordance with the provisions of § 8-1006 of this subtitle.

(e) Costs to maintain shore erosion control projects are the sole responsibility of the benefited property owner. The Department periodically shall inspect these projects to recommend to the property owner any measures required to maintain the project.

(f) Any county or any municipal corporation may borrow interest-free funds from the Fund for any approved project without the project construction cost limitation stated in this section. The county or municipal corporation shall repay the funds at a uniform rate over a period not exceeding 25 years as stated by agreement between the State and county or municipal corporation.

(g) The Department shall include in its budget a request for funds necessary to provide and maintain shore erosion protection for State-owned properties.

§8–1005.1.

(a) Notwithstanding any other provision of this subtitle, the Department may require a property owner who has requested a loan, or a property owner may elect, to procure design and construction services for a shore erosion control project.

(b) The Department shall adopt regulations establishing procedures and technical standards for the procurement of design and construction services by a property owner.

§8–1006.

(a) On receipt of certification from the Department that a shore erosion control project has been satisfactorily completed, the Board of Public Works shall fix and levy a benefit charge on the benefited property. The benefit charge shall be:

(1) Payable in annual installments over a period of 25 years, or any shorter period as directed by the Board; and

(2) Calculated so as to return to the State the net project construction cost resulting from the shore erosion control project.

(b) Annual installments shall be due beginning on the first day of July following levy of the benefit charge by the Board of Public Works, and each July 1 after that date until the benefit charge is paid totally. If not paid within 90 days of its due date, an installment shall be in default and shall bear interest at the rate of 2% a month from the time of default. The Department shall be responsible for collection of annual installments.

(c) A benefit charge assessed under this subtitle shall be a lien on the real property against which the benefit charge is assessed, and shall be subject to collection in the manner specified for foreclosure of mortgages. Any annual installments in default shall be a first lien on the benefited property, subject only to prior State, county, or municipal real property taxes. The outstanding balance of a benefit charge shall be afforded normal lien priority, except that the Department may agree in writing to grant precedence to a subsequent mortgage or deed of trust if necessary for refinancing, transfer, or improvement of a benefited property.

(d) Annual installments shall be a personal obligation of the owner of a benefited property at the time the installments become due. Sale of a benefited property may not extinguish a lien under this subtitle, and the purchaser in all instances shall take the property subject to any outstanding balance of the total benefit charge still unpaid at the conclusion of the sale, and shall be required to meet the same annual installments as previously were being assessed. Any notice of sale clearly shall identify this potential liability, provided that failure to so notify may not affect the obligation if the notice of lien required under § 8-1005(d)(4) of this subtitle is filed properly.

§8–1007.

(a) For purposes of § 3-104 of the Real Property Article, which pertains to payment of taxes as a prerequisite to recording of any transfer of property, it is sufficient that all current annual installments of any benefit charge levied under this subtitle have been paid.

(b) In the case of any subdivision of benefited property subsequent to the filing of the notice of the lien required under this subtitle, the benefit charge shall apply:

(1) Except as provided in this subsection, in proportion to the respective length of the shore erosion control project abutting each lot; or

(2) If the owners and the Department agree that a different apportionment would more fairly treat a particular situation, then in accordance with that agreement.

(c) At the time of levy of any benefit charge under this subtitle or apportionment of an existing levy among subdivision lots, the Department shall notify appropriate tax officials for inclusion of the assessment in the tax records.

(d) On completion of payment of the total benefit charge relating to a shore erosion control project, the Department shall:

(1) Certify to the Board of Public Works for release of the lien that payment has been completed; and

(2) File a release of the lien in the appropriate land and tax records.

§8–1008.

The Department, with the approval of the Board of Public Works, shall adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article to implement the procedures of the Department for shore erosion control capital and loan projects under §§ 8-1005, 8-1006, and 8-1007 of this subtitle.

§8–1101.

The General Assembly finds and declares that land movement and disturbance activities on Atlantic Coast beaches east of certain natural and physical contours and elevations of the beach endanger the integrity and continuity of the beach system which includes a dunal system, prevents adequate maintenance, shore erosion, and sediment control, and storm protection of these and adjacent areas, and results in the imposition of additional financial burdens on the citizens of the State.

§8–1102.

(a) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, for the purposes of maintaining the Atlantic Coast beaches of the State

and the Beach Erosion Control District, the integrity and continuity of the dunal system and assuring adequate maintenance of the beaches, Beach Erosion Control District, and dunal system, to provide for shore erosion and sediment control and storm protection, and to minimize structural interference with the littoral drift of sand and any anchoring vegetation, any land clearing, construction activity, or the construction or placement of permanent structures within the Beach Erosion Control District is prohibited.

(2) This prohibition does not apply to any project or activity approved by the Department and the appropriate soil conservation district specifically for storm control; beach erosion and sediment control; maintenance projects designed to benefit the Beach Erosion Control District; the widening of the boardwalk in Ocean City up to an additional 40 feet to the east between South Second Street and the south side of Worcester Street and from the south side of Somerset Street to the southerly terminus of the steel and concrete bulkhead at 4th Street, and an additional 80 feet to the east between the south side of Worcester Street and the south side of Somerset Street to include associated appurtenances and construction of one restroom facility in an easterly direction between South Second Street and the southerly terminus of the steel and concrete bulkhead at 4th Street for the purpose of public health, safety, and welfare; and a planned public utility pipeline carrying treated sewage effluent from a unit not exceeding 14 million gallons per day, if, in addition to the approvals required by all other applicable federal and local laws and regulations, it is approved by the Board of Public Works as essential to the public health, safety, and welfare of the citizens of Worcester County, after having received the permission of the Secretaries of the Environment and Natural Resources, and the Director of Planning, including a guarantee that in any contract under this provision a person will not make any significant permanent environmental disruption to the area, and the construction area for the purpose of laying a single pipe with a diameter not exceeding 36 inches is limited to a single 100 foot wide area perpendicular eastward from the west crest of the natural dune line on Assateague Island and in Ocean City, and if the Secretaries of the Environment and Natural Resources and the Director of Planning find that there is no economically and environmentally feasible alternative, and that there is insufficient capacity at the existing Ocean City wastewater treatment facility and discharge pipe.

(3) (i) Subject to subparagraph (iii) of this paragraph, this prohibition does not apply to the construction and installation of a qualified submerged renewable energy line, as defined in § 7–208 of the Public Utilities Article, if the project does not result in any significant permanent environmental damage to the Beach Erosion Control District, as determined by the Department.

(ii) An application for a certificate of public convenience and necessity to construct a qualified submerged renewable energy line, as defined in § 7–208 of the Public Utilities Article, is subject to review by the Department and the Department of the Environment, as provided in § 3–306 of this article.

(iii) The Public Service Commission may not approve an application for a qualified submerged renewable energy line to be constructed or installed within

the Assateague National Seashore Park or the Assateague State Park.

(b) The Secretary of the Environment, the Secretary of Natural Resources, and the Director of Planning, with the approval of the Board of Public Works, shall jointly adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article for the purpose of implementing the provisions of this section.

§8–1103.

(a) (1) There is an Ocean Beach Replenishment Fund, consisting of moneys appropriated for that purpose in the State budget or in any bond enabling act and any money contributed by local jurisdictions in accordance with this section.

(2) The Fund shall be maintained for the purposes stated in this section, and unspent portions of any appropriations to the Fund shall remain in the Fund and may not revert to the General Fund and any project or program funded under this subtitle is not subject to the provisions of §§ 7–305(d)(3) and 8–128(c) of the State Finance and Procurement Article.

(3) Any interest earned by the State on any funds contributed by local jurisdictions shall:

(i) Accrue to the Fund; and

(ii) Be applied to reduce the annual maintenance payments of the local jurisdictions.

(b) The Board of Public Works, upon the recommendation of the Secretary, may expend moneys appropriated from the Fund, directly or through loans or grants to local jurisdictions, for the following types of projects on Maryland's ocean beaches:

(1) Bulkhead construction;

(2) Dune restoration or construction;

(3) Beach replenishment; and

(4) Land acquisition necessary to accomplish any of the types of projects in this subsection.

(c) Funds shall be expended only upon projects that further an integrated plan that has been approved by the Secretary as providing protection against storm and flood events.

(d) The eligible costs of a project for State financial assistance under this subtitle may include the costs of reports, plans, specifications, legal and administrative services, equipment, construction, rehabilitation, or improvement. Bond proceeds appropriated to the Fund may not be used for project administrative costs. Costs for

periodic additions of sand or other elements necessary to maintain the structural integrity of a project shall be eligible for financial assistance.

(e) The State shall assume 100% of the costs of any land acquisition project. State assistance for any other type of authorized project may not exceed 50% of nonfederal costs.

(f) All projects receiving State assistance under this subtitle shall be designed and managed by the Department, which shall consult with the project sponsors.

(g) Any accretion to existing beaches resulting from activities assisted by the Fund shall be deemed natural resources of the State, and title to any accretion is vested in the Department. Land created by any accretion to or replenishment of any ocean beach in Maryland is not vacant land within the meaning of the Real Property Article, and the Commissioner of Land Patents may not issue any patent for land so created.

(h) Grants or loans for project construction may not be authorized under this section until the Department and the Board of Public Works approve the following items as submitted by the municipality or county, as appropriate, in which the project is located:

(1) An approved description of the project together with a financing plan;

(2) A guarantee of the portion of costs not provided by State and federal assistance;

(3) An agreement to be responsible for beach cleaning, policing, and lifeguard services on any restored or protected beach;

(4) An agreement to convey at no cost to the State any lands or easements granted to the county or municipality and necessary for beach replenishment or dune restoration or construction purposes; and

(5) Local ordinances and codes relating to building setbacks, piling depths, structural techniques for minimizing wind and storm damage, and building after storm damage.

(i) The financing plan submitted by the municipality and county in which the project is located shall:

(1) Set forth a binding percentage allocation between the municipality and the county of the project costs not provided by State and federal assistance;

(2) Set forth the revenue sources to be relied upon to provide the local costs, which without limitation may include:

(i) As to the county:

1. The recordation tax authorized by Title 12 of the Tax – Property Article;

2. The admissions and amusement tax authorized by § 4–102(b) of the Tax – General Article;

3. The county income tax authorized by § 10–103 of the Tax – General Article;

4. State–collected, locally–shared taxes or designated portions of the taxes;

5. Taxes authorized by the Tax – Property Article; and

6. Revenues raised by establishment of an erosion control district established pursuant to §§ 21–202, 21–204, and 21–210 of the Local Government Article; and

(ii) As to the municipality:

1. Taxes authorized by the Tax – Property Article;

2. Fees and charges authorized by § 5–205(d) of the Local Government Article or the municipality's charter; and

3. The admissions and amusement tax authorized by § 4–102(c) of the Tax – General Article; and

(3) Be accompanied by a guaranty of the municipal and county share of such costs duly ratified by the governing body of each subdivision.

(j) In the event the county or municipality fails to raise or to pay to the State all or any portion of its percentage of the costs of a project as established by a financing plan within 6 months of the certification of costs by the State Comptroller, the State Comptroller shall cause to be withheld from State–collected, locally shared taxes, and, to the extent necessary, from the State aid for police protection provided by Article 41, Title 4, Subtitle 4 of the Code to which the county or municipality would otherwise be entitled, for the following fiscal year, a sum sufficient to reimburse the State for any sum remaining unpaid, together with interest on the unpaid amount at the rate of 10% per annum from the date of the certification by the State Comptroller.

§8–1104.

An appraiser for the Department, the trier of fact in any condemnation proceeding, or any other person charged by law to determine fair market value shall consider the following among other relevant factors in determining the fair market value of any interest in land being acquired to implement § 8-1103 of this subtitle:

(1) The date of valuation shall be determined recognizing that the State may have taken properties as of the date that prohibitions were imposed for the Beach Erosion Control District under § 8-1105.1 of this subtitle;

(2) If the land lies within the Beach Erosion Control District established pursuant to § 8-1105.1 of this subtitle, the land shall be valued subject to the restrictions of § 8-1105.1 of this subtitle; provided, however, that if it appears that the owner is entitled to compensation for a taking under the provisions of § 8-1105.1(c) of this subtitle, then the property shall be valued as if the restrictions of § 8-1105.1 of this subtitle were not in effect, but all other applicable restrictions of State and local law were, including:

(i) Building codes;

(ii) Zoning;

(iii) Public rights across the property acquired through dedication or prescription;

(iv) Easements for dune construction and maintenance; and

(v) Density limitations; and

(3) If fair market value is to be based on an assumption that the land can be developed, the costs of that development shall be estimated assuming the risk of storm damage with the beach in its condition as of the date of valuation, and taking into account any deterioration of the beach which could reasonably be expected to occur after the date of valuation, given no artificial improvement or protection of the beach at public expense. The costs shall include insurance costs and special construction costs attributable to the need to protect against storm damage.

§8–1105.1.

(a) There is a Beach Erosion Control District, which consists of that land bordered on the north by the boundary line between the State of Maryland and the State of Delaware, bordered on the east by the waters of the Atlantic Ocean, bordered on the south by the borderline between the State of Maryland and the Commonwealth of Virginia, and bordered on the west by a line which coincides, more or less, with the west crest of the existing natural dune on Assateague Island, and in Ocean City, is a mutually approved line to be known as the State–Ocean City building limit line which coincides, more or less, with the existing Ocean City building limit line and on occasion may coincide with the crest of the littoral system. The Department, after surveying, platting, and recording the State–Ocean City building limit line, has the authority to describe by regulation the State–Ocean City building limit line. The Department shall perform the survey, platting, and recording at its own expense within 30 days of July 1, 1975.

(b) Transferred.

(c) If the prohibitions imposed for the Beach Erosion Control District would constitute a taking of a property right without just compensation in violation of the Constitution of the United States or the Maryland Constitution, funds under Program Open Space may be used to purchase or otherwise pay for any property taken.

(d) The provisions of this section are in addition to the provisions of §§ 8–1103 and 8–1104 of this subtitle.

§8–1301.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Duly designated agency" means any public body corporate, whether exercising local or regional authority, in any of the counties listed in § 8-1303 of this subtitle, which shall be officially designated by either or any of the counties which executes the programs and purposes of this subtitle within any of the counties.

(2) However, in Montgomery and Prince George's counties, the Maryland-National Capital Park and Planning Commission is the duly designated agency of these counties to carry out the provisions of this subtitle.

(c) "Watershed" means the Patuxent River Watershed.

§8–1302.

The General Assembly declares that flood prevention, conservation, sediment or erosion protection, and prevention of urban development within the Watershed is a public benefit and conducive to the public health, safety, and welfare.

§8–1303.

The appropriate county governing body of Howard, Montgomery, Prince George's, Anne Arundel, Calvert, Charles, and St. Mary's counties or the duly designated agencies of the appropriate county governing body shall have the jurisdiction, power, and authority to define and create the Patuxent River Watershed in their respective counties. Each shall act cooperatively with the Department and local, county, State, and federal governments to protect areas subject to sediment or erosion damage and prevent encroachment by rapid growth and spread of urban development by creating a program of flood prevention and conservation.

§8–1304.

(a) The Maryland-National Capital Park and Planning Commission shall have and exercise the authority granted by the provisions of this subtitle to the appropriate county governing body or its duly designated agency to the extent it pertains to:

(1) Adopting the Watershed plan;

(2) Acquisition, improvement, maintenance and operation of lands and other property for the purposes stated in this subtitle; and

(3) Adopting regulations affecting the lands and property and leasing, contracting, and permit authority granted under this subtitle.

(b) This power and authority is in addition to that which is stated in Division II of the Land Use Article.

§8–1305.

The appropriate county governing body of each county named in § 8-1303 of this subtitle, or its duly designated agency, may adopt, amend, extend, or add to the Watershed plan, with the approval of the Department. The plan, including maps, plats, charts, and descriptive matter, shall show the respective appropriate county governing body's, or its duly designated agency's recommendations to protect the Watershed, and may include, items such as location of lands to be acquired, either in fee or by easement, for the purposes of this subtitle, and public uses proposed for the lands, including the location, arrangement, character, and extent of roadways, waterways, waterfronts, beaches, docks and wharves, parks, forest preserves, public recreational areas, wildlife refuges, natural scenery, and open spaces.

§8–1306.

(a) The appropriate county governing body or its duly designated agency may adopt:

(1) Part of the Watershed plan in its respective county;

(2) Any part to cover 1 or more sections of the Watershed within its respective county; or

(3) 1 or more of the other functional subject matters to be included in the plan.

(b) Before adopting the plan or any part, extension, amendment, or addition to it, the appropriate county governing body or its duly designated agency shall hold at least 1 public hearing. Thirty days notice of the time and place of the hearing shall be given by publishing a notice once in a newspaper of general circulation in the affected county. Adopting, amending, extending, or adding to the plan or any part of the plan shall be by resolution. The resolution expressly shall refer to the maps and other descriptive matter, which the appropriate county governing body or its duly designated agency intends to form the whole or part of the plan. Any action taken shall be recorded on the map, plan, or descriptive matter by the identifying signatures of the appropriate county official. The appropriate county governing body or its duly designated agency shall certify an attested copy of the plan or any part, amendment, extension, or addition to the plan and file it with the clerk of the circuit court for the county affected.

§8–1307.

For the purpose of carrying out any recommendation of the Watershed plan or any part of the plan, each county, through its appropriate county governing body or duly designated agency, in cooperation with the Department, may acquire land or other property, by means of donation, purchase, or condemnation, either in fee or by easement, located within the area of the county for the public purposes delineated in the plan. The appropriate county governing body or its duly designated agency may improve and develop the acquired land or other property for the purposes of the plan. The plan controls maintenance and operation of the land or other property.

§8–1308.

To finance or assist in financing acquisition of land or other property for the purposes shown on the Watershed plan, or for improvement or development of the Watershed plan, the appropriate county governing body or its duly designated agency may receive and expend any contribution, donation, or appropriation which the federal government or any person makes.

§8–1309.

The appropriate county governing body or its duly designated agency may acquire lands for the purposes stated in this subtitle outside of the area of the Watershed plan, if the appropriate county governing body or its duly designated agency finds that acquisition is necessary to preserve any portion of the Watershed plan in its county. The appropriate county governing body or its duly designated agency may expend any authorized funds under the provisions of this subtitle to purchase land outside the area of the Watershed plan.

§8–1310.

(a) The county or its duly designated agency shall hold land acquired under this subtitle, title to which shall become vested in the county in which the land lies or the county's duly designated agency, for the general benefit of the State and county. Title to the acquired land may not be conveyed out of the county or its duly designated agency, nor may its use be extinguished without the consent and approval of the Department. The provisions of this section may not be construed to affect the power of the Department to acquire property by power of condemnation, nor affect the Department's power to purchase or accept any gift of property.

(b) Any land or property acquired under the provisions of this subtitle shall be exempt from any general or special State, county, and municipal tax.

(c) The appropriate county governing body of each affected county may levy an annual special tax for the benefit of the Watershed acquisition program. The tax may be levied on all of the property within the respective county, assessed for county taxation purposes. The appropriate county governing body may allocate the aggregate amount collected by the tax to the Watershed acquisition program, or to pay the aggregate

amount collected by the tax to the duly designated agency under the provisions of this subtitle for the agency's Watershed acquisition program. The appropriate county governing body or its duly designated agency may expend the proceeds of the tax only within the county where the tax was collected to acquire land and other property shown on the Watershed plan as recommended for purchase to protect the Watershed. The proceeds of the tax shall be expended on a 50-50 matching basis with the Department.

§8–1311.

(a) The appropriate county governing body or its duly designated agency may:

(1) Lease for a term not exceeding 20 years and renew any lease for any additional term, not exceeding 20 years each, to any person, any portion of the land acquired for the purposes stated in this subtitle; and

(2) Grant any privilege, permit, or enter into any contract with any person, to engage in any business or enterprise on land acquired for the purposes stated in this subtitle on terms and conditions the appropriate county governing body or its duly designated agency deems advantageous to develop the Watershed plan.

(b) The purpose for which any property is leased, and any privilege, permit, and concession is granted, may not be inconsistent with the use of the property as recommended by the Watershed plan. Any lease or contract executed under the provisions of this section shall contain a condition stating specifically the purpose for which the property is leased or the privilege, permit, or concession is granted. Any lease, contract, privilege, or permit requires approval of the Department.

§8–1312.

The appropriate county governing body or its duly designated agency, with the approval of the Department, may sell, convey, transfer, lease, or exchange any land acquired under this subtitle deemed unnecessary for the purposes of this subtitle.

§8–1313.

The appropriate county governing body or its duly designated agency may adopt regulations for use of land or other property acquired under the provisions of this subtitle. A copy of the regulations shall be posted on the land or other property to which they apply. Following their adoption, the regulations shall be published at least 3 times within 60 days, in 1 or more newspapers published in the county in which the land or other property lies. The posting and publication is sufficient notice to every person. The sworn certificate of any member of the appropriate county governing body or its duly designated agency shall be prima facie evidence of the posting and publication.

§8–1314.

(a) To acquire land and other property shown or recommended on the

Watershed plan, the appropriate county governing body or its duly designated agency may apply to the Department for a grant from the local projects share of Program Open Space as provided in Title 5 of this article. The application shall conform to the requirements specified in Title 5 of this article.

(b) If funds are not available to any county named in § 8-1303 of this subtitle under Program Open Space, the Department shall include in the Department's budget a request for funds to acquire land within the county for the purposes stated in this subtitle. The funds, when appropriated, shall be matched by the respective appropriate county governing body or its duly designated agency to acquire land or other property shown or recommended on the Watershed plan for the designated public purposes. The budget request shall itemize the Watershed land acquisition program of each county or its duly designated agency, showing total acreage proposed to be acquired during the coming fiscal year, together with an estimate of funds to be made available by each county for the acquisition.

§8–1315.

The Department shall cooperate with the appropriate county governing body or its duly designated agency to formulate, adopt, amend, extend, or add to the Watershed plan in each affected county. The approval of the Secretary shall be placed on every map, plan, or descriptive matter which forms a part of the plan.

§8–1316.

The Secretary may enter into agreements with any respective county affected or its duly designated agency to acquire land or other property to accomplish the purposes of this subtitle. The Secretary may obligate the Department to reimburse the county up to 50% for the cost of the land or other property, plus 50% for the normal cost of acquisition. However, funds have to be appropriated, and sufficiently on hand to meet the Department's obligation under these agreements.

§8–1317.

The appropriate county governing body or its duly designated agency shall prepare an annual program for acquisition of land or other property within the area affected by the Watershed plan, showing total acreage proposed for purchase during the coming fiscal year, for the purposes of this subtitle, together with estimated costs of the annual program.

§8–1318.

The appropriate county governing body or its duly designated agency may acquire land or other property in anticipation of matching money of the Department, when, in the sole discretion of the appropriate county governing body or its duly designated agency, acquisition of the land is deemed immediately essential to safeguard and preserve the Watershed plan.

§8–1319.

The provisions of this subtitle may not limit or restrict the State or county police power on any acquired land.

§8–1801.

(a) The General Assembly finds and declares that:

(1) The Chesapeake and the Atlantic Coastal Bays and their tributaries are natural resources of great significance to the State and the nation, and their beauty, their ecological value, and their economic impact all reach far beyond any one local jurisdiction;

(2) The shoreline and adjacent lands, particularly the buffer areas, constitute a valuable, fragile, and sensitive part of this estuarine system, where human activity can have a particularly immediate and adverse impact on water quality and natural habitats;

(3) The capacity of these shoreline and adjacent lands to withstand continuing demands without further degradation to water quality and natural habitats is limited;

(4) Human activity is harmful in these shoreline areas, where the new development of nonwater–dependent structures or an increase in lot coverage is presumed to be contrary to the purpose of this subtitle, because these activities may cause adverse impacts, of both an immediate and a long–term nature, to the Chesapeake and the Atlantic Coastal Bays, and thus it is necessary wherever possible to maintain a buffer of at least 100 feet landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands;

(5) National studies have documented that the quality and productivity of the waters of the Chesapeake Bay and its tributaries have declined due to the cumulative effects of human activity that have caused increased levels of pollutants, nutrients, and toxics in the Bay system and declines in more protective land uses such as forestland and agricultural land in the Bay region;

(6) Those portions of the Chesapeake and the Atlantic Coastal Bays and their tributaries within Maryland are particularly stressed by the continuing population growth and development activity concentrated in the Baltimore–Washington metropolitan corridor and along the Atlantic Coast;

(7) The quality of life for the citizens of Maryland is enhanced through the restoration of the quality and productivity of the waters of the Chesapeake and the Atlantic Coastal Bays, and their tributaries;

(8) The restoration of the Chesapeake and the Atlantic Coastal Bays and their tributaries is dependent, in part, on minimizing further adverse impacts to the

water quality and natural habitats of the shoreline and adjacent lands, particularly in the buffer;

(9) The cumulative impact of current development and of each new development activity in the buffer is inimical to these purposes, and it is therefore imperative that State law protect irreplaceable State buffer resources from unpermitted activity; and

(10) There is a critical and substantial State interest for the benefit of current and future generations in fostering more sensitive development and more effective enforcement in a consistent and uniform manner along shoreline areas of the Chesapeake and the Atlantic Coastal Bays and their tributaries so as to minimize damage to water quality and natural habitats.

(b) It is the purpose of the General Assembly in enacting this subtitle:

(1) To establish a Resource Protection Program for the Chesapeake and the Atlantic Coastal Bays and their tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats; and

(2) To implement the Resource Protection Program on a cooperative basis between the State and affected local governments, with local governments establishing and implementing their programs in a consistent and uniform manner subject to State and local leadership, criteria, and oversight.

§8–1802.

(a) (1) In this subtitle the following words have the meanings indicated.

(2) "Atlantic Coastal Bays" means the Assawoman, Isle of Wight, Sinepuxent, Newport, and Chincoteague Bays.

(3) "Atlantic Coastal Bays Critical Area" means the initial planning area identified under § 8–1807 of this subtitle.

(4) "Buffer" means an existing, naturally vegetated area, or an area established in vegetation and managed to protect aquatic, wetlands, shoreline, and terrestrial environments from manmade disturbances.

(5) "Chesapeake Bay Critical Area" means the initial planning area identified under § 8–1807 of this subtitle.

(6) "Commission" means the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays established in this subtitle.

(7) "Critical Area" means the Chesapeake Bay Critical Area and the Atlantic Coastal Bays Critical Area.

(8) "Developer" means:

(i) A person who undertakes development as defined in this section; or

(ii) A person who undertakes development activities as defined in the criteria of the Commission.

(9) "Development" means any activity that materially affects the condition or use of dry land, land under water, or any structure.

(10) (i) "Dwelling unit" means a single unit providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life.

(ii) "Dwelling unit" includes a living quarters for a domestic or other employee or tenant, an in–law or accessory apartment, a guest house, or a caretaker residence.

(11) "Growth allocation" means the number of acres of land in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area that a local jurisdiction may use to create new intensely developed areas and new limited development areas.

(12) "Includes" means includes or including by way of illustration and not by way of limitation.

(13) (i) "Intensely developed area" means an area of at least 20 acres or the entire upland portion of the critical area within a municipal corporation, whichever is less, where:

1. Residential, commercial, institutional, or industrial developed land uses predominate; and

2. A relatively small amount of natural habitat occurs.

(ii) "Intensely developed area" includes:

1. An area with a housing density of at least four dwelling units per acre;

2. An area with public water and sewer systems with a housing density of more than three dwelling units per acre; or

3. A commercial marina redesignated by a local jurisdiction from a resource conservation area or limited development area to an intensely developed area through a mapping correction that occurred before January 1, 2006.

(14) "Land classification" means the designation of land in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in accordance with the criteria adopted by the Commission as an intensely developed area or district, a limited development area or district, or a resource conservation area or district.

(15) (i) "Limited development area" means an area:

1. That is developed in low or moderate intensity uses and contains areas of natural plant and animal habitat; and

2. Where the quality of runoff has not been substantially altered or impaired.

(ii) "Limited development area" includes an area:

1. With a housing density ranging from one dwelling unit per five acres up to four dwelling units per acre;

2. With a public water or sewer system;

3. That is not dominated by agricultural land, wetland, forests, barren land, surface water, or open space; or

4. That is less than 20 acres and otherwise qualifies as an intensely developed area under paragraph (13) of this subsection.

(16) "Local jurisdiction" means a county, or a municipal corporation with planning and zoning powers, in which any part of the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area, as defined in this subtitle, is located.

(17) (i) "Lot coverage" means the percentage of a total lot or parcel that is:

1. Occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or

2. Covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any manmade material.

(ii) "Lot coverage" includes the ground area covered or occupied by a stairway or impermeable deck.

(iii) "Lot coverage" does not include:

1. A fence or wall that is less than 1 foot in width that has not been constructed with a footer;

2. A walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier;

3. A wood mulch pathway; or

4. A deck with gaps to allow water to pass freely.

(18) (i) "Program" means the critical area protection program of a local jurisdiction.

(ii) "Program" includes any amendments to the program.

(19) (i) "Program amendment" means any change or proposed change to an adopted program that is not determined by the Commission chairman to be a program refinement.

(ii) "Program amendment" includes a change to a zoning map that is not consistent with the method for using the growth allocation contained in an adopted program.

(20) (i) "Program refinement" means any change or proposed change to an adopted program that the Commission chairman determines will result in a use of land or water in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area in a manner consistent with the adopted program, or that will not significantly affect the use of land or water in the critical area.

(ii) "Program refinement" may include:

1. A change to an adopted program that results from State law;

2. A change to an adopted program that affects local processes and procedures;

3. A change to a local ordinance or code that clarifies an existing provision; and

4. A minor change to an element of an adopted program that is clearly consistent with the provisions of this subtitle and all of the criteria of the Commission.

(21) (i) "Project approval" means the approval of development, other than development by a State or local government agency, in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area by the appropriate local approval authority.

(ii) "Project approval" includes:

1. Approval of subdivision plats and site plans;

2. Inclusion of areas within floating zones;

3. Issuance of variances, special exceptions, and conditional

use permits; and

4. Approval of rezoning.

(iii) "Project approval" does not include building permits.

(22) (i) "Resource conservation area" means an area that is characterized by:

1. Nature dominated environments, such as wetlands, surface water, forests, and open space; and

2. Resource–based activities, such as agriculture, forestry, fisheries, or aquaculture.

(ii) "Resource conservation area" includes an area with a housing density of less than one dwelling per five acres.

(23) "Tributary stream" means a perennial stream or an intermittent stream within the critical area that has been identified by site inspection or in accordance with local program procedures approved by the Commission.

(b) Wherever this subtitle requires Prince George's County to exercise any power or authority Prince George's County shares with the Maryland–National Capital Park and Planning Commission, the obligation imposed by this subtitle rests on both the county and the Maryland–National Capital Park and Planning Commission in accordance with their respective powers and authorities.

§8–1803.

(a) There is a Critical Area Commission for the Chesapeake and Atlantic Coastal Bays in the Department.

(b) The Secretary has no authority under Title 1 of this article:

(1) To approve, alter, or amend the policies or programs of the Commission;

(2) To transfer, assign, or reassign statutory functions or activities to or from the Commission; or

(3) To adopt, approve, or revise regulations of the Commission.

§8–1804.

(a) (1) The Commission consists of 29 voting members who are appointed by the Governor, as follows:

(i) A full-time chairman, appointed with the advice and consent of

the Senate, who shall serve at the pleasure of the Governor;

(ii) 13 individuals, appointed with the advice and consent of the Senate, each of whom is a resident and an elected or appointed official of a local jurisdiction. At least 1 of these 13 individuals must be an elected or appointed official of a municipality. These individuals shall serve on the Commission only while they hold local office. Each shall be selected from certain counties or from municipalities within the counties as follows, and only after the Governor has consulted with elected county and municipal officials:

1. 1 from each of Baltimore City and Anne Arundel, Baltimore, and Prince George's counties;

2. 1 from Harford County or Cecil County;

3. 1 from Kent County or Queen Anne's County;

4. 1 from Caroline County;

5. 1 from Talbot County or Dorchester County;

6. 1 from Wicomico County or Somerset County;

7. 2 from Calvert County, Charles County, or St. Mary's County, both of whom may not be from the same county; and

8. 2 from Worcester County, 1 of whom shall be a resident of the Chesapeake Bay Watershed and the other of whom shall be a resident of the Atlantic Coastal Bays Watershed;

(iii) 8 individuals, appointed with the advice and consent of the Senate, who shall represent diverse interests, and among whom shall be a resident from each of the 5 counties that are listed and from which an appointment has not been made under paragraph (2) of this subsection and 3 of the 8 members appointed under this item shall be at large members, 1 of whom shall be a private citizen and resident of the Atlantic Coastal Bays Watershed; and

(iv) The Secretaries of Agriculture, Business and Economic Development, Housing and Community Development, the Environment, Transportation, Natural Resources, and Planning, ex officio, or the designee of the Secretaries.

(2) Of the 2 Worcester County members from the Atlantic Coastal Bays Watershed, 1 shall be the Mayor of Ocean City.

(b) A member of the Commission who does not hold another office of profit at the State or local level shall be entitled to compensation as provided in the budget. Members of the Commission shall be entitled to reimbursement for expenses as provided in the

budget.

(c) Except for the chairman and ex officio State officers or their representatives:

(1) The term of a member is 4 years;

(2) The terms of members are staggered as required by the terms provided for members of the Commission on July 1, 1984;

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies;

(4) A member who is appointed after a term is begun serves for the rest of the term and until a successor is appointed and qualifies;

(5) A member may serve no more than 2 terms; and

(6) Any member of the Commission appointed by the Governor who shall fail to attend at least 60% of the meetings of the Commission during any period of 12 consecutive months shall be considered to have resigned, and the chairman shall forward the member's name to the Governor, not later than January 15 of the year following the nonattendance with the statement of the nonattendance, and the Governor shall appoint a successor for the remainder of the term. If the member has been unable to attend meetings as required by this subtitle for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public.

(d) If a vacancy arises other than by the expiration of a term, the Governor shall appoint within 30 days, with the advice and consent of the Senate, a successor of like qualification to serve the remainder of the term.

(e) (1) A quorum of the Commission consists of 1 member more than a majority of the full authorized membership of the Commission.

(2) A quorum of a panel of the Commission consists of 3 members.

(3) The Commission or a panel of the Commission may not hold a public hearing unless a quorum is present.

(4) The Commission or a panel of the Commission may not take any official action unless:

(i) A quorum is present; and

(ii) A majority of the members who are present and eligible to vote concur in or vote for the action.

§8–1805.

(a) The Commission shall have the staff provided for in the State budget.

(1) The staff assigned to the Coastal Zone Management Program in the Department shall assist the Commission in the development of regulations and the review of programs.

(2) The State departments represented on the Commission may lend staff or other assistance to the Commission.

(b) (1) The chairman with the approval of the Commission shall appoint an Executive Director for the Commission.

(2) The Executive Director serves at the pleasure of the chairman and is entitled to the salary provided in the State budget.

(3) The Executive Director shall direct the staff of the Commission.

(c) The Attorney General shall designate an assistant Attorney General to advise and represent the chairman and the Commission.

§8–1806.

(a) The Commission has all powers necessary for carrying out the purposes of this subtitle, including the following:

(1) In accordance with Title 2, Subtitle 5 (Joint Committee on Administrative, Executive and Legislative Review) and Title 10, Subtitle 1 (Administrative Procedure Act) of the State Government Article, to adopt and amend regulations as authorized under this subtitle for the administration and enforcement of the State and local programs;

(2) To conduct hearings in connection with policies, proposed programs, and proposed regulations or amendments to regulations;

(3) To contract for consultant or other services; and

(4) To establish an advisory committee, composed of members of the Commission and local citizens and local stakeholder groups, to make recommendations to the Commission with respect to Atlantic Coastal Bays Critical Area programs.

(b) Regulations adopted or amended under subsection (a)(1) of this section shall:

(1) Establish comprehensive standards and procedures for:

(i) Buffer establishment, maintenance, measurement, mitigation, and enforcement;

(ii) Buffer exemption areas;

(iii) Impacts of shore erosion control activities on the buffer;

(iv) Community piers;

(v) Commercial marinas;

(vi) Water dependent facilities;

(vii) Public water access;

(viii) The protection and conservation of the buffer as a State water quality and habitat resource essential to the restoration of the Chesapeake and Atlantic Coastal Bays;

(ix) Mapping the critical area, with respect to revision of the 1,000–foot boundary and voluntary additions of property to the critical area;

(x) Development in the critical area, with respect to:

1. Clearing, grading, and construction activity;

2. Clustering to promote conservation of natural site features;

3. Flexibility for redevelopment;

4. Stormwater management;

5. Application of the 10% pollutant reduction rule;

6. Forest and developed woodlands protections;

7. Clearing of natural vegetation;

8. Lot coverage standards;

9. Commission review of local provisions for lot consolidation; and

10. The exclusion of State tidal wetlands from calculations of density, forest and developed woodlands protections, limitations on clearing natural vegetation, and lot coverage standards;

(xi) Consistent enforcement of State and local critical area law, with respect to the establishment of minimum penalties and mitigation requirements;

(xii) Growth allocation applications, with respect to:

1. The deduction of growth allocation acreage;

2. Commission review and determinations;

3. Accommodation of variations among local jurisdictions concerning land uses in the resource conservation area that do not require growth allocation;

4. The location of septic systems;

5. Golf courses; and

6. The Commission's evaluation of a local jurisdiction's use of cluster development under § 8–1808.1 of this subtitle;

(xiii) In consultation with appropriate State and federal agencies, the conservation and protection of:

1. Habitat protection areas;

2. Threatened and endangered species;

3. Species in need of conservation;

4. Forest interior dwelling birds;

5. Anadromous fish propagation waters; and

6. Plant and wildlife habitat;

(xiv) Directives for local program development and implementation, with respect to:

1. Notification of project applications;

2. The 6–year comprehensive review of a local critical area program;

3. For a State or local government development activity:

A. Public notice, including notice to be published in a newspaper of general circulation in the area where the proposed development activity would occur; and

B. An opportunity for public comment in the local jurisdiction in which the proposed development activity would be located;

4. Reporting requirements;

5. The submission and processing of a proposed program amendment or refinement; and

6. Provisions applicable to areas requested for exclusion from

the critical area;

(xv) In consultation with the Department of the Environment, surface mining in the critical area; and

(xvi) The application for and processing of a variance, with respect to:

1. Amending a variance application;

2. Advance notice to the Commission;

3. The contents of a complete variance application;

4. Ensuring that Commission recommendations are made part of the variance record;

5. The use of variance standards; and

6. Notice of a variance decision; and

(2) Provide flexibility wherever possible in order to accommodate variations among local programs.

(c) The members of the Commission who reside in the Atlantic Coastal Bays Watershed shall serve on any committee established under subsection (a)(4) of this section.

§8–1807. IN EFFECT

(a) The initial planning area for determination of the Chesapeake Bay Critical Area consists of:

(1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 16 of the Environment Article; and

(2) All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 16 of the Environment Article.

(b) The initial planning area for determination of the Atlantic Coastal Bays Critical Area consists of:

(1) All waters of and lands under the coastal bays and their tributaries to the head of tide as indicated on the State wetlands maps, and all State and private wetlands designated under Title 16 of the Environment Article; and

(2) All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title

16 of the Environment Article.

(c) (1) (i) In determining the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area within its boundaries, a local jurisdiction may exclude those portions of the planning area designated in subsection (a) or (b) of this section which the local jurisdiction finds to be:

1. Part of a developed, urban area in which, in view of available public facilities and applicable laws and restrictions, the imposition of a program would not substantially improve protection of tidal water quality or conservation of fish, wildlife, or plant habitats; or

2. Located at least 1,000 feet from open water and separated from open water by an area of wetlands which it is found will serve to protect tidal water quality and fish, wildlife, or plant habitats from adverse impacts of development in the excluded area.

(ii) A portion of urban area to be excluded shall be at least 50% developed and may not be less than 2,640,000 square feet in contiguous area or the entire initial planning area located within the boundaries of a municipality, whichever is less.

(2) A local jurisdiction shall include in any program submitted to the Commission under § 8–1809 of this subtitle a designation of those portions of the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area proposed for exclusion under paragraph (1) of this subsection, together with all factual information and expert opinion supporting its findings under this subsection.

(3) The Commission shall approve a local jurisdiction's designation of portions to be excluded unless the Commission finds, based on stated reasons, that the decision of the local jurisdiction was:

(i) Not supported by competent and material evidence; or

(ii) Arbitrary or capricious.

(4) If the Commission develops the program to be applied in a local jurisdiction, the Commission shall exclude areas as appropriate to meet the intent of paragraph (1) of this subsection.

(d) The Chesapeake Bay Critical Area shall consist of:

(1) Those areas designated in subsection (a) of this section, except any areas excluded in accordance with subsection (c) of this section; and

(2) Additional areas proposed for inclusion by local jurisdictions and approved by the Commission.

(e) The Atlantic Coastal Bays Critical Area shall consist of:

(1) Those areas designated in subsection (b) of this section, except any areas excluded in accordance with subsection (c) of this section; and

(2) Additional areas proposed for inclusion by local jurisdictions and approved by the Commission.

8–1807. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 119 OF 2008 **

(a) The initial planning area for determination of the Chesapeake Bay Critical Area consists of the following areas, as indicated on the Statewide Base Map:

(1) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide;

(2) All State and private wetlands designated under Title 16 of the Environment Article; and

(3) All land and water areas within 1,000 feet beyond the landward boundaries of the resources identified under paragraphs (1) and (2) of this subsection.

(b) The initial planning area for determination of the Atlantic Coastal Bays Critical Area consists of the following areas, as indicated on the Statewide Base Map:

(1) All waters of and lands under the coastal bays and their tributaries to the head of tide;

(2) All State and private wetlands designated under Title 16 of the Environment Article; and

(3) All land and water areas within 1,000 feet beyond the landward boundaries of the resources identified under paragraphs (1) and (2) of this subsection.

(c) (1) (i) In determining the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area within its boundaries, a local jurisdiction may exclude those portions of the planning area designated in subsection (a) or (b) of this section which the local jurisdiction finds to be:

1. Part of a developed, urban area in which, in view of available public facilities and applicable laws and restrictions, the imposition of a program would not substantially improve protection of tidal water quality or conservation of fish, wildlife, or plant habitats; or

2. Located at least 1,000 feet from open water and separated from open water by an area of wetlands which it is found will serve to protect tidal water quality and fish, wildlife, or plant habitats from adverse impacts of development in the excluded area.

(ii) A portion of urban area to be excluded shall be at least 50% developed and may not be less than 2,640,000 square feet in contiguous area or the entire initial planning area located within the boundaries of a municipality, whichever is less.

(2) A local jurisdiction shall include in any program submitted to the Commission under § 8–1809 of this subtitle a designation of those portions of the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area proposed for exclusion under paragraph (1) of this subsection, together with all factual information and expert opinion supporting its findings under this subsection.

(3) The Commission shall approve a local jurisdiction's designation of portions to be excluded unless the Commission finds, based on stated reasons, that the decision of the local jurisdiction was:

(i) Not supported by competent and material evidence; or

(ii) Arbitrary or capricious.

(4) If the Commission develops the program to be applied in a local jurisdiction, the Commission shall exclude areas as appropriate to meet the intent of paragraph (1) of this subsection.

(d) The Chesapeake Bay Critical Area shall consist of:

(1) Those areas designated in subsection (a) of this section, except any areas excluded in accordance with subsection (c) of this section; and

(2) Additional areas proposed for inclusion by local jurisdictions and approved by the Commission.

(e) The Atlantic Coastal Bays Critical Area shall consist of:

(1) Those areas designated in subsection (b) of this section, except any areas excluded in accordance with subsection (c) of this section; and

(2) Additional areas proposed for inclusion by local jurisdictions and approved by the Commission.

§8–1808.

(a) (1) It is the intent of this subtitle that each local jurisdiction shall have primary responsibility for developing and implementing a program, subject to review and approval by the Commission.

(2) (i) The Governor shall include in the budget a sum of money to be used for grants to reimburse local jurisdictions for the reasonable costs of developing a program under this section.

(ii) Each local jurisdiction shall submit to the Governor a detailed request for funds that are equivalent to the additional costs incurred in developing the program under this section.

(iii) The Governor shall include in the fiscal year 2003 budget a sum of money to be used for grants to reimburse local jurisdictions in the Atlantic Coastal Bays Critical Area for the reasonable costs of developing a program under this section.

(3) The Governor shall include in the budget annually a sum of money to be used for grants to assist local jurisdictions with the reasonable costs of implementing a program under this section. Each local jurisdiction shall submit to the Governor by May 1 of each year a detailed request for funds to assist in the implementation of a program under this section.

(b) A program shall consist of those elements which are necessary or appropriate:

(1) To minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;

(2) To conserve fish, wildlife, and plant habitat; and

(3) To establish land use policies for development in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

(c) (1) (i) Notwithstanding any provision in a local law or ordinance, or the lack of a provision in a local law or ordinance, all of the requirements of this subtitle shall apply to, and be applied by, a local jurisdiction as minimum standards for a program sufficient to meet the goals of the Critical Area Program.

(ii) With the approval of the Commission, a local jurisdiction may establish procedures for the granting of an administrative variance.

(iii) At a minimum, a program shall contain all of the following elements, including:

1. A map designating the critical area in a local jurisdiction;

2. A comprehensive zoning map for the critical area;

3. As necessary, new or amended provisions of the jurisdiction's:

A. Subdivision regulations;

B. Comprehensive or master plan;

C. Zoning ordinances or regulations;

D. Provisions relating to enforcement; and

E. Provisions as appropriate relating to grandfathering of development at the time the program is adopted or approved by the Commission, including provisions for bringing lands into conformance with the Program as required under item 12 of this subparagraph;

4. Provisions requiring that:

A. Project approvals shall be based on findings that projects are consistent with the standards stated in subsection (b) of this section; and

B. The Commission shall receive written notice of local decisions regarding project approvals or denials in accordance with local procedures approved by the Commission;

5. Provisions to limit lot coverage and to require or encourage cluster development, where necessary or appropriate;

6. Establishment of buffer areas along shorelines within which agriculture will be permitted only if best management practices are used, provided that structures or any other use of land which is necessary for adjacent agriculture shall also be permitted in any buffer area;

7. Requirements for minimum setbacks for structures and septic fields along shorelines, including the establishment of a minimum buffer landward from the mean high water line of tidal waters, tributary streams, and tidal wetlands;

8. Designation of shoreline areas, if any, that are suitable for parks, hiking, biking, wildlife refuges, scenic drives, public access or assembly, and water–related recreation such as boat slips, piers, and beaches;

9. Designation of shoreline areas, if any, that are suitable for ports, marinas, and industries that use water for transportation or derive economic benefits from shore access;

10. Provisions requiring that all harvesting of timber in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area be in accordance with plans approved by the district forestry board;

11. Provisions for reasonable accommodations in policies or procedures when the accommodations are necessary to avoid discrimination on the basis of physical disability, including provisions that authorize a local jurisdiction

to require removal of a structure that was installed or built to accommodate a physical disability and require restoration when the accommodation permitted by this paragraph is no longer necessary;

12. Procedures, including consolidation or reconfiguration of lots, that shall be approved by the Commission and assure that the following lots and lands are brought into conformance with the Program to the extent possible:

A. In the Chesapeake Bay Critical Area, any legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985;

B. In the Chesapeake Bay Critical Area, land that was subdivided into recorded legally buildable lots, where the subdivision received the local jurisdiction's final approval before June 1, 1984;

C. In the Atlantic Coastal Bays Critical Area, any legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of June 1, 2002; and

D. In the Atlantic Coastal Bays Critical Area, land that was subdivided into recorded legally buildable lots, where the subdivision received the local jurisdiction's final approval before June 1, 2002;

13. Except as provided in subsection (d) of this section, provisions for granting a variance to the local jurisdiction's critical area program, in accordance with regulations adopted by the Commission concerning variances set forth in COMAR 27.01.11;

14. Penalty provisions establishing that, in addition to any other penalty applicable under State or local law, each person who violates a provision of this subtitle or of a program, including a contractor, property owner, or any other person who committed, assisted, authorized, or participated in the violation is subject to a fine not exceeding $10,000; and

15. Administrative enforcement procedures in accordance with due process principles, including notice and an opportunity to be heard, and establishing that:

A. Each violation of this subtitle or of a regulation, rule, order, program, or other requirement adopted under the authority of this subtitle constitutes a separate offense;

B. Each calendar day that a violation continues constitutes a separate offense;

C. For each offense, a person shall be subject to separate fines, orders, sanctions, and other penalties;

D. Civil penalties for continuing violations shall accrue without a requirement for an additional assessment, notice, or opportunity for hearing for each separate offense;

E. On consideration of all the factors included under this subsection and any other factors in the local jurisdiction's approved program, the local jurisdiction shall impose the amount of the penalty;

F. Satisfaction of all conditions specified under paragraph (4) of this subsection shall be a condition precedent to the issuance of any permit, approval, variance, or special exception for the affected property; and

G. Unless an extension of time is appropriate because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.

(2) (i) In determining the amount of the penalty to be assessed under paragraph (1)(iii)14 of this subsection, a local jurisdiction shall consider:

1. The gravity of the violation;

2. Any willfulness or negligence involved in the violation;

3. The environmental impact of the violation; and

4. The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to the State or local authorities for performing, supervising, or rendering assistance to the restoration and mitigation.

(ii) In paragraph (1)(iii)14 of this subsection, "property owner" includes two or more persons holding title to the property under any form of joint ownership.

(3) Regulations adopted under paragraph (1)(iii)15 of this subsection shall provide for the Commission's consideration of enforcement provisions submitted by a local jurisdiction that are at least as effective as enforcement requirements under this subtitle and regulations adopted under the authority of this subtitle.

(4) A local jurisdiction may not issue a permit, approval, variance, or special exception unless the person seeking the permit, approval, variance, or special exception has:

(i) Fully paid all administrative, civil, and criminal penalties imposed under paragraph (1)(iii)15 of this subsection;

(ii) Prepared a restoration or mitigation plan, approved by the local jurisdiction, to abate impacts to water quality or natural resources as a result of the violation; and

(iii) Performed the abatement measures in the approved plan in accordance with the local critical area program.

(d) (1) In this subsection, "unwarranted hardship" means that, without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

(2) (i) Notwithstanding any other provision of law, the provisions of this paragraph shall apply to a proceeding that involves a variance for a development activity in the buffer under the requirements of:

1. This subtitle;

2. A regulation adopted under the authority of this subtitle; or

3. An approved program.

(ii) If a person meets the threshold standing requirements under federal law, the person shall have standing to participate as a party in a local administrative proceeding.

(iii) A person that has standing under subparagraph (ii) of this paragraph may:

1. Participate as a party in an administrative proceeding at a board of appeals even if the person was not a party to the original administrative proceeding; and

2. Petition for judicial review and participate as a party even if the person was not a party to the action which is the subject of the petition.

(3) (i) A local jurisdiction shall process an application for a variance regarding a parcel or lot that is subject to a current violation of this subtitle, a regulation adopted under the authority of this subtitle, or any provision of an order, permit, plan, or local program in accordance with subsection (c)(1)(iii)15 of this section.

(ii) In considering an application for a variance, a local jurisdiction shall presume that the specific development activity in the critical area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of this subtitle, regulations adopted under this subtitle, and the requirements of the local jurisdiction's program.

(iii) If the variance request is based on conditions or circumstances that are the result of actions by the applicant, a local jurisdiction shall consider that

fact.

(4) (i) An applicant has the burden of proof and the burden of persuasion to overcome the presumption established under paragraph (3)(ii) of this subsection.

(ii) 1. Based on competent and substantial evidence, a local jurisdiction shall make written findings as to whether the applicant has overcome the presumption established under paragraph (3)(ii) of this subsection.

2. With due regard for the person's experience, technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:

A. The applicant;

B. The local jurisdiction or any other government agency; or

C. Any other person deemed appropriate by the local jurisdiction.

(5) A variance to a local jurisdiction's critical area program may not be granted unless:

(i) Due to special features of a site, or special conditions or circumstances peculiar to the applicant's land or structure, a literal enforcement of the critical area program would result in unwarranted hardship to the applicant;

(ii) The local jurisdiction finds that the applicant has satisfied each one of the variance provisions; and

(iii) Without the variance, the applicant would be deprived of a use of land or a structure permitted to others in accordance with the provisions of the critical area program.

(6) (i) Within 10 working days after a written decision regarding a variance application is issued, the Commission shall receive a copy of the decision from a local jurisdiction.

(ii) A local jurisdiction may not issue a permit for the activity that was the subject of the variance application until the applicable 30–day appeal period has elapsed.

(7) (i) A development activity commenced without a required permit, approval, variance, or special exception is a violation of this subtitle.

(ii) A local jurisdiction may not accept an application for a variance to legalize a violation of this subtitle, including an unpermitted structure or

development activity, unless the local jurisdiction first issues a notice of violation, including assessment of an administrative or civil penalty, for the violation.

(iii) If a final adjudication of a notice of violation results in a determination that a violation has occurred, the person shall be liable for a penalty that is twice the amount of the assessment in the notice of violation, in addition to the cost of the hearing and any applicable mitigation costs.

(iv) Application for a variance under this paragraph constitutes a waiver of the right to appeal the terms of a notice of violation and its final adjudication, including the payment of any penalties and costs assessed.

(v) If the local jurisdiction finds that the activity or structure for which a variance is requested commenced without permits or approvals and:

1. Does not meet each of the variance criteria under this subsection, the local jurisdiction shall deny the requested variance and order removal or relocation of any structure and restoration of the affected resources; or

2. Does meet each of the variance criteria under this subsection, the local jurisdiction may grant approval to the requested variance.

(8) This subsection does not apply to building permits or activities that comply with a buffer exemption plan or buffer management plan of a local jurisdiction which has been approved by the Commission.

(9) Notwithstanding any provision of a local law or ordinance, or the lack of a provision in a local law or ordinance, all of the provisions of this subsection shall apply to, and shall be applied by, a local jurisdiction in the consideration, processing, and decision on an application for a variance.

(e) (1) The Commission shall adopt by regulation on or before December 1, 1985 criteria for program development and approval, which are necessary or appropriate to achieve the standards stated in subsection (b) of this section. Prior to developing its criteria and also prior to adopting its criteria, the Commission shall hold at least 6 regional public hearings, 1 in each of the following areas:

(i) Harford, Cecil, and Kent counties;

(ii) Queen Anne's, Talbot, and Caroline counties;

(iii) Dorchester, Somerset, and Wicomico counties;

(iv) Baltimore City and Baltimore County;

(v) Charles, Calvert, and St. Mary's counties; and

(vi) Anne Arundel and Prince George's counties.

(2) During the hearing process, the Commission shall consult with each affected local jurisdiction.

(3) In accordance with its powers under § 8–1806(a) of this subtitle, the Commission may amend the criteria for program development and approval adopted under paragraph (1) of this subsection.

(f) Nothing in this section shall impede or prevent the dredging of any waterway in a critical area. However, dredging in a critical area is subject to other applicable federal and State laws and regulations.

(g) In adopting the initial land classification for the Atlantic Coastal Bays Critical Area, the local program:

(1) Of the Town of Ocean City shall classify as an intensely developed area that area that is within the municipal boundaries of Ocean City as of January 1, 2002; and

(2) Of Worcester County shall classify as an intensely developed area that area located on the western mainland that is east of Golf Course Road, south of Charles Street, and north of Route 707 (Old Bridge Road).

(h) The provisions of this subtitle and Title 27 of the Code of Maryland Regulations apply to the Atlantic Coastal Bays Critical Area.

§8–1808.1.

(a) This section is intended to establish conditions for development in the Chesapeake Bay Critical Area and the Atlantic Coastal Bays Critical Area in addition to those established in criteria of the Commission. However, in the event of any inconsistency between the criteria and the provisions of this section, this section shall control.

(b) The growth allocation for a local jurisdiction shall be calculated based on 5 percent of the total resource conservation area in a local jurisdiction:

(1) In the Chesapeake Bay Critical Area at the time of the original approval of the local jurisdiction's program by the Commission, not including tidal wetlands or land owned by the federal government; or

(2) In the Atlantic Coastal Bays Critical Area at the time of the original approval of the local jurisdiction's program by the Commission, not including tidal wetlands or land owned by the federal government.

(c) (1) In paragraphs (3)(i) and (4)(i) of this subsection, "consistent with" or "consistency with" a jurisdiction's comprehensive plan means that a standard or factor will further, and not be contrary to, the following items in the plan:

(i) Policies;

(ii) Timing of the implementation of the plan;

(iii) Timing of development;

(iv) Timing of rezoning;

(v) Development patterns;

(vi) Land uses; and

(vii) Densities or intensities.

(2) When locating new intensely developed or limited development areas, local jurisdictions shall use the following standards:

(i) Locate a new intensely developed area in a limited development area or adjacent to an existing intensely developed area;

(ii) Locate a new limited development area adjacent to an existing limited development area or an intensely developed area;

(iii) Locate a new limited development area or an intensely developed area in a manner that minimizes impacts to a habitat protection area as defined in COMAR 27.01.09, and in an area and manner that optimizes benefits to water quality;

(iv) Locate a new intensely developed area or a limited development area in a resource conservation area at least 300 feet beyond the landward edge of tidal wetlands or tidal waters, unless the local jurisdiction proposes, and the Commission approves, alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources;

(v) Locate new intensely developed areas and limited development areas in a manner that minimizes their impacts to the defined land uses of the resource conservation area;

(vi) Except as provided in item (viii) of this paragraph, no more than one–half of the expansion allocated in the criteria of the Commission may be located in resource conservation areas;

(vii) New intensely developed or limited development areas involving the use of growth allocation shall conform to all criteria of the Commission and shall be designated on the comprehensive zoning map submitted by the local jurisdiction as part of its application to the Commission for program approval or at a later date in compliance with § 8–1809(g) of this subtitle; and

(viii) In Calvert, Caroline, Cecil, Charles, Dorchester, Kent, Queen

Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester counties, if the county is unable to utilize a portion of the growth allocated to the county in items (i) and (ii) of this paragraph within or adjacent to existing intensely developed or limited development areas as demonstrated in the local plan approved by the Commission, then that portion of the allocated expansion which cannot be so located may be located in the resource conservation area in addition to the expansion allocated in item (vi) of this paragraph. A developer shall be required to cluster any development in an area of expansion authorized under this paragraph.

(3) A local jurisdiction may use a standard that varies from the standards required under paragraph (2)(i) and (ii) of this subsection if:

(i) The alternative standard is consistent with the jurisdiction's adopted comprehensive plan; and

(ii) The Commission has approved the alternative standard as part of the local program.

(4) In reviewing map amendments or refinements involving the use of growth allocation, the Commission shall consider the following factors:

(i) Consistency with the jurisdiction's adopted comprehensive plan and whether the growth allocation would implement the goals and objectives of the adopted plan;

(ii) 1. For a map amendment or refinement involving a new intensely developed area, whether the development is:

A. To be served by a public wastewater system;

B. To have an allowed average density of at least 3.5 units per acre, as calculated under § 5–7B–03(h) of the State Finance and Procurement Article;

C. For a new intensely developed area that is greater than 20 acres, to be located in a priority funding area, as described under §§ 5–7B–02(1) and 5–7B–03 of the State Finance and Procurement Article; and

D. To have a demonstrable economic benefit to the area; and

2. For a map amendment or refinement involving a new limited development area, whether the development is:

A. To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;

B. A completion of an existing subdivision;

C. An expansion of an existing business; or

D. To be clustered;

(iii) The use of existing public infrastructure, where practical;

(iv) Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on– or off–site;

(v) Impacts on a priority preservation area, as defined under § 2–518 of the Agriculture Article;

(vi) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and

(vii) Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

(5) The Commission shall ensure that the standards and factors in paragraphs (2), (3), and (4) of this subsection have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of this subtitle, and all criteria of the Commission.

(d) (1) Subject to the conditions under paragraphs (2) and (3) of this subsection, if a jurisdiction has within its territorial limits an area that is subject to the Chesapeake Bay Critical Area program and an area that is subject to the Atlantic Coastal Bays Critical Area program, the growth allocation for that jurisdiction may be utilized within either critical area, as the jurisdiction's local program considers appropriate.

(2) A local jurisdiction's program may not utilize the growth allocation from another critical area unless the growth allocation remaining in either critical area is insufficient to allow approval of a growth allocation proposal associated with a program amendment for which the local program seeks Commission approval.

(3) A local jurisdiction's program may not transfer more than 150 acres of growth allocation to another critical area.

(e) (1) Except as authorized under paragraph (2) of this subsection, in calculating the 1–in–20 acre density of development that is permitted on a parcel located within the resource conservation area, a local jurisdiction:

(i) Shall count each dwelling unit; and

(ii) May permit the area of any private wetlands located on the property to be included, under the following conditions:

1. The density of development on the upland portion of the parcel may not exceed one dwelling unit per 8 acres; and

2. The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps.

(2) (i) Within a resource conservation area, a local jurisdiction may consider one additional dwelling unit per lot or parcel as part of a primary dwelling unit for the purpose of the density calculation under this subsection if the additional dwelling unit:

1. A. Is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit;

B. Does not exceed 900 square feet in total enclosed area; and

C. Is served by the same sewage disposal system as the primary dwelling unit; or

2. A. Is located within the primary dwelling unit;

B. By its construction, does not increase the amount of lot coverage already attributed to the primary dwelling unit; and

C. Is served by the same sewage disposal system as the primary dwelling unit.

(ii) The provisions of this paragraph may not be construed to require a local jurisdiction to consider an additional dwelling unit as part of a primary dwelling unit for the purpose of the density calculation under this subsection.

(iii) An additional dwelling unit meeting all the criteria under subparagraph (i) of this paragraph that is separate from the primary dwelling unit may not be subdivided or conveyed separately from the primary dwelling unit.

(3) (i) Each local jurisdiction shall:

1. Maintain records of all building permits issued under this subsection for additional dwelling units considered part of a primary dwelling unit; and

2. Provide this information on a quarterly basis to the Commission.

(ii) Beginning on November 1, 2004 and annually thereafter, the Commission shall report, subject to § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee, the House Environmental Matters Committee, and the Joint Committee on the Chesapeake and Atlantic Coastal Bays Critical Area regarding the construction of additional dwelling

units considered part of a primary dwelling unit under this subsection.

(4) The provisions of this subsection:

(i) Apply to density calculations only; and

(ii) May not be construed to authorize a local jurisdiction to grant a variance, unless the variance is granted in accordance with the requirements of § 8–1808(d) of this subtitle.

§8–1808.2.

(a) (1) In this section the following words have the meanings indicated.

(2) "Bona fide intrafamily transfer" means a transfer to a member of the owner's immediate family of a portion of the owner's property for the purpose of establishing a residence for that family member.

(3) "Immediate family" means a father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

(b) Notwithstanding density limitations established in criteria of the Commission, as part of its local program, a local jurisdiction may submit provisions by which an owner of a parcel of land in the resource conservation area may be permitted to make bona fide intrafamily transfers.

(c) If a local jurisdiction includes provisions for bona fide intrafamily transfers as part of its local program, the local jurisdiction shall permit a bona fide intrafamily transfer to be made only from parcels of land that:

(1) Were of record on March 1, 1986 in the Chesapeake Bay Critical Area or on June 1, 2002 in the Atlantic Coastal Bays Critical Area; and

(2) Are 7 acres or more and less than 60 acres in size.

(d) A bona fide intrafamily transfer from a parcel of land shall be a subdivision of the parcel of land that is subject to local approval under Title 5 or Title 23 of the Land Use Article or under any subdivision control provisions of a charter county.

(e) (1) A local jurisdiction:

(i) May approve the subdivision of a parcel of land into the number of lots indicated in this subsection by means of a bona fide intrafamily transfer; and

(ii) May not approve any greater subdivision of the parcel of land or any portion of the parcel of land.

(2) A parcel that is 7 acres or more and less than 12 acres in size may be subdivided into 2 lots.

(3) A parcel that is 12 acres or more and less than 60 acres in size may be subdivided into 3 lots. The lots may be created at different times.

(f) (1) As a condition of approval, a local jurisdiction shall require that:

(i) Any deed for a lot that is created by a bona fide intrafamily transfer shall contain a covenant stating that the lot is created subject to the provisions of this section; and

(ii) A lot created by a bona fide intrafamily transfer may not be conveyed subsequently to any person other than a member of the owner's immediate family, except under procedures established pursuant to subsection (g) of this section.

(2) This subsection does not prevent the conveyance of the lot to a third party as security for a mortgage or deed of trust.

(g) If a local jurisdiction includes provisions for bona fide intrafamily transfers as part of the local jurisdiction's local program, the local jurisdiction shall establish standards and procedures, subject to the approval of the Commission, by which the local jurisdiction will permit the subsequent conveyance of lots to persons other than immediate family members. The standards and procedures shall assure that:

(1) The lot was created as part of a bona fide intrafamily transfer and not with the intent of subdividing the original parcel of land for purposes of ultimate commercial sale; and

(2) (i) A change in circumstances has occurred since the original transfer was made that is not inconsistent with this subtitle and that warrants an exception; or

(ii) Other circumstances that are consistent with this subtitle and with the Commission's criteria to maintain land areas necessary to support the protective uses of agriculture, forestry, open space, and natural habitats in resource conservation areas warrant an exception.

§8–1808.3.

(a) (1) This section applies notwithstanding:

(i) Any other provision of this subtitle; or

(ii) Any criteria or guideline of the Commission adopted under this subtitle.

(2) This section may not be construed to affect a credit applicable to a stormwater management practice that is approved by the Department of the Environment.

(b) Lot coverage in the buffer may not exceed the minimum amount necessary for water–dependent facilities, regardless of the critical area classification or the size of the parcel or lot, except:

(1) For a buffer exemption area, as mapped or established under an approved local program;

(2) For a variance granted in accordance with this subtitle; or

(3) As provided in a waterfront revitalization area or a waterfront industrial area under a local program.

(c) This section controls over any other requirement concerning lot coverage limitations in limited development areas and resource conservation areas in the critical area.

(d) (1) Except as otherwise provided in this subsection for stormwater runoff, lot coverage is limited to 15% of a parcel or lot.

(2) If a parcel or lot one–half acre or less in size existed on or before December 1, 1985 in the Chesapeake Bay Critical Area or on or before June 1, 2002 in the Atlantic Coastal Bays Critical Area, then lot coverage is limited to 25% of the parcel or lot.

(3) If a parcel or lot greater than one–half acre and less than one acre in size existed on or before December 1, 1985 in the Chesapeake Bay Critical Area or on or before June 1, 2002 in the Atlantic Coastal Bays Critical Area, then lot coverage is limited to 15% of the parcel or lot.

(4) Unless otherwise restricted by a local jurisdiction, lot coverage in a subdivision approved after December 1, 1985 in the Chesapeake Bay Critical Area or after June 1, 2002 in the Atlantic Coastal Bays Critical Area may not exceed 15%. However, the total lot coverage on an individual lot one acre or less in size may exceed 15%.

(e) This section does not apply to a trailer park that was in residential use on or before December 1, 1985 in the Chesapeake Bay Critical Area or on or before June 1, 2002 in the Atlantic Coastal Bays Critical Area.

(f) A local jurisdiction may allow a property owner to exceed the lot coverage limits provided in subsection (d)(2) and (3) of this section if the following conditions exist:

(1) Lot coverage associated with new development activities on the property has been minimized;

(2) For a lot or parcel one–half acre or less in size, total lot coverage does not exceed lot coverage limits in subsection (d)(2) of this section by more than 25% or

500 square feet, whichever is greater;

(3) For a lot or parcel greater than one–half acre and less than one acre in size, total lot coverage does not exceed lot coverage limits in subsection (d)(3) of this section or 5,445 square feet, whichever is greater;

(4) Water quality impacts associated with runoff from new development activities that contribute to lot coverage can be and have been minimized through site design considerations or use of best management practices approved by the local jurisdiction to improve water quality; and

(5) The property owner performs on–site mitigation as required by the local jurisdiction to offset potential adverse water quality impacts from the new development activities that contribute to lot coverage, or the property owner pays a fee to the local jurisdiction in lieu of performing the on–site mitigation.

(g) All fees collected by a local jurisdiction under subsection (f)(5) of this section must be used to fund projects that improve water quality within the critical area consistent with the jurisdiction's local critical area protection program.

(h) (1) In this subsection, "legally developed" means that all physical improvements to a property:

(i) Existed before Commission approval of a local program; or

(ii) Were properly permitted in accordance with the local program and impervious surface policies in effect at the time of construction.

(2) (i) A lot or parcel legally developed as of July 1, 2008 may be considered legally nonconforming for purposes of lot coverage requirements.

(ii) For the purpose of increasing lot coverage on a lot or parcel under subparagraph (i) of this paragraph, the lot coverage limitations under this section may not be construed to apply to a development activity for which:

1. A building permit was issued before July 1, 2008; and

2. Construction was initiated and an inspection was performed before July 1, 2009.

(i) A local jurisdiction may grant a variance from the provisions of this section in accordance with the provisions of this subtitle, regulations adopted by the Commission concerning variances as part of local program development set forth in COMAR 27.01.11, and notification of project applications set forth in COMAR 27.03.01.

§8–1808.4.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Nonwater–dependent project" means a temporary or permanent structure that, by reason of its intrinsic nature, use, or operation, does not require location in, on, or over State or private wetlands.

(ii) "Nonwater–dependent project" includes:

1. A dwelling unit on a pier;

2. A restaurant, a shop, an office, or any other commercial building or use on a pier;

3. A temporary or permanent roof or covering on a pier;

4. A pier used to support a nonwater–dependent use; and

5. A small–scale renewable energy system on a pier, including:

A. A solar energy system and its photovoltaic cells, solar panels, or other necessary equipment;

B. A geothermal energy system and its geothermal heat exchanger or other necessary equipment; and

C. A wind energy system and its wind turbine, tower, base, or other necessary equipment.

(iii) "Nonwater–dependent project" does not include:

1. A fuel pump or other fuel–dispensing equipment on a pier;

2. A sanitary sewage pump or other wastewater removal equipment on a pier; or

3. An office on a pier for managing marina operations, including monitoring vessel traffic, registering vessels, providing docking services, and housing electrical or emergency equipment related to marina operations.

(3) (i) "Pier" means any pier, wharf, dock, walkway, bulkhead, breakwater, piles, or other similar structure.

(ii) "Pier" does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.

(b) This section does not apply to a nonwater–dependent project located on State or private wetlands within the Critical Area in Prince George's County.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection and notwithstanding any other provision of law, a local jurisdiction may not issue a building permit or any other approval under this subtitle to authorize a nonwater–dependent

project located on State or private wetlands within the Critical Area.

(2) A local jurisdiction may issue a building permit or any other approval under this subtitle to authorize a nonwater–dependent project located on State or private wetlands within the Critical Area if the project:

(i) 1. Involves a commercial activity that is permitted as a secondary or accessory use to a permitted primary commercial use;

2. Is not located on a pier that is attached to residentially, institutionally, or industrially used property;

3. Is located in:

A. An intensely developed area and the project is authorized under a program amendment to a local jurisdiction's critical area program approved on or after July 1, 2013, if the approved program amendment includes necessary changes to the local jurisdiction's zoning, subdivision, and other ordinances so as to be consistent with or more restrictive than the requirements provided under this paragraph; or

B. An area that has been excluded from a local critical area program if the exclusion has been adopted or approved by the Critical Area Commission;

4. Is approved by the local planning and zoning authorities after the local jurisdiction's program amendment under item 3A of this item, if applicable, has been approved;

5. Allows or enhances public access to State wetlands, if applicable;

6. Does not expand beyond the length, width, or channelward encroachment of the pier on which the project is constructed;

7. Has a height of up to 18 feet unless the project is located at a marina; and

8. Is up to 1,000 square feet in total area; or

(ii) 1. Is located on a pier that was in existence on or before December 31, 2012;

2. Satisfies all of the requirements under item (i)1 through 7 of this paragraph; and

3. If applicable, has a temporary or permanent roof or covering that is up to 1,000 square feet in total area.

(3) (i) A local jurisdiction may issue a building permit or other approval under this subtitle to authorize a nonwater–dependent project for a small–scale renewable energy system on a pier located on State or private wetlands within the Critical Area if the project:

1. Involves the installation or placement of a small–scale renewable energy system that is permitted as a secondary or accessory use on a pier that is authorized under Title 16 of the Environment Article;

2. Is located in:

A. The Critical Area and the project is authorized under a program amendment to a local jurisdiction's critical area program approved on or after July 1, 2013, if the approved program amendment includes necessary changes to the local jurisdiction's zoning, subdivision, and other ordinances so as to be consistent with or more restrictive than the requirements provided under this paragraph; or

B. An area that has been excluded from a local critical area program if the exclusion has been adopted or approved by the Critical Area Commission; and

3. Is approved by the local planning and zoning authorities after the local jurisdiction's program amendment under item 2A of this subparagraph, if applicable, has been approved.

(ii) A building permit or other approval issued under subparagraph (i) of this paragraph may include the installation or placement of:

1. A solar energy system attached to a pier if the device or equipment associated with that system does not extend more than:

A. 4 feet above or 18 inches below the deck of the pier; or

B. 1 foot beyond the length or width of the pier;

2. A solar energy system attached to a piling if there is only one solar panel per boat slip;

3. A solar energy system attached to a boathouse roof if the device or equipment associated with that system does not extend beyond the length, width, or height of the boathouse roof;

4. A closed–loop geothermal heat exchanger under a pier if the geothermal heat exchanger or any associated devices or equipment do not:

A. Extend beyond the length, width, or channelward encroachment of the pier;

B. Deleteriously alter long shore drift; or

C. Cause significant individual or cumulative thermal impacts to aquatic resources; or

5. A wind energy system attached to a pier if there is only one wind energy system per pier for which:

A. The height from the deck of the pier to the blade extended at its highest point is up to 12 feet;

B. The rotor diameter of the wind turbine is up to 4 feet; and

C. The setbacks of the wind energy system from the nearest property line and from the channelward edge of the pier to which that system is attached are at least 1.5 times the total height of the system from its base to the blade extended at its highest point.

§8–1808.5.

(a) (1) In this section, "community pier" means a boat docking facility associated with a subdivision or similar residential area, or with condominiums, apartments, or other multiple-family dwelling units.

(2) "Community pier" does not include a private pier or a mooring.

(b) This section applies notwithstanding:

(1) Any other provision of this subtitle; and

(2) Any criteria or regulation adopted by the Commission under this subtitle.

(c) Subject to the requirements under subsection (d) of this section, a new or expanded community pier or other noncommercial boat docking or storage facility may be permitted in the buffer if:

(1) The facility:

(i) Is water dependent;

(ii) Meets a recognized private right or public need;

(iii) Is community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision; and

(iv) Is associated with a residential development approved by the local jurisdiction for the Critical Area and is consistent with all criteria and local regulations for the Critical Area;

(2) Adverse effects on water quality and fish, plant, and wildlife habitat are minimized;

(3) Insofar as possible, nonwater dependent structures or operations associated with water dependent projects or activities are located outside the buffer;

(4) Disturbance to the buffer is the minimum necessary to provide a single point of access to the facility;

(5) Food, fuel, or other goods and services are not offered for sale, and adequate and clean sanitary facilities are provided; and

(6) When a community pier with slips is provided as part of a new development project, private piers are not permitted in the development area.

(d) The number of slips permitted at a facility shall be the lesser of the following:

(1) One slip for each 50 feet of shoreline in a subdivision located in an intense or limited development area, and one slip for each 300 feet of shoreline in a subdivision located in a resource conservation area; or

(2) A density of slips to platted lots or dwellings within a subdivision in the critical area in accordance with the following schedule:

Platted Lots or Dwellings in the Critical Area	Slips
Up to 15	1 for each lot
16 - 40	15 or 75%, whichever is greater
41 - 100	30 or 50%, whichever is greater
101 - 300	50 or 25%, whichever is greater
More than 300	75 or 15%, whichever is greater

(e) A local jurisdiction may grant a variance from the provisions of this section in accordance with regulations adopted by the Commission concerning variances as part of local program development set forth in COMAR 27.01.11 and notification of project applications set forth in COMAR 27.03.01.

(f) On or before December 31, 1994, a local jurisdiction shall amend its local critical area protection program to meet the provisions of this section.

§8–1808.6.

(a) (1) This section applies notwithstanding:

(i) Any other provisions of this subtitle;

(ii) Any criteria or guidelines adopted by the Commission under this subtitle; or

(iii) Any provision of a local program or program amendments as approved before October 1, 1995.

(2) This section applies to applicants seeking project approval of a new or expanded marina.

(b) (1) A local jurisdiction shall provide credit to an applicant if an applicant takes quantifiable actions, before the initiation of the development of a new or expanded marina, to minimize adverse impacts on water quality that may result from the completion of the development of the marina.

(2) Any credits provided to an applicant under paragraph (1) of this subsection shall be applied during the project approval process in assessing the degree to which:

(i) Adverse impacts to water quality of a new or expanded marina project will be minimized or avoided; and

(ii) Water quality will be improved as a result of the development of the marina project.

§8–1808.7.

(a) Commercial harvesting of trees by selection, or by the clear-cutting of loblolly pine and tulip poplar, may be allowed to within 50 feet of the landward edge of the mean high water line of tidal waters and perennial tributary streams, or the edge of tidal wetlands, provided that the cutting is conducted in conformity with COMAR 27.01.05 and with a buffer management plan that is prepared by a registered professional forester and is approved by the Department.

(b) The plan shall be required for all commercial harvests within the buffer, regardless of the size of the area to be cut, and shall contain at a minimum the following requirements:

(1) Disturbance of stream banks and shorelines shall be avoided;

(2) The area disturbed or cut shall be replanted or allowed to regenerate in a manner that assures the availability of cover and breeding sites for wildlife and reestablishes the wildlife corridor function of the buffer;

(3) The cutting may not involve the creation of logging roads and skid trails within the buffer; and

(4) Commercial harvesting practices shall be conducted to protect and conserve the habitat protection areas in accordance with COMAR 27.01.09.02, .03,

.04, and .05.

§8–1808.8.

(a) Except as provided in subsection (b)(2) of this section, each local jurisdiction in the Atlantic Coastal Bays Critical Area shall include in its local critical area protection program provisions requiring proposed development sites in intensely developed areas to provide a forest or developed woodland cover of at least 15% after development or a fee-in-lieu payment if the fee is adequate to ensure the restoration or establishment of an equivalent forest area.

(b) (1) Except as provided in paragraph (2) of this subsection, the provisions of this subtitle replace the requirements of the Forest Conservation Act provided under Title 5, Subtitle 16 of this article within the Atlantic Coastal Bays Critical Area.

(2) Subsection (a) of this section and paragraph (1) of this subsection do not apply to:

(i) Development of a single lot for the purpose of constructing a dwelling intended for the use of the owner, or a child or grandchild of the owner, if the development does not result in the cutting, clearing, or grading of more than 40,000 square feet of forest, and the lot was legally recorded prior to July 31, 1994; or

(ii) A single lot that is part of a project that has otherwise complied with the Forest Conservation Act.

(3) For purposes of subsection (a) of this section, forest or developed woodland cover may include trees, woody plants, and shrubs, and any landscaping under an approved landscaping plan.

(c) Each local jurisdiction in the Atlantic Coastal Bays Critical Area may include in its local critical area protection program:

(1) As part of compliance with the stormwater management requirements of Title 27 of the Code of Maryland Regulations and Title 4, Subtitle 2 of the Environment Article, a provision encouraging the use of bioretention for redevelopment in intensely developed areas;

(2) A provision applying buffer requirements to tributary streams located outside the critical area and within the Atlantic Coastal Bays Watershed that are noted as perennial and intermittent streams in the Atlantic Coastal Bays Watershed and that are so noted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the local jurisdiction; and

(3) To the extent otherwise permitted by law, a provision regarding improvements over State or private wetlands, including criteria for the protection of water quality and fish, wildlife, and plant habitats, and the use and construction of

private and community piers in the local jurisdiction.

(d) On request, the Department shall assist a local jurisdiction in the preparation of:

(1) Any more detailed maps or studies necessary to implement the buffer provisions under subsection (c)(2) of this section; and

(2) The wetland protection provisions under subsection (c)(3) of this section.

(e) If a local jurisdiction adopts provisions consistent with subsection (c)(2) of this section, agricultural activities are permitted in the buffer outside the critical area and in the Atlantic Coastal Bays Watershed that are in accordance with Title 27 of the Code of Maryland Regulations under an approved soil conservation and water quality plan.

§8–1808.9.

(a) The provisions of this section apply to a local jurisdiction that is located in the Atlantic Coastal Bays Watershed and not in the Atlantic Coastal Bays Critical Area.

(b) On or before July 15, 2002, a local jurisdiction subject to the provisions of this section shall submit to the Commission a written statement of its intent either:

(1) To adopt provisions applying a buffer to perennial and intermittent streams that are within the boundaries of the local jurisdiction and are noted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the local jurisdiction; or

(2) Not to adopt the provisions.

(c) If a local jurisdiction states the local jurisdiction's intent to adopt provisions meeting the requirements of this section, the local jurisdiction shall submit the provisions to the Commission and adopt the provisions in accordance with the schedule of submissions for the Atlantic Coastal Bays Critical Area program set forth under § 8-1809 of this subtitle.

§8–1808.10.

(a) This section applies to an application for subdivision or site plan approval within the resource conservation area that:

(1) Receives final local approval on or after July 1, 2008, unless an application for subdivision or site plan approval is submitted before July 1, 2008 and legally recorded by July 1, 2010; and

(2) Does not involve the use of growth allocation.

(b) (1) Except as provided under subsection (c) of this section, the minimum buffer shall be:

(i) 200 feet from tidal waters or a tidal wetland; and

(ii) 100 feet from a tributary stream.

(2) All provisions under COMAR 27.01.09.01 that are applicable to development activities within the 100–foot buffer, including the establishment of vegetation and expansion requirements, shall apply to the 200–foot buffer.

(c) The 200–foot buffer may be reduced if:

(1) The strict application of the minimum 200–foot buffer would preclude:

(i) Subdivision of the property at a density of one dwelling unit per 20 acres, and all other State and local requirements will be satisfied; or

(ii) An intra–family transfer authorized under § 8–1808.2 of this subtitle; and

(2) The reduction will occur in accordance with local program procedures approved by the Commission.

§8–1808.11.

(a) Other than in areas designated by the Department of the Environment mapping as appropriate for structural shoreline stabilization measures, improvements to protect a person's property against erosion shall consist of nonstructural shoreline stabilization measures that preserve the natural environment, such as marsh creation, except in areas where the person can demonstrate to the satisfaction of the Department of the Environment that these 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.

(b) (1) In consultation with the Department, the Department of the Environment shall adopt regulations to implement the provisions of this subsection.

(2) The regulations shall include a waiver process that exempts a person from the requirements of subsection (a) of this section on a demonstration to the satisfaction of the Department of the Environment that nonstructural shoreline stabilization measures are not feasible for the person's property.

§8–1809.

(a) (1) Within 45 days after the criteria adopted by the Commission under

§ 8–1808 of this subtitle become effective, each local jurisdiction shall submit to the Commission a written statement of its intent either:

(i) To develop a critical area protection program to control the use and development of that part of the Chesapeake Bay Critical Area located within its territorial limits; or

(ii) Not to develop such a program.

(2) On or before July 15, 2002, each local jurisdiction in the Atlantic Coastal Bays Critical Area shall submit to the Commission a written statement of its intent either:

(i) To develop a critical area protection program to control the use and development of that part of the Atlantic Coastal Bays Critical Area located within its territorial limits; or

(ii) Not to develop such a program.

(b) If a local jurisdiction states the local jurisdiction's intent not to develop a program or fails to submit a timely statement of intent, the Commission shall prepare and adopt a program for the part of the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in that local jurisdiction.

(c) (1) If a local jurisdiction states the local jurisdiction's intent to develop a Chesapeake Bay Critical Area program, the local jurisdiction shall prepare a proposed program and submit the program to the Commission within 270 days after the effective date of the criteria adopted under § 8–1808 of this subtitle. However, if the local jurisdiction submits evidence satisfactory to the Commission that the local jurisdiction is making reasonable progress in the development of a program, the Commission may extend this period for up to an additional 180 days. Before submission of a program to the Commission within the time allowed by this subsection, a local jurisdiction shall hold at least 1 public hearing on the proposed program, for which 2 weeks' notice shall be published in a newspaper of general circulation in the local jurisdiction.

(2) If a local jurisdiction states the local jurisdiction's intent to develop an Atlantic Coastal Bays Critical Area program, the local jurisdiction shall prepare a proposed program meeting the requirements of the criteria adopted under § 8–1808 of this subtitle and submit the program to the Commission on or before January 1, 2003. However, if the local jurisdiction submits evidence satisfactory to the Commission that the local jurisdiction is making reasonable progress in the development of a program, the Commission may extend this period for up to an additional 30 days. Before submission of a program to the Commission within the time allowed by this subsection, a local jurisdiction shall hold at least 1 public hearing on the proposed program, for which 2 weeks' notice shall be published in a newspaper of general circulation in the local jurisdiction.

(d) (1) Within 30 days after a program is submitted, the Commission shall

appoint a panel of 5 of its members to conduct, in the affected jurisdiction, a public hearing on the proposed program.

(2) (i) Within 90 days after the Commission receives a proposed Chesapeake Bay Critical Area program from a local jurisdiction, the Commission shall approve the proposal or notify the local jurisdiction of specific changes that must be made in order for the proposal to be approved. If the Commission does neither, the proposal shall be deemed approved.

(ii) Within 60 days after the Commission receives a proposed Atlantic Coastal Bays Critical Area program from a local jurisdiction, the Commission shall approve the proposal or notify the local jurisdiction of specific changes that must be made in order for the proposal to be approved. If the Commission does neither, the proposal shall be deemed approved.

(3) A changed proposal shall be submitted to the Commission in the same manner as the original proposal, within 40 days after the Commission's notice. Unless the Commission approves a changed proposal or disapproves a changed proposal and states in writing the reasons for the Commission's disapproval within 40 days, the changed proposal shall be deemed approved.

(e) Within 90 days after the Commission approves a proposed Chesapeake Bay Critical Area program or a proposed Atlantic Coastal Bays Critical Area program, the local jurisdiction shall hold hearings and adopt the program in accordance with legislative procedures for enacting ordinances. If the governing body of the local jurisdiction wishes to change any part of the approved proposal before adoption, the governing body shall submit the proposed change to the Commission for approval. Unless the Commission approves the change or disapproves the change and states in writing the reasons for the Commission's disapproval within 30 days after the Commission receives the change, the change shall be deemed approved. A changed part may not be adopted until the changed part is approved by the Commission.

(f) (1) Within 760 days after criteria adopted by the Commission become effective, there shall be in effect throughout the Chesapeake Bay Critical Area programs approved or adopted by the Commission.

(2) On or before September 29, 2003, there shall be in effect throughout the Atlantic Coastal Bays Critical Area programs approved or adopted by the Commission.

(g) Each local jurisdiction shall review its entire program and propose any necessary amendments to its entire program, including local zoning maps, at least every 6 years. Each local jurisdiction shall send in writing to the Commission, within 60 days after the completion of its review, the following information:

(1) A statement certifying that the required review has been accomplished;

(2) Any necessary requests for program amendments, program

refinements, or other matters that the local jurisdiction wishes the Commission to consider;

(3) An updated resource inventory; and

(4) A statement quantifying acreages within each land classification, the growth allocation used, and the growth allocation remaining.

(h) (1) As often as necessary but not more than 4 times per calendar year, each local jurisdiction may propose program amendments and program refinements to its adopted program.

(2) (i) Except for program amendments or program refinements developed during program review under subsection (g) of this section, a zoning map amendment may be granted by a local approving authority only on proof of a mistake in the existing zoning.

(ii) The requirement in paragraph (2)(i) of this subsection that a zoning map amendment may be granted only on proof of a mistake does not apply to proposed changes to a zoning map that:

1. Are wholly consistent with the land classifications in the adopted program; or

2. Propose the use of a part of the remaining growth allocation in accordance with the adopted program.

(i) A program may not be amended except with the approval of the Commission.

(j) The Commission shall approve programs and program amendments that meet:

(1) The standards set forth in § 8–1808(b)(1) through (3) of this subtitle; and

(2) The criteria adopted by the Commission under § 8–1808 of this subtitle.

(k) Copies of each approved program, as the program is amended or refined from time to time, shall be maintained by the local jurisdiction and the Commission in a form available for public inspection.

(l) (1) If the Commission determines that an adopted program contains a clear mistake, omission, or conflict with the criteria or law, the Commission may:

(i) Notify the local jurisdiction of the specific deficiency; and

(ii) Request that the jurisdiction submit a proposed program amendment or program refinement to correct the deficiency.

(2) Within 90 days after being notified of any deficiency under paragraph (1) of this subsection, the local jurisdiction shall submit to the Commission, as program amendments or program refinements, any proposed changes that are necessary to correct those deficiencies.

(3) Local project approvals granted under a part of a program that the Commission has determined to be deficient shall be null and void after notice of the deficiency.

(m) (1) The Commission may adopt regulations that prescribe the procedures and information requirements for program amendments and program refinements.

(2) In the absence of regulations under paragraph (1) of this subsection, a local jurisdiction may propose changes to adopted programs. Within 10 working days of receiving a proposal under this paragraph, the Commission shall:

(i) Mail a notification to the local jurisdiction that the proposal has been accepted for processing; or

(ii) Return the proposal as incomplete.

(n) A local jurisdiction may specify whether it intends a proposed change to be a program amendment or program refinement. However, the Commission shall treat a proposed change as a program amendment unless the chairman determines that the proposed change is a program refinement.

(o) (1) For proposed program amendments, a Commission panel shall hold a public hearing in the local jurisdiction, and the Commission shall act on the proposed program amendment within 130 days of the Commission's acceptance of the proposal. If action by the Commission is not taken within 130 days, the proposed program amendment is deemed approved.

(2) The Commission shall determine if the proposed amendment is consistent with the purposes, policies, goals, and the provisions of this subtitle, and all criteria of the Commission.

(3) In accordance with the Commission's determination in paragraph (2) of this subsection, the Commission shall:

(i) Approve the proposed program amendment and notify the local jurisdiction;

(ii) Deny the proposed program amendment;

(iii) Approve the proposed program amendment subject to one or more conditions; or

(iv) Return the proposed program amendment to the local jurisdiction

with a list of the changes to be made.

(4) If the Commission approves a proposed program amendment subject to one or more conditions under item (3)(iii) of this subsection, the local jurisdiction shall notify the Commission within 60 days of its intent to adopt the conditions.

(5) The local jurisdiction shall incorporate the approved program amendment and any required conditions into the adopted program within 120 days of receiving notice from the Commission that the program amendment has been approved.

(p) (1) Proposed program refinements shall be determined as provided in this subsection.

(2) (i) Within 30 days of the Commission's acceptance of a proposal to change an adopted program, the chairman, on behalf of the Commission, may determine that the proposed change is a program refinement. Immediately upon making a determination under this paragraph, the chairman shall notify the Commission of that determination.

(ii) If a proposed change that was specifically submitted as a program refinement is not acted on by the chairman within the 30–day period, the Commission shall notify the appropriate local jurisdiction that the proposed change has been deemed to be a program amendment.

(3) (i) The Commission may vote to override the chairman's determination only at the first Commission meeting where a quorum is present following the chairman's determination.

(ii) If the chairman's determination is overridden, the proposed change is deemed a program amendment, which shall be decided by the Commission in accordance with the procedures for program amendments provided in this section, except that the Commission shall act on the program amendment within 60 days after a vote to override the chairman.

(iii) If the chairman's determination is not overridden, within 10 working days after the opportunity to override the chairman's decision under item (i) of this paragraph, the chairman, on behalf of the Commission, shall:

1. Determine if the program refinement is consistent with the purposes, policies, goals, and provisions of this subtitle, and all criteria of the Commission; and

2. A. Approve the proposed program refinement and notify the local jurisdiction;

B. Deny the program refinement;

C. Approve the proposed program refinement subject to one or more conditions; or

D. Return the proposed program refinement back to the local jurisdiction with a list of the changes to be made.

(iv) If the Commission approves a proposed program refinement subject to one or more conditions under item (iii)3 of this paragraph, the local jurisdiction shall notify the Commission within 60 days of its intent to adopt the conditions.

(4) A local jurisdiction shall incorporate an approved program refinement and any required conditions into its adopted program within 120 days of receiving notice from the chairman that the program refinement has been approved.

(q) (1) (i) As necessary, a local jurisdiction may combine any or all proposed program amendments or program refinements required for a specific project approval into a single request to the Commission for program amendment, program refinement, or both.

(ii) The Commission shall ensure that any requests received in accordance with this paragraph are consistent with the purposes, policies, goals, and provisions of this subtitle, and all criteria of the Commission.

(2) A project for which a local jurisdiction requests growth allocation may be submitted as a proposed program amendment, program refinement, or both.

(3) Approval by the Commission of a program amendment, program refinement, or both does not affect the Commission's authority to receive notice of or intervene in a project approval that was not specifically approved by the Commission as part of its approval of a program amendment or program refinement.

(r) Within 6 months after the adoption of amended criteria, a local jurisdiction shall send to the Commission:

(1) Proposed program amendments or program refinements that address the amended criteria; or

(2) A statement describing how the adopted program conforms to the amended criteria and certifying that the adopted program is consistent with the amended criteria.

(s) If the Commission adopts a regulation concerning the use of the growth allocation, any use of the growth allocation must be in accordance with that regulation for the change to be considered a program refinement.

§8–1810.

(a) If a local jurisdiction fails to notify the Commission that the local jurisdiction will develop a program, fails to submit a proposed program or changed proposal on time, or fails to obtain Commission approval of a proposed program or changed proposal that is submitted, the Commission shall prepare and adopt a program that satisfies the criteria adopted under § 8–1808 of this subtitle for the part of the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in that local jurisdiction.

(b) Where a local jurisdiction failed to adopt or obtain Commission approval of a program, the Commission shall adopt a program for that jurisdiction by adopting regulations in accordance with Title 2, Subtitle 5 (Joint Committee on Administrative, Executive, and Legislative Review) and Title 10, Subtitle 1 (Administrative Procedure Act) of the State Government Article. Before the full Commission adopts a program under this subsection, the Commission shall appoint a panel of 3 of the Commission's members to conduct in the affected jurisdiction at least 2 public hearings at least 10 days apart on the proposed program, for which 2 weeks' notice shall be published in a newspaper of general circulation in the local jurisdiction. A program adopted by the Commission under this subsection shall supersede any inconsistent local laws, ordinances, or plans.

(c) If the Commission adopts a program for a local jurisdiction, the program shall be implemented and enforced by local authorities in the same manner as if the program had been adopted by the local jurisdiction itself.

(d) If, at any time after the Commission has adopted a program for a local jurisdiction, the local jurisdiction submits an alternative program of its own that satisfies the criteria adopted under § 8–1808 of this subtitle and is approved by the Commission, the alternative program supersedes the program adopted by the Commission.

§8–1811.

(a) From the effective date of a program approved or adopted by the Commission, a project approval that involves land located in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area may not be granted unless the project approval is consistent and complies with the program.

(b) (1) The Commission shall adopt regulations identifying those classes of applications for project approval of which the Commission wishes to receive notice.

(2) From the date designated by the Commission in approving or adopting a program, an applicant for project approval or the local agency authorized to grant project approval on an application in any of the identified classes shall send to the Commission in accordance with the regulations and any other instructions of the Commission, a copy of every pending or new application for approval that is in any of the identified classes. Before the close of the fifth business day after receipt of

a copy of an application from the applicant or the local approving authority, the Commission shall send written notice of receipt to the applicant and to the local approving authority. A failure of the Commission to send a timely notice shall render paragraph (3) of this subsection inapplicable as to that application.

(3) The local approving authority may not process an application of which a copy must be sent to the Commission until the local approving authority has received notice of receipt from the Commission, and any action of the local approving authority in violation of this paragraph shall be void.

§8–1812.

(a) After the Commission has approved or adopted a program, the chairman of the Commission has standing and the right and authority to initiate or intervene in any administrative, judicial, or other original proceeding or appeal in this State concerning a project approval in the Chesapeake Bay Critical Area or the Atlantic Coastal Bays Critical Area. The chairman may exercise this intervention authority without first obtaining approval from the Commission, but the chairman shall send prompt written notice of any intervention or initiation of action under this section to each member of the Commission. The chairman shall withdraw the intervention or action initiated if, within 35 days after the date of the chairman's notice, at least 13 members indicate disapproval of the action, either in writing addressed to the chairman or by vote at a meeting of the Commission. A member representing the local jurisdiction affected by the chairman's intervention or action may request a meeting of the Commission to vote on the chairman's intervention or action.

(b) Except as stated in this subtitle, the chairman is subject to general laws and rules of procedure that govern the time within and manner in which the authority granted in subsection (a) of this section may be exercised.

(c) The chairman may appeal an action or decision even if the chairman was not a party to or is not specifically aggrieved by the action or decision.

§8–1813.

(a) From June 1, 1984 with regard to any subdivision plat approval or approval of a zoning amendment, variance, special exception, conditional use permit, or use of a floating zone, affecting any land or water area located within the initial planning area identified in § 8-1807(a) of this subtitle, for which application is completed after that date, the approving authority of the local jurisdiction in rendering its decision to approve an application shall make specific findings that:

(1) The proposed development will minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands; and

(2) The applicant has identified fish, wildlife, and plant habitat which may be adversely affected by the proposed development and has designed the development

so as to protect those identified habitats whose loss would substantially diminish the continued ability of populations of affected species to sustain themselves.

(b) On or after June 1, 2002, with regard to any subdivision plat approval or approval of a zoning amendment, variance, special exception, conditional use permit, or use of a floating zone, affecting any land or water area located within the initial planning area identified in § 8-1807(b) of this subtitle, for which application is completed after that date, the approving authority of the local jurisdiction in rendering its decision to approve an application shall make specific findings that:

(1) The proposed development will minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands; and

(2) The applicant has identified fish, wildlife, and plant habitat which may be adversely affected by the proposed development and has designed the development so as to protect those identified habitats whose loss would substantially diminish the continued ability of populations of affected species to sustain themselves.

(c) With regard to any application for project approval described in subsection (a) or (b) of this section, a local approving authority shall require any additional information from an applicant as is necessary in order to make the findings required by subsection (a) or (b) of this section.

(d) This section shall remain in effect in a local jurisdiction until such time as an approved program becomes effective.

(e) This section does not apply to any application in the Chesapeake Bay Critical Area initially filed prior to March 1, 1984 or any application in the Atlantic Coastal Bays Critical Area filed prior to June 1, 2002.

§8–1813.1.

(a) Except as provided in subsections (b), (c), and (d) of this section, a local jurisdiction in the Atlantic Coastal Bays Critical Area shall permit a single lot or parcel of land that was legally of record on the date of program approval to be developed with a single family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the approved density provisions of the approved local program, provided that:

(1) The local jurisdiction develops, as part of its program, procedures to bring the lots or lands into conformance with the local critical area program to the extent possible, including the consolidation or reconfiguration of lots not individually owned; and

(2) The procedures developed in accordance with item (1) of this subsection are approved by the Commission.

(b) Land that was subdivided into recorded and legally buildable lots for which the subdivision received the local jurisdiction's final approval after June 1, 2002 but prior to program approval may be developed with a single family dwelling, if a single family dwelling is not already placed there, provided that:

(1) Development of the land conforms to the requirements of this title and Title 27 of the Code of Maryland Regulations; or

(2) The area of land is deducted from the local jurisdiction's growth allocation in accordance with § 8–1808.1(b) of this subtitle and COMAR 27.01.02.06.

(c) (1) (i) In this subsection and subsection (d) of this section the following words have the meanings indicated.

(ii) "Bayside mixed use district" means a district of existing large bayside parcels that:

1. Are essentially undeveloped with permanent structures;

2. Are suitable for large–scale commercial or mixed use development; and

3. Offer the opportunity for well–planned, efficient, and diversified comprehensive development.

(iii) 1. "Planned unit development" means a development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in land use design approved by the local jurisdiction.

2. "Planned unit development" includes a residential planned community.

(2) A planned unit development in a bayside mixed use district that has received the local jurisdiction's final site approval and is legally buildable after June 1, 2002 but prior to program approval may be developed if:

(i) Development of the land conforms to the requirements of this title and Title 27 of the Code of Maryland Regulations;

(ii) The area is deducted from the local jurisdiction's growth allocation in accordance with § 8–1808.1(b) of this subtitle and COMAR 27.01.02.06; or

(iii) The land:

1. Is designated as an intensely developed area;

2. Is exempted from the buffer designation in COMAR

27.01.09; and

3. Is part of a project that complies with Title 4, Subtitle 2 of the Environment Article.

(d) A local jurisdiction may include in the jurisdiction's local critical area protection program, to be approved by the Commission, an alternative buffer provision for the development of a planned unit development in accordance with the planned unit development's Step III approval, provided that:

(1) The planned unit development received Step III approval from the local jurisdiction prior to June 1, 2002;

(2) The planned unit development has received the local jurisdiction's final subdivision approval and is legally buildable after June 1, 2002 but prior to program approval;

(3) The area is deducted from the local jurisdiction's growth allocation in accordance with § 8–1808.1(b) of this subtitle and COMAR 27.01.02.06, if applicable;

(4) The provision includes measures that protect water quality and fish, wildlife, and plant habitats in accordance with the intent of this subtitle and Title 27 of the Code of Maryland Regulations; and

(5) At least 75% of the dwelling units in the planned unit development comply with the buffer requirements in COMAR 27.01.09.01 and no dwelling unit has a buffer of less than 50 feet from existing or proposed tidal waters, tidal wetlands, or tributary streams.

(e) For purposes of implementing this subtitle, a local jurisdiction in the Atlantic Coastal Bays Critical Area shall have determined, based on land uses and development in existence on June 1, 2002, which land areas fall into the three types of development areas in accordance with Title 27 of the Code of Maryland Regulations.

§8–1814.

(a) After 760 days have elapsed from the date upon which criteria adopted by the Commission become effective, any State or local agency that proposes development which has not been subject to project approval by the local jurisdiction under an approved program, including buildings, treatment plants, roads, railroads, and airports, in the Chesapeake Bay Critical Area shall, before the State or local agency begins the development, receive the approval of the Commission in accordance with procedures or exceptions set forth in regulations adopted by the Commission using the standards set forth in § 8-1808(b)(1) through (3) of this subtitle. These regulations shall be adopted on or before September 1, 1987, and only after consultation with affected State and local agencies.

(b) The Secretary shall consult with the Commission in making consistency

determinations under the Federal Coastal Zone Management Program.

(c) This subtitle is not intended to relieve any obligation otherwise imposed by law or regulation to obtain licenses, permits, or approvals from State and local regulatory agencies or to comply with applicable State and local regulatory prohibitions or restrictions.

§8–1815.

(a) (1) (i) Except as otherwise authorized in a local jurisdiction, in accordance with the procedures set forth in subparagraph (ii) of this paragraph, a local authority may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the local authority has probable cause to believe that a violation of this subtitle or the local program has occurred, is occurring, or will occur.

(ii) 1. A local authority shall make a reasonable effort to contact a property owner before obtaining access to or entering the property.

2. If entry is denied, the local authority may seek an injunction to enter the property to pursue an enforcement action.

(iii) 1. A local authority that identifies a violation of this subtitle or of the local program shall take enforcement action.

2. The local authority shall require appropriate restoration and mitigation as necessary to offset adverse impacts to the critical area resulting from the violation.

3. A. For restoration or mitigation that exceeds 1,000 square feet or involves expenses exceeding $1,000, the local authority shall collect a bond or other financial security or adopt appropriate procedures to ensure that the restoration or mitigation is properly completed.

B. If the restoration or mitigation involves planting, the bond shall be held for at least 2 years after the date the plantings were installed to ensure plant survival.

C. On request of the property owner, the local authority shall schedule inspections as necessary to ensure compliance and the return of the bond or other financial security.

(2) (i) A person who violates a provision of an order, permit, plan, local program, this subtitle, or regulations adopted, approved, or issued under the authority of this subtitle shall be:

1. Subject to prosecution or suit in circuit court or District Court by the chairman or local authorities, who may invoke the sanctions and remedies

afforded by State or local law;

2. Guilty of a misdemeanor; and

3. On conviction in a court of competent jurisdiction, subject to a fine not exceeding $10,000 or imprisonment not exceeding 90 days or both, with costs imposed in the discretion of the court.

(ii) A criminal prosecution or a suit for a civil penalty for violation of a provision of an order, permit, plan, local program, this subtitle, or regulations adopted, approved, or issued under the authority of this subtitle shall be instituted within 3 years after the Commission or the local authorities in fact knew or reasonably should have known of the violation.

(3) A local authority may request:

(i) Assistance from the Commission in an enforcement action; or

(ii) That the chairman refer an enforcement action to the Attorney General.

(b) Whenever the chairman has reason to believe that a local jurisdiction is failing to enforce the requirements of a program applicable to a particular development, the chairman shall serve notice upon the local enforcement authorities. If within 30 days after service of the notice, the local authorities have failed to initiate an action to remedy or punish the violation, the chairman may refer the matter to the Attorney General.

(c) Upon referral of an alleged violation under subsection (a) or (b) of this section, the Attorney General may invoke any sanction or remedy available to local authorities, in any court of competent jurisdiction in which the local authorities would be authorized to prosecute or sue the violator.

(d) In addition to any other sanction or remedy available, the Attorney General may bring an action in equity to compel compliance or restrain noncompliance with the requirements of approved project plans, and to compel restoration of lands or structures to their condition prior to any modification which was done in violation of approved project plans.

(e) Notwithstanding any other provision of this section, whenever a development in the Critical Area is proceeding in violation of approved project plans and threatens to immediately and irreparably degrade the quality of tidal waters or fish, wildlife, or plant habitat, the Attorney General, upon request of the chairman, may bring an action to restrain the violation and, as appropriate, to compel restoration of any land or water areas affected by the development.

§8–1815.1.

(a) (1) The provisions of this section are in addition to any other sanction, remedy, or penalty provided by law.

(2) This section does not apply to any cutting or clearing of trees that is allowed under regulations adopted by the Commission under this subtitle.

(b) If a person cuts or clears or plans to cut or clear trees within the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in violation of an approved local critical area program or of regulations adopted by the Commission, the chairman may bring an action, or the local jurisdiction may bring an action or request that the chairman of the Commission refer the matter to the Attorney General to bring an action:

(1) To require the person to replant trees where the cutting or clearing occurred in accordance with a plan prepared by the State Forester, a registered professional forester, or a registered landscape architect;

(2) To restrain the planned violation; or

(3) For damages:

(i) To be assessed by a circuit court in an amount equal to the estimated cost of replanting trees; and

(ii) To be paid to the Department by the person found to have violated the provisions of this subsection.

(c) If the chairman of the Commission has reason to believe that the local jurisdiction is failing to enforce the requirements of subsection (b) of this section, the chairman shall refer the matter to the Attorney General as provided under § 8–1815(b) of this subtitle.

(d) On the chairman of the Commission's referral of an alleged violation under subsection (c) of this section to the Attorney General, the Attorney General may invoke the remedies available to the local jurisdiction under subsection (b) of this section in any court of competent jurisdiction in which the local jurisdiction would be authorized to prosecute or sue.

(e) On the request of a local jurisdiction or the chairman of the Commission, the State Forester, a registered professional forester, or a registered landscape architect may prepare, oversee, and approve the final implementation of a plan to:

(1) Replant trees in any part of the Chesapeake Bay Critical Area where trees in the Chesapeake Bay Critical Area are cut or cleared in violation of subsection (b) of this section; and

(2) Replant trees in any part of the Atlantic Coastal Bays Critical Area where trees in the Atlantic Coastal Bays Critical Area are cut or cleared in violation of subsection (b) of this section.

§8–1816.

In consultation with State and local agencies involved in planning, acquiring, and managing open space and recreational lands, the Commission, by January 1, 1987, shall prepare a report to the Governor and the General Assembly recommending State policy and goals for:

(1) The provision of public access along the shoreline of the Chesapeake Bay and its tributaries; and

(2) The reforestation of land within the Critical Area and the preservation of forested land within the Critical Area.

§8–1817.

(a) By January 1, 1994, the Commission shall adopt criteria that assure the protection of land and water resources in the Critical Area and that shall apply throughout the Critical Area for:

(1) Production of oil or natural gas on lands or waters leased by the State; and

(2) Exploration or production of oil or natural gas on any lands in the Critical Area.

(b) (1) In addition to other applicable provisions of law, an applicant for any production or exploratory drilling that will occur on, in, under, or through the Critical Area, including wells drilled outside the Critical Area by a method known as slant drilling that will pass through the Critical Area, shall complete and submit with the application an environmental impact study that addresses the potential for any adverse environmental effects on the Critical Area as a result of the drilling.

(2) (i) The Department shall forward a copy of the permit application and the environmental impact study referred to in paragraph (1) of this subsection to the Commission for its review and comment.

(ii) The Department shall consider and comment in writing on the objections and concerns of the Commission before issuing a permit under this subsection.

§8–1901.

(a) In this part the following words have the meanings indicated.

(b) "Board" means the Board of Trustees of the Chesapeake Bay Trust.

(c) "Trust" means the Chesapeake Bay Trust.

§8–1902.

There is a Chesapeake Bay Trust established 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.

§8–1903.

The purpose of the Chesapeake Bay Trust is declared to be of general benefit to the citizens and charitable in nature. The Trust shall be a body corporate and shall have perpetual existence, subject to modification or termination by the General Assembly if necessary to effectuate its purpose or when and if its substantial purpose ceases.

§8–1904.

(a) The powers and duties of the Chesapeake Bay Trust shall rest in and be exercised by a board of 19 trustees.

(b) The Board of Trustees shall consist of:

(1) The President of the Senate, ex officio;

(2) The Speaker of the House, ex officio;

(3) The Secretaries of Agriculture, the Environment, and Natural Resources, ex officio, or their designees; and

(4) 14 individuals appointed by the Governor as follows:

(i) 8 shall represent the interests of local government, education, environmental conservation, and the general public; and

(ii) 6 shall represent the business community.

(c) The Governor shall consider geographical balance in making appointments to the Board of Trustees.

(d) Except for the ex officio members or their designees:

(1) The term of a member is 4 years;

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1985;

(3) At the end of a term, a member continues to serve until a successor is

appointed and qualifies;

(4) A member who is appointed after a term is begun serves for the rest of the term and until a successor is appointed and qualifies; and

(5) A member may serve no more than 2 consecutive terms.

§8–1905.

(a) The Board shall elect one of their members to serve as chair.

(b) The Board shall meet at places and dates to be determined by the Board, but not less than 2 times a year.

(c) Seven trustees shall constitute a quorum, but action may not be taken by a vote of less than seven members.

(d) A trustee:

(1) May not receive compensation as a trustee; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations as provided in the State budget.

(e) The State agencies represented on the Trust shall provide staff, supplies, and office space, and shall be reimbursed for these expenses from moneys of the Trust.

§8–1906.

The Trust shall have the powers and duties to:

(1) Solicit and accept any gift, grant, legacy, or endowment of money from the federal government, State government, local government, or any private source in furtherance of the Trust;

(2) Provide grants to nonprofit organizations, community associations, civic groups, schools, or public agencies for citizen involvement projects;

(3) Develop projects for sponsorship by corporate and business organizations or private individuals;

(4) Develop criteria for citizen involvement projects or corporate sponsorship projects;

(5) Make, execute, and enter into any contract or other legal instrument;

(6) Receive appropriations as provided in the State budget;

(7) Lease and maintain an office at a place within the State the Trust

designates;

(8) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(9) Take any other action necessary to carry out the purposes of the Trust;

(10) Sue and be sued, but only to enforce contractual or similar agreements with the Trust; and

(11) Report annually to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, its activities during the preceding year together with any recommendations or requests deemed appropriate to further the purposes of the Trust.

§8–1907.

(a) In developing the criteria for citizen involvement projects or corporate sponsorship projects, the Trust may consider activities that:

(1) Preserve water quality and habitat;

(2) Restore aquatic and land resources;

(3) Publish or produce educational materials on the Chesapeake Bay and other aquatic and land resources of the State;

(4) Provide educational scholarships or training; or

(5) Promote conservation programs for the Chesapeake Bay and other aquatic and land resources of the State through the media or other means.

(b) The Trust may not consider activities which advocate a political candidate or political solution.

§8–1908.

The Trust shall apply at least one–third of any gift, grant, legacy, or endowment received in excess of $5,000 directly to citizen involvement projects in accordance with the provisions of this subtitle.

§8–1909.

(a) All money received by the Trust shall be deposited, as directed by the Trust, in any State or national bank, or federally or State insured savings and loan associations located in the State having a total paid–in capital of at least $1,000,000. The trust department of any State or national bank or savings and loan association may be designated as a depository to receive any securities acquired or owned by the Trust. The restriction with respect to paid–in capital may be waived for any qualifying

bank or savings and loan association which agrees to pledge securities of the State or of the United States to protect the funds and securities of the Trust in amounts and under arrangements acceptable to the Trust.

(b) (1) Except as provided in paragraph (2) of this subsection, any money of the Trust, in its discretion and unless otherwise provided in any agreement or covenant between the Trust and the holders of any of its obligations limiting or restricting classes of investments, may be invested in bonds or other obligations of the United States, the State, the political subdivisions or units of the State, direct or indirect federal agencies, corporate bonds with a rating of BAA3/BBB, or mortgage backed and asset backed securities with a rating of AAA.

(2) The overall investment portfolio of the Trust must have a rating of at least AA.

(c) The Trust shall make provision for a system of financial accounting, controls, audits, and reports.

(d) The books, records, and accounts of the Trust are subject to audit by the State.

§8–1910.

(a) (1) Except as provided in paragraph (2) of this subsection, in exercising its powers, the Trust:

(i) Is exempt from the provisions of the State Finance and Procurement Article, the provisions of Division I of the State Personnel and Pensions Article that govern the State Personnel Management System, and the provisions of Division II and Title 37 of the State Personnel and Pensions Article; and

(ii) May carry out its corporate purposes without obtaining the consent of any department, board, or agency of the State.

(2) The Trust is subject to the provisions of the State Finance and Procurement Article to the extent of State appropriations or contracts or grants from a unit of State government, if any.

(b) (1) Subject to paragraph (2) of this subsection, the trustees and employees of the Trust are exempt from the provisions of the Public Ethics Law.

(2) (i) The Board shall adopt provisions to govern the public ethics of the trustees and employees of the Trust relating to conflicts of interest for nonprofit organizations.

(ii) The Trust shall keep on file and make available for public inspection at the principal office of the Trust a written copy of the conflict of interest provisions adopted under subparagraph (i) of this paragraph.

§8–1913.

(a) In this part the following words have the meanings indicated.

(b) "Corps Board" means the Advisory Board of the Corps Program.

(c) "Corps Program" means the Chesapeake Conservation Corps Program established under § 8–1914 of this part.

(d) "Energy conservation project" means a project to promote energy conservation or efficiency, including a project to:

(1) Improve energy efficiency of households and public structures through energy audits, weatherization, and other on–site energy conservation measures;

(2) Implement clean energy projects in communities to enhance the use of renewable energy, reduce carbon emissions, and mitigate climate change;

(3) Implement community greening and urban tree canopy projects that create energy savings; and

(4) Assist schools in becoming "green schools" and reducing energy costs.

(e) "Environmental project" means a project that results in long–term preservation, protection, and conservation of the environment, in areas including environmental restoration, agricultural and forestry, infrastructure, energy conservation, and educational improvements.

(f) "Qualified organization" means:

(1) A nonprofit organization;

(2) A school;

(3) A community association;

(4) A service, youth, or civic group;

(5) An institution of higher education;

(6) A county or municipality; or

(7) A unit of State government.

(g) "Trust" means the Chesapeake Bay Trust.

§8–1914.

(a) There is a Chesapeake Conservation Corps Program administered by the

Trust, in consultation with the Corps Board.

(b) The purpose of the Corps Program is to:

(1) Promote, preserve, protect, and sustain the environment;

(2) Provide young adults with opportunities to become better citizens, students, and workers through meaningful service to their communities and the State;

(3) Mobilize, educate, and train youth and young adults to work with communities and schools to promote energy conservation and mitigate and prevent threats to the environment;

(4) Provide opportunities for youth and young adults, especially disadvantaged youth, to be trained for careers that will be part of the emerging field of "green collar" jobs;

(5) Educate and train communities and individuals for the long–term action needed to continue to promote, preserve, protect, and sustain the environment after a Corps project has been completed;

(6) Act as a coordinator and facilitator of efforts to foster public–private partnerships in developing "green collar" job opportunities and in enhancing and expanding the workforce available for environmental protection and clean energy industries; and

(7) Channel available public and private resources to the protection, conservation, and preservation of the environment of the State.

§8–1915.

(a) (1) The purpose of the Corps Board is to advise the Trust in the development and implementation of the Corps Program.

(2) The Corps Board consists of the following 11 members:

(i) One member of the Senate of Maryland, appointed by the President of the Senate;

(ii) One member of the House of Delegates, appointed by the Speaker of the House;

(iii) One member appointed by the Chancellor of the University System of Maryland with the advice and consent of the Senate, to serve as a liaison between the Corps Board, the Chancellor, and the Board of Regents;

(iv) Three members of the Board of Trustees of the Chesapeake Bay Trust, appointed by the Chair of the Board; and

(v) Five members appointed by the Governor with the advice and consent of the Senate, including at least one individual from the not–for–profit sector with a background in education and student service and one with a background in workforce development.

(3) If a regulated lobbyist is appointed to serve as a member of the Corps Board, the lobbyist is not subject to:

(i) § 5–504(d) of the General Provisions Article; or

(ii) § 5–704(f)(3) of the General Provisions Article as a result of that service.

(b) A member of the Corps Board shall reside in the State.

(c) In making appointments to the Corps Board, the Governor shall consider:

(1) Diversity; and

(2) All geographic regions of the State.

(d) A member of the Corps Board:

(1) May not receive compensation as a member of the Corps Board; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) (1) The term of a member is 4 years.

(2) The terms of the members are staggered as required by the terms provided for members on July 1, 2010.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(f) The appointing authority may remove a member for incompetence, misconduct, or failure to perform the duties of the position.

(g) (1) The Corps Board shall determine the times and places of its meetings.

(2) The Corps Board may act with an affirmative vote of six members.

§8–1916.

(a) From among its members, the Corps Board shall elect a chair and a vice

chair.

(b) The Trust shall provide staff support for the Corps Board.

§8–1917.

(a) (1) The Trust, in consultation with the Corps Board, shall make grants to qualified organizations for the creation or expansion of full– and part–time Chesapeake Conservation Corps Programs, that involve citizens of all ages throughout the State, to carry out this part.

(2) Corps programs shall engage and develop volunteers and stipend volunteers in environmental and energy conservation projects.

(3) Eligible Corps Program expenses include personnel costs, stipends, supplies, and other materials for projects undertaken by Corps Program volunteers.

(b) The Trust, in consultation with the Corps Board, shall develop guidelines for evaluating applications from qualified organizations.

(c) The guidelines developed in accordance with subsection (b) of this section shall:

(1) Consider the capability of the qualified organization to carry out Corps programs or projects;

(2) Encourage and consider multiyear, multipartner proposals, local match, cost–sharing agreements, and in–kind match as factors in evaluating Corps Program grant applications; and

(3) Require grant applications to describe how the qualifying organization intends to:

(i) Assess the skills of Corps Program volunteers;

(ii) Provide life skills and work skills training;

(iii) Provide training and education, in addition to the training provided as a part of the main Corps Program;

(iv) Develop, where relevant, agreements for academic study with:

1. Local education agencies;

2. Community colleges;

3. 4–year colleges;

4. Area charter high schools and vocational–technical schools;

and

5. Community–based organizations;

(v) Provide career and educational guidance;

(vi) Recruit participants without high school diplomas; and

(vii) Recruit retired and semi–retired seniors and other qualified individuals with relevant experience to train Corps Program volunteers and participate in Corps projects by volunteering their experience and skills.

(d) A grant agreement regarding funds from the Trust shall:

(1) Specify the allowed use of the funds provided under the grant, including accountability measures and performance requirements;

(2) Take into account the need for efficient multiyear funding and administration of the funds; and

(3) Include provisions for verification that Corps programs and projects are being implemented as planned.

§8–1918.

(a) (1) For stipend volunteer programs, the Trust and qualified organizations shall principally recruit individuals for a minimum 6–month commitment who, at the time of enrollment, are at least 18 years of age and not more than 25 years of age.

(2) For summer volunteer programs, including summer stipend programs, the Trust and qualified organizations shall principally recruit individuals who, at the time of enrollment, are at least 15 years of age and not more than 18 years of age.

(b) Qualified organizations may not undertake a project if the project would replace regular workers or duplicate or replace an existing service in the same locality.

(c) A stipend volunteer:

(1) May not receive a salary as a stipend volunteer; but

(2) May receive a stipend, as determined by the Trust, based on the needs of the stipend volunteer and the limits of budgetary appropriations.

(d) (1) A stipend volunteer may not participate in any partisan political activity while engaged in the performance of duties as a stipend volunteer.

(2) This part is effective only to the extent that it does not conflict with any federal or State laws or regulations relating to participation in partisan political activities.

(3) A volunteer or stipend volunteer may not participate in any regulatory or statutory enforcement activities while engaged in the performance of duties as a member of the Corps Program.

§8–1919.

(a) The Trust shall provide technical assistance to qualified organizations that request assistance.

(b) The Trust shall convene Chesapeake Conservation Corps Program participants on a regular basis in order to:

(1) Promote team building among the participants;

(2) Develop an understanding of the overall Corps Program purpose;

(3) Share information about best practices;

(4) Recognize excellence; and

(5) Provide training and other learning opportunities.

(c) In providing training and technical assistance, the Trust may contract with an organization with a proven track record of developing and sustaining Corps programs, working with the Conservation Corps model, and engaging young people from disadvantaged backgrounds.

§8–1920.

(a) The Corps Program's projects and activities shall meet an identifiable public need, with specific emphasis on projects that result in long–term preservation, protection, and conservation of the environment, in areas including environmental restoration, agricultural and forestry, infrastructure, and educational improvements.

(b) Environmental restoration projects may include:

(1) Specific nutrient reduction activities, such as planting of bay grasses and oysters and installing natural shorelines on public spaces; and

(2) Working with communities to improve their environmental impacts and activities and to encourage appropriate environmental stewardship.

(c) Agricultural and forestry projects may include working with Corps Program volunteers from rural areas of the State in partnership with the agricultural community in projects to prevent or reduce nutrient runoff.

(d) Infrastructure projects may include:

(1) Improving the energy efficiency of housing for elderly and low–income

households;

(2) Implementing clean energy projects in communities to enhance the use of renewable energy, including free and low–cost energy audits; and

(3) Building or assisting in building infrastructure to promote environmental education including outdoor classrooms, nature trails, and schoolyard habitats and watershed restoration, stream restoration, rain gardens, and other low–impact development projects.

(e) Educational projects may include:

(1) Developing interactive environmental education and energy conservation education for elementary and secondary school students and the public;

(2) Developing curriculum targeted at training high school students and apprentices to obtain skills necessary to create and implement clean energy projects in their communities and to compete for jobs in the emerging clean energy sector; and

(3) Assisting schools to become "green schools" and reduce energy costs through hands–on projects with their students.

(f) Energy conservation projects may include the projects defined in § 8–1913(d) of this part.

§8–1921.

(a) The Corps Program shall be funded each fiscal year with:

(1) The amount specified in § 3–302(d) of this article; and

(2) Up to $250,000 in additional funds that may be allocated by the Trust through its annual budget process.

(b) The Trust and the Corps Board shall seek federal funds and grants and donations from private sources to be made to the Trust for the purpose of long–term funding of the Corps Program.

§8–1922.

Colleges and universities may:

(1) Contract with the Trust to carry out Corps Program work;

(2) Assign to the Trust resources to assist in its Corps Program work, development, and activities; and

(3) Assign faculty and staff to the Trust for the purpose of carrying out or assisting with Corps programs.

§8–1923.

(a) In developing its programs and seeking federal and State grants, the Trust and the Corps Board shall:

(1) Coordinate all efforts with the Maryland Conservation Corps established in Title 5, Subtitle 2 of this article to engage young adults in conservation service projects;

(2) Coordinate all efforts with the Civic Justice Corps, an adjunct program of the Maryland Conservation Corps, to engage youth in conservation service projects; and

(3) Seek assistance and advice from relevant public and private sources.

(b) In developing clean energy infrastructure and educational programs, the Trust and the Corps Board shall seek assistance from and cooperate with the Maryland Clean Energy Center under Title 10, Subtitle 8 of the Economic Development Article.

(c) In developing its volunteer programs, the Trust and the Corps Board shall seek assistance from and cooperate with:

(1) The Maryland Service Corps and the Governor's Office on Service and Volunteerism under Title 9.5, Subtitle 2 of the State Government Article;

(2) The Department of Business and Economic Development and other appropriate units of State government and private sector entities to develop opportunities for student participation in private sector activities, such as internship and externship programs; and

(3) The University System of Maryland and other institutions of higher education in the State to develop opportunities for course credit arrangements through which students may earn course credits for participation in Corps programs as an alternative to or in addition to payment of a stipend in a stipend volunteer or other volunteer Corps program.

§8–1924.

(a) On or before October 1 of each year, the Trust, in consultation with the Corps Board shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

(b) The report shall include a complete operating and financial statement covering the operations of the Corps Board and a summary of the activities of the Corps Board during the preceding fiscal year.

§8–2001.

(a) Any person who violates any provision of this title is guilty of a misdemeanor. Upon conviction in a court of competent jurisdiction, unless another penalty is specifically provided elsewhere in this title, the person is subject to a fine not exceeding $500, with costs imposed in the discretion of the court. Every fine and cost shall be paid in accordance with § 7-503 of the Courts Article.

(b) Any person found guilty of a second or subsequent violation of any provision of this title in a court of competent jurisdiction, unless another penalty is specifically provided elsewhere in this title, is subject to a fine not exceeding $1,000, or imprisonment not exceeding 1 year, or both with costs imposed in the discretion of the court. For the purpose of this subsection, a second or subsequent violation is a violation which has occurred within 2 years of any prior violation of this title.

(c) In addition to any administrative penalty provided in this title, violation of any regulation or restriction adopted by any unit within the Department of Natural Resources pursuant to the provisions of this title is a misdemeanor and is punishable as provided in subsections (a) and (b) of this section.

§8–2002.

The Attorney General shall take charge of, prosecute, and defend on behalf of the State every case arising under the provisions of this title, including the recovery of penalties, except for prosecution of violations of the provisions of Subtitle 7 of this title and regulations adopted under Subtitle 7 of this title.

§8–2003.

(a) Whenever a person is halted by a regular or special police officer for an offense on publicly owned watershed property punishable as a misdemeanor and which is either a violation of law or a violation of watershed regulations, and is not taken before a District Court commissioner as would otherwise be required or is permitted by law, the officer may prepare a written or electronic citation containing:

(1) A notice to appear in court;

(2) The name and address of the person charged;

(3) The offense charged;

(4) The time and place the person shall appear in court;

(5) An acknowledgment of receipt of the citation by the person charged made in a manner determined by the Department; and

(6) Other pertinent information as necessary.

(b) The time specified in the notice to appear shall be at least five days after the alleged violation unless the person charged with the violation demands an earlier hearing.

(c) The place specified in the notice to appear shall be before a judge of the appropriate District Court.

(d) The person charged with the violation may promise to appear in court by acknowledging receipt of at least one copy of the citation prepared by the officer in a manner determined by the Department, in which event the officer shall deliver a copy of the citation to the person. Then, the officer may not take the person into physical custody for the violation.

(e) Failure to comply with the notice to appear is punishable as contempt or as otherwise provided by law in such cases.

§8–2101.

The General Assembly finds that the growth of the tall, reed-like grass Phragmites communis, commonly known as phragmites, may be a public and common nuisance on land and wetlands used for wildlife habitat areas. Therefore, it is the intent of the General Assembly that this subtitle require that statewide studies of phragmites be conducted in order to determine its spread and determine any progress made in current management and control programs.

§8–2102.

(a) A person who owns real property on which phragmites grows may apply to the Secretary for cost sharing assistance in the management and control of the spread of phragmites.

(b) The Secretary shall establish a cost sharing program to assist landowners, on whose property phragmites grows, in the management and control of the spread of phragmites.

(c) The Secretary may determine whether the Department should assist a landowner in the management and control of the spread of phragmites based on:

(1) The magnitude of the area to be managed and controlled; and

(2) The possibility of the spread of phragmites into adjoining land and wetland areas.

(d) (1) (i) Subject to the requirements of this subsection, the Department shall pay a landowner 50% of the costs associated with the eradication and control of the spread of phragmites.

(ii) The landowner shall be responsible for any remaining costs.

(iii) Moneys paid to a landowner under this section may be paid from the Tidal Wetlands Compensation Fund, the Wildlife Management and Protection Fund, or federal funds. The Department shall coordinate cost sharing assistance paid from the funds under this section with the Department of the Environment.

(iv) The Department shall require verification of a landowner's expenses before the landowner may receive money from the cost sharing program.

(2) The Department may not pay more than $12,000 each year to a single landowner, or to a person in the immediate family of the landowner, or to an entity in which the landowner has a substantial ownership interest, under the cost sharing program established in this section.

(3) The Department may not expend more than $60 per acre per year for any cost sharing project under this section.

(4) In lieu of cash payments to landowners, the Department may substitute in-kind services of equal value.

(5) The Department shall establish priorities to target cost sharing assistance to wetlands restoration and enhancement where:

(i) Phragmites threatens rare or endangered wildlife or plants;

(ii) The highest diversity and abundance of native plants, wildlife, or fish exist; and

(iii) Phragmites can be effectively controlled.

§8–2103.

(a) (1) The Department shall study and analyze the effectiveness of the cost sharing program in the Department that assists landowners in paying for the cost of the management and control of the spread of phragmites.

(2) The analysis required in paragraph (1) of this subsection shall include information on how assistance under the cost sharing program is allocated.

(b) The Department of Natural Resources shall ascertain on a per-acre basis the statewide extent of infestation of phragmites, when necessary data is available, and shall study and analyze the progress made in the management and control of the spread of phragmites on:

(1) Lands that the Department of Natural Resources owns or controls; and

(2) Any real property on which the Department of Natural Resources assists landowners with the control of phragmites.

(c) (1) The Department shall annually submit a report under subsections (a) and (b) of this section to:

(i) The Environmental Matters Committee of the House of Delegates of Maryland; and

(ii) The Education, Health, and Environmental Affairs Committee of the Senate of Maryland.

(2) Beginning in 2000, the Department shall submit every 5 years a report on the extent of infestation of phragmites to:

(i) The Environmental Matters Committee of the House of Delegates of Maryland; and

(ii) The Education, Health, and Environmental Affairs Committee of the Senate of Maryland.

§8–2104.

The Secretary may accept, use, or expend any aid, gift, or grant made available from any private or public source to carry out the provisions of this subtitle.

§8–2105.

The Secretary shall implement a program to control the spread of phragmites, where appropriate, on lands that the Department owns or controls.

§8–2106.

In implementing a phragmites control program, the Secretary shall consider alternative management and control methods and employ only those determined not to have adverse water quality impacts.

§8–2107.

The Secretary shall adopt regulations to carry out the provisions of this subtitle, including eligibility criteria for landowners to obtain cost sharing assistance and procedures for the implementation of the cost sharing program under this subtitle.

§10–101.

(a) In this title the following words have the meanings indicated.

(b) (1) "Closed season" means the time when a person may not hunt any game bird or mammal.

(2) "Closed season" includes any period of time not included within the open season.

(c) "County" includes Baltimore City unless otherwise indicated.

(d) "Department" means Department of Natural Resources.

(e) (1) "Federal facility" means federal land in the State.

(2) "Federal facility" includes military bases, national wildlife refuges, and units of the national park system.

(f) "Forest game birds and mammals" means forest game birds (ruffed grouse and turkey) and forest game mammals (black bears, deer, fox squirrels, excluding the Delmarva subspecies, and gray and red squirrels) or any part, egg, offspring, or dead body of any of them.

(g) "Fur" or "pelt" means any raw, green, or cured skin and fur of any wild quadrupeds.

(h) "Fur-bearing mammal" means any coyote, raccoon, bobcat, opossum, beaver, mink, muskrat, otter, fox, skunk, fisher, and long-tailed weasel, or any part, offspring, or dead body of any of them.

(i) "Game birds or mammals" means the species defined as forest game birds and mammals, fur-bearing mammals, upland game birds and mammals, and wetland game birds or any part, egg, offspring, or dead body of any of them.

(j) "Green pelt" means a pelt which is not dried, cured, or tanned.

(k) (1) "Hunt" means to pursue, capture, catch, kill, gig, trap, shoot, or attempt to pursue, capture, catch, kill, gig, trap, or shoot, or in any manner reduce any bird or mammal to personal possession.

(2) "Hunt" excludes the sport of fox chasing.

(l) "Migratory game bird" means any wetland game bird, dove, or woodcock or any part, egg, offspring, or dead body of any of them.

(m) "Nighttime" means the time beginning one-half hour after sunset and ending one-half hour before sunrise the following day, as published in the Department's hunter's guide, unless this title provides otherwise.

(n) "Nongame birds and mammals" means every wild mammal and bird not classified as game birds and mammals or any part, egg, offspring, or dead body of any of them.

(o) (1) "Open season" means the time when a person lawfully may hunt game birds and mammals.

(2) "Open season" includes both the first and last day of the season or

period designated by this title.

(p) "Person" means the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

(q) "Protected birds" means any wild bird not included within the definition of "game bird" or "unprotected bird" or any part, egg, offspring, or dead body of any of them.

(r) "Resident" includes a member of the armed forces of the United States who is on active duty and stationed officially in the State.

(s) "Secretary" means Secretary of Natural Resources.

(t) "Unprotected bird" means any English sparrow and European starling or any part, egg, offspring, or dead body of any of them.

(u) "Unprotected mammal" means nutria and woodchuck.

(v) "Upland game birds and mammals" means upland game birds (blackbirds, crows, doves, pheasant, quail, and woodcock) and upland game mammals (rabbit and hare) or any part, egg, offspring, or dead body of any of them.

(w) "Waterfowl processing operation" means receipt or possession of any wild waterfowl for the purpose of picking for a fee or other consideration.

(x) "Wetland game birds" means brant, coots, ducks, gallinules, geese, mergansers, rails, snipe, and swan or any part, egg, offspring, or dead body of any of them, including birds raised in captivity and released to the wild or otherwise used for hunting purposes.

(y) "Wild birds" means every bird wild by nature or any part, egg, offspring, or dead body of any of them.

(z) "Wild mammal" means every mammal wild by nature or any part, egg, offspring, or dead body of any of them.

(aa) "Wild quadruped" means any species of wildlife having 4 feet or any part, egg, offspring, or dead body of any of them.

(bb) "Wild waterfowl" means brant, coots, ducks, geese, mergansers, and swans or any part, egg, offspring, or dead body of any of them, including birds raised in captivity and released to the wild or otherwise used for hunting purposes.

(cc) (1) "Wildlife" means every living creature, not human, wild by nature, endowed with sensation and power of voluntary motion.

(2) "Wildlife" includes mammals, birds, amphibians, and reptiles which spend a majority of their life cycle on land or any part, egg, offspring, or dead body of any of them.

§10–202.

(a) The Secretary is responsible for conservation and management of wildlife and wildlife resources of the State.

(b) The Secretary shall provide for a statewide system of assistance to local political subdivisions regarding the disposition of wild animals. Assistance may include field services, training, or payment to local political subdivisions for wildlife control in accordance with procedures and plans agreed to between the Department and the local political subdivisions.

§10–202.1.

(a) The Secretary shall develop, adopt, and implement a comprehensive nutria management plan to eradicate the species Myocastor coypu (nutria) from the State.

(b) In addition to any funding provided under § 10-308.1 of this title, the Department shall seek funding from federal, private, and other sources to implement fully the nutria management plan until nutria are eradicated from the State.

(c) (1) In accordance with § 2-1246 of the State Government Article, the Secretary shall report annually to the General Assembly beginning July 1, 1995 and by July 1 each year thereafter until the nutria have been eradicated from the State.

(2) The report shall include data on the implementation of the nutria management plan, including:

(i) Expenditures and future funding needs;

(ii) Nutria removed from the population;

(iii) Results from specific efforts to remove nutria; and

(iv) An assessment of the success of the plan.

§10–203.

Every right, power, duty, obligation, and function previously conferred upon or exercised by the Department of Game and Inland Fish or the Fish and Wildlife Administration is transferred to and may be exercised by the Department. Every reference to the Department of Game and Inland Fish or the Fish and Wildlife Administration which appears in the Code, in any other State law, or in any ordinance, resolution, regulation, legal action, directive, or document means the Department.

§10–204.

(a) There is a Wildlife Advisory Commission in the Department.

(b) Notwithstanding any other provision of this article, a member of the Fish and Wildlife Commission as of June 30, 1972 may serve the unexpired remainder of the member's term as a member of an advisory commission created by law.

§10–205.

(a) Having a due regard for the distribution, abundance, economic value, and breeding habits of wildlife, the Secretary may adopt regulations to enlarge, extend, restrict, or prohibit hunting, possessing, selling, purchasing, shipping, carrying, transporting, or exporting wildlife.

(b) Notwithstanding any other provision of law, the Department may use a lottery–based system to issue hunting licenses, permits, or stamps.

§10–206.

The Department may reduce the wildlife population in any county, election district, or other identifiable area of the State after a thorough investigation reveals that protected wildlife is seriously injurious to agricultural or other interests in the affected area. The method of reducing the wildlife population is at the Department's discretion, except that trapping is preferred whenever feasible. The Department shall dispose of wildlife taken pursuant to the provisions of this section as the Department deems advisable.

§10–207.

The Department may not pay bounties for any wildlife.

§10–208.

The State assents to the provisions of the act of Congress entitled "An Act to provide that the United States shall aid the state in wildlife-restoration projects, and for other purposes", approved on September 2, 1937, Public Law 415, 75th Congress, 50 Stat. 917. The Department shall perform every act necessary to conduct and establish administrative cooperative wildlife-restoration projects as defined in this act of Congress in compliance with this act of Congress and regulations the United States Secretary of Agriculture adopts pursuant to this act of Congress.

§10–209.

(a) In this section, "Fund" means the State Wildlife Management and Protection Fund.

(b) There is a State Wildlife Management and Protection Fund in the

Department.

(c) The purpose of the Fund is to finance the scientific investigation, protection, propagation, and management of wildlife.

(d) The Department shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) Any money received for a license, stamp, application, or permit fee under this title, unless otherwise provided; and

(2) Any investment earnings of the Fund.

(g) The Fund may be used for:

(1) The scientific investigation, protection, propagation, and management of wildlife; and

(2) Administrative costs calculated in accordance with § 1-103(b)(2) of this article.

(h) (1) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any investment earnings of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

§10–210.

In the planning of sampling methods and the compilation of estimates of the number of wild waterfowl in the State, the Department shall take advantage of other surveys made by reliable organizations including, but not limited to:

(1) The Grand National Waterfowl Hunt, Incorporated; and

(2) The Maryland Outfitters Association.

§10–211.

(a) The Department shall establish a program to control the population of the nonnative bird species known as the mute swan.

(b) The program established under this section, where appropriate, may include:

(1) The managed harvest of adult mute swans; and

(2) The solicitation of licensed hunters to participate in the managed harvest of adult mute swans established under this subsection.

§10–212.

(a) The General Assembly finds and declares that:

(1) Hunting is an important and traditional activity in which 14,000,000 Americans who are at least 16 years old participate;

(2) Hunters have been and continue to be among the foremost supporters of sound wildlife management and conservation practices in the United States;

(3) Hunters and hunting organizations provide direct assistance to wildlife managers and enforcement officers of federal, state, and local governments;

(4) Fees for hunting licenses, permits, and stamps, and taxes on goods used by hunters, have generated billions of dollars for wildlife conservation, research, and management;

(5) Hunting is an essential component of effective wildlife management, as it is an important tool for reducing conflicts between people and wildlife and provides incentives for the conservation of wildlife, habitats, and ecosystems on which wildlife depends; and

(6) Hunting is an environmentally acceptable activity that occurs and can be provided for on State public lands without adverse effects on other uses of the lands.

(b) The Department shall:

(1) Keep land managed by the Department open for hunting unless the Department determines that the land must be closed for reasons of public safety, fish or wildlife management, or homeland security, or as otherwise required by law;

(2) Manage land under its authority to support, promote, and enhance hunting opportunities to the extent authorized under State law; and

(3) Manage land under its authority to prevent, to the greatest practical extent, any net loss of acreage available for hunting opportunities on land managed by

the Department.

(c) By October 1, 2006, and each year thereafter, the Department shall submit to the General Assembly, in accordance with § 2-1246 of the State Government Article, a report describing the land managed by the Department that:

(1) The Department closed to hunting during the previous year and the reasons for the closures; and

(2) To comply with subsection (b) of this section, the Department opened to hunting during the previous year to compensate for the acreage closed as described under item (1) of this subsection.

§10–2A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Conserve" means to use all methods and procedures for the purpose of increasing the number of individuals within species or populations up to the optimum carrying capacity of their habitat and maintaining these levels.

(2) "Conserve" includes all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, including the periodic or total protection of species or populations as well as regulated taking.

(3) With respect to endangered and threatened species, "conserve" means to use all methods and procedures including those described in this subsection which are necessary to bring any endangered or threatened species to the point at which the measures provided for these species pursuant to this subtitle are no longer necessary, except that regulated taking as a method and procedure shall be limited to the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved.

(c) "Ecosystem" means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life.

(d) (1) "Endangered species" means any species whose continued existence as a viable component of the State's wildlife or plants is determined to be in jeopardy.

(2) "Endangered species" includes any species of wildlife or plant determined to be an "endangered species" pursuant to the Endangered Species Act.

(e) "Endangered Species Act" means the Endangered Species Act of 1973, 87 Stat. 884.

(f) "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.

(g) "Nongame species" means any wildlife species not legally classified as game birds or mammals, threatened species, or an endangered species by statute or regulation of the State.

(h) "Optimum carrying capacity" means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

(i) (1) "Plant" means any member of the plant kingdom.

(2) "Plant" includes seeds, roots, and other parts of the plant.

(j) "Species" includes any subspecies of wildlife or plant and any other group of wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(k) "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(l) "Threatened species" means any species of wildlife or plants which appears likely, within the foreseeable future, to become endangered including any species of wildlife or plant determined to be a "threatened species" pursuant to the Endangered Species Act.

§10–2A–02.

(a) The General Assembly finds that:

(1) It is the policy of the State to conserve species of wildlife for human enjoyment, for scientific purposes, and to insure their perpetuation as viable components of their ecosystems;

(2) Species of wildlife and plants normally occurring within the State which may be found to be threatened or endangered within the State should be accorded the protection necessary to maintain and enhance their numbers; and

(3) The State should assist in the protection of species of wildlife and plants which are determined to be "threatened" or "endangered" elsewhere pursuant to the Endangered Species Act of 1973, 87 Stat. 884, by prohibiting the taking, possession, transportation, exportation, processing, sale, offer for sale, or shipment within the State of endangered species and by carefully regulating these activities with regard to the threatened species.

(b) Exceptions to the prohibitions in subsection (a) of this section, for the purpose of enhancing the conservation of these species, may be permitted as set forth in this subtitle.

§10–2A–03.

(a) The Secretary shall conduct investigations of nongame wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine conservation measures necessary for their continued ability to sustain themselves successfully. On the basis of these determinations the Secretary shall issue proposed regulations not later than July 1, 1977 and develop conservation programs designed to insure the continued ability of nongame wildlife deemed in need of conservation to perpetuate themselves successfully. The Secretary shall conduct ongoing investigations of nongame wildlife.

(b) The Secretary, by regulations, shall adopt limitations relating to taking, possession, transportation, exportation, processing, sale or offer for sale, or shipment necessary to conserve nongame wildlife.

(c) (1) Except as provided in regulations adopted by the Secretary, a person may not take, possess, transport, export, process, sell, offer for sale, or ship nongame wildlife deemed by the Secretary to be in need of conservation pursuant to this section.

(2) A common or contract carrier may not knowingly transport or receive for shipment nongame wildlife deemed by the Secretary to be in need of conservation pursuant to this section.

§10–2A–04.

(a) Any species of wildlife or plant determined to be endangered species pursuant to the Endangered Species Act shall be deemed to be an endangered species under the provisions of this subtitle and any species of wildlife or plant determined to be a threatened species pursuant to the Endangered Species Act shall be deemed to be a threatened species under the provisions of this subtitle. The Secretary may determine, in accordance with this section, that any threatened species is an endangered species throughout all or any portion of the range of the species within the State.

(b) In addition to the species deemed to be endangered or threatened pursuant to the Endangered Species Act, the Secretary, by regulation, shall determine whether any species of wildlife or plant normally occurring within the State is an endangered or threatened species due to any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, educational, or other purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence within the State.

(c) The Secretary shall make determinations required by subsection (b) of this section on the basis of the best scientific, commercial, and other data available to and after consultation, as appropriate, with federal agencies, other interested State agencies, other states having a common interest in the species, and interested persons and organizations. In determining whether any species of wildlife or plant is an endangered species or a threatened species, the Secretary shall take into consideration any actions being carried out or about to be carried out by the federal government, other states, other agencies of this State, or political subdivisions, or by any other person which may affect the species under consideration.

(d) Except with respect to species of wildlife or plants determined to be endangered or threatened species under the provisions of subsection (a) of this section, the Secretary may not add a species to nor remove a species from any list published unless the Secretary first:

(1) Publishes a public notice of the proposed action;

(2) Furnishes notice of the proposed action to the Governor of any state sharing a common border with the State and in which the subject species is known to exist; and

(3) Allows at least 30 days following publication for comment from the public and other interested parties.

(e) Notwithstanding the provisions of subsection (d) of this section, if the Department determines that an emergency situation exists involving the continued existence of the species as a viable component of the State's wildlife or plants, the Department may add the species to the lists if the Department publishes a public notice that an emergency situation exists together with a summary of facts which support this determination.

(f) The Secretary shall adopt regulations containing a list of all species of wildlife and plants normally occurring within the State determined to be endangered species and a list of all species determined to be threatened species. Each list shall refer to the species by scientific and common names and shall specify with respect to each species over what portion of its range it is endangered or threatened.

§10–2A–05.

(a) Except with respect to species of wildlife or plants determined to be endangered or threatened pursuant to the Endangered Species Act, the Secretary, upon the petition of an interested person, shall conduct a review of any listed or unlisted species proposed to be removed from or added to the lists published pursuant to § 10-2A-04(f) of this subtitle, if the Secretary publishes public notice that the person has presented substantial evidence which warrants a review.

(b) When any species of wildlife or plant is listed as a threatened species pursuant to § 10-2A-04(f) of this subtitle, the Secretary shall adopt regulations necessary and advisable to provide for the conservation of the species. The Secretary, by regulations, may prohibit with respect to any threatened species of wildlife or plant any act prohibited under subsection (c) of this section.

(c) Except as provided in subsection (f) of this section and § 10-2A-05.1 of this subtitle, with respect to any endangered species of wildlife, a person may not:

(1) Export the species from the State;

(2) Take the species within the State;

(3) Possess, process, sell or offer for sale, deliver, carry, transport, or ship the species by any means; or

(4) Violate any regulation pertaining to the conservation of the species or to any threatened species of wildlife listed pursuant to this subsection and adopted by the Secretary pursuant to authority provided by this section.

(d) Except as provided in subsection (f) of this section, with respect to any endangered species of plant, a person may not:

(1) Export the species from the State;

(2) Possess, process, sell, offer for sale, deliver, carry, transport, or ship the species by any means; or

(3) Violate any regulation pertaining to the species or to any threatened species of plant listed pursuant to § 10-2A-04(f) of this subtitle and adopted by the Secretary.

(e) Any endangered species of wildlife or plant which enters the State from another state or from a point outside the territorial limits of the United States and which is transported to a point within or beyond the State may enter and be transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(f) The Secretary may permit, under the terms and conditions he prescribes, any act otherwise prohibited by subsections (c) and (d) of this section for scientific purposes or to enhance the propagation or survival of the affected species.

§10–2A–05.1.

(a) The Secretary shall issue a permit to an applicant that authorizes an incidental taking of the endangered Puritan Tiger Beetle if:

(1) The applicant submits a conservation plan to the Department that

specifies:

(i) The impact that will likely result from the incidental taking;

(ii) The steps that the applicant will take to minimize and mitigate the impact, and the funding that will be available to implement the steps;

(iii) The alternative actions to the incidental taking that the applicant considered and the reasons that the alternatives were not used; and

(iv) Any other measures that the Secretary requires as being reasonably necessary or appropriate for the purposes of the plan; and

(2) The Secretary finds that:

(i) The incidental taking will not appreciably reduce the likelihood of the survival or recovery of the Puritan Tiger Beetle in the wild;

(ii) The applicant will, to the extent practicable, minimize and mitigate the impacts of the incidental taking;

(iii) Adequate funding for the conservation plan is available and the plan will be implemented; and

(iv) The applicant has obtained the required federal authorization for the incidental taking of the Puritan Tiger Beetle.

(b) The Secretary shall adopt regulations to implement and enforce this section.

§10–2A–05.2.

(a) The Secretary may issue a permit to an applicant that authorizes an incidental taking of the endangered Delmarva fox squirrel if:

(1) The applicant submits a conservation plan to the Department that specifies:

(i) The impact that will likely result from the incidental taking;

(ii) The steps that the applicant will take to minimize and mitigate the impact;

(iii) The funding that will be available to implement the steps;

(iv) The alternative actions to the incidental taking that the applicant considered and the reasons that the alternatives were not used; and

(v) Any other measures that the Secretary requires as being necessary or appropriate for the purposes of the plan; and

(2) The Secretary finds that:

(i) The incidental taking will not appreciably reduce the likelihood of the survival or recovery of the Delmarva fox squirrel in the wild;

(ii) The applicant will, to the extent practicable, minimize and mitigate the impacts of the incidental taking;

(iii) Adequate funding for the conservation plan is available and the plan will be implemented; and

(iv) The applicant has obtained the required federal authorization for the incidental taking of the Delmarva fox squirrel.

(b) The Secretary may adopt regulations to implement and enforce this section.

§10–2A–06.

(a) The Secretary shall establish programs, including acquisition of land or aquatic habitat or interests in the land or aquatic habitats, necessary for the conservation of nongame, threatened, or endangered species of wildlife or plants. The Secretary shall use all vested authority to carry out the provisions of this subsection.

(b) In carrying out programs authorized by this section, the Secretary shall consult with the State Secretary of Agriculture and other states having a common interest in particular species of nongame, endangered, or threatened species of wildlife or plants. The Secretary may enter into agreements with federal agencies, other states, political subdivisions of the State, or with individuals with respect to programs designed to conserve nongame, endangered, or threatened species of wildlife or plants, including agreements for administration and management established under this section or utilized for conservation of nongame, endangered, or threatened species of wildlife or plants.

(c) The Governor shall review other programs administered by the Governor and utilize these programs in furtherance of the purposes of this subtitle. All State departments and agencies, in consultation with and with the assistance of the Secretary, shall utilize their authorities in furtherance of the purposes of this subtitle by carrying out programs for the conservation of endangered species and threatened species listed pursuant to § 10-2A-04(f) of this subtitle, and by taking any action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of the endangered species or threatened species or result in the destruction or modification of habitat of the species which is deemed by the Secretary to be critical.

(d) The Secretary shall adopt regulations necessary to implement this section.

§10–2A–06.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Birdwatcher" means a person who engages in birdwatching.

(3) (i) "Birdwatching" means identifying, studying, and recording the presence of wild birds in their natural surroundings.

(ii) "Birdwatching" does not include incidental sightings of wild birds in their natural surroundings.

(b) The purpose of this section is to provide a special fund that shall be expended for the preservation of nongame wildlife species and threatened and endangered species.

(c) There is a Birdwatcher's Fund.

(d) (1) All revenue that the Department derives from the issuance of birdwatcher's stamps and decals shall be credited to the Birdwatcher's Fund.

(2) The Secretary shall administer the Birdwatcher's Fund.

(3) Money in the Birdwatcher's Fund shall be expended only for the preservation of nongame wildlife species and threatened and endangered species.

(e) (1) The fee for a birdwatcher's stamp or decal is $5.

(2) Private contributions, grants and donations may be made to the Birdwatcher's Fund.

(3) Any person engaged in a retail business who desires to sell birdwatcher's stamps and decals as an agent under the Department's control and supervision shall apply on forms prepared and prescribed by the Department.

(4) An agent may retain 25 cents out of the birdwatcher's stamp or decal fee for each birdwatcher's stamp or decal the agent sells.

(5) The Department, by regulation, shall provide procedures and forms for the sale of birdwatcher's stamps and decals.

(f) The purpose of this Fund is:

(1) Dissemination of information pertaining to nongame wildlife species and threatened and endangered species conservation, management, and values;

(2) Scientific investigation and survey of nongame wildlife species and threatened and endangered species for better protection and conservation;

(3) Propagation, distribution, protection, and restoration of nongame wildlife species and threatened and endangered species;

(4) Research and management of nongame wildlife species and threatened and endangered species;

(5) Development of habitats for nongame wildlife species and threatened and endangered species;

(6) Acquisition of habitats for nongame wildlife species and threatened and endangered species; and

(7) Matching of funds available to the Department under federal programs for projects and activities authorized under this section.

§10–2A–07.

(a) Any person who violates the provisions of § 10-2A-05 of this subtitle, fails to procure any permit required by § 10-2A-05 of this subtitle, or violates the terms of any permit shall be fined not more than $1,000 or be imprisoned not more than 1 year, or both.

(b) Any Natural Resources police officer or any law enforcement officer may conduct searches as provided by law, and execute a warrant to search for and seize any equipment, business records, merchandise, wildlife, or plants taken, used, or possessed in connection with a violation of any subsection. Any Natural Resources police officer or law enforcement officer, without a warrant, may arrest any person who the officer has probable cause to believe is violating, in the officer's presence or view, this subtitle or any regulation or permit provided for by this subtitle. Any Natural Resources police officer or law enforcement officer who has made an arrest of a person in connection with any violation may search the person, premises, or business records at the time of arrest and may seize any wildlife, plants, records, or property taken, or used in connection with any violation.

(c) Equipment, merchandise, wildlife, plants or records seized under the provisions of subsection (b) of this section shall be held by any Natural Resources police officer or law enforcement officer pending disposition of court proceedings, and after disposition of court proceedings shall be forfeited to the State for destruction or disposition as the Secretary may deem appropriate. Prior to forfeiture the Secretary may direct the transfer of wildlife or plants so seized to a qualified zoological, botanical, educational, or scientific institution for safekeeping, costs to be assessable to the defendant. The Secretary may issue regulations to implement this section.

§10–2A–08.

(a) The provisions of this subtitle do not prohibit:

(1) Importation into the State of wildlife or plants which may be lawfully

imported into the United States or lawfully taken and removed from another state; or

(2) Entry into this State or the possession, transportation, exportation, processing, sale, offer for sale, or shipment of any wildlife or plant which is designated an endangered or threatened species in this State but not in the state where originally taken, if the person engaging in the activity demonstrates by substantial evidence that the wildlife or plant was lawfully taken and lawfully removed from the state of origin.

(b) This section does not permit the possession, transportation, exportation, processing, sale, offer for sale or shipment within the State of species of wildlife or plants determined, pursuant to the Endangered Species Act, to be an endangered or threatened species, except as permitted by § 10-2A-05 of this subtitle.

§10–2A–09.

This subtitle may be cited as the Nongame and Endangered Species Conservation Act.

§10–301.

(a) In this section, "child" includes:

(1) Foster child;

(2) Foster grandchild;

(3) Grandchild;

(4) Stepchild; and

(5) Stepgrandchild.

(b) To provide a fund to pay the expense of protecting and managing wildlife, and preventing unauthorized persons from hunting them, a person may not hunt or attempt to hunt during open season and in any permitted manner any game birds and mammals in the State without first having procured either a resident or nonresident hunter's license. A person may not hunt or attempt to hunt nongame birds and mammals in Baltimore County or Frederick County without first obtaining a license. A permanent resident of a government reservation may obtain a resident hunter's license.

(c) (1) Except as provided in paragraph (2) of this subsection, the following persons are not required to obtain a hunter's license, bow and arrow stamp, black powder stamp, or bonus antlered deer stamp:

(i) With respect to hunting on farmland only:

1. The resident owner of the farmland and the owner's spouse,

child, and child's spouse;

2. A tenant and the tenant's spouse, child, and child's spouse. A tenant is a person holding land under a lease, or a sharecropper who resides in a dwelling on the land, but a tenant does not include any employee of the owner or tenant; and

3. A nonresident owner of a parcel of farmland and the owner's spouse, child, and child's spouse if:

A. The parcel of farmland is located in Maryland and an adjacent state;

B. The owner's primary residence is on the parcel of farmland; and

C. The adjacent state extends similar privileges to a resident of Maryland;

(ii) Any resident serving in the armed forces of the United States while on leave in the State, during the resident's leave period, if, while hunting, the resident possesses a copy of the resident's official leave order;

(iii) Any person serving in the armed forces of the United States who has a service–connected disability, if, while hunting, the person possesses valid military identification; and

(iv) Any unarmed person participating in an organized foxhunt.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, in order to qualify for the license and stamp exemption in accordance with paragraph (1) of this subsection, a child or child's spouse must be eligible to purchase a junior resident or junior nonresident hunting license.

(ii) If a child or child's spouse is ineligible to purchase a junior resident or junior nonresident hunting license, the child or child's spouse shall qualify for the license and stamp exemption if the child or child's spouse:

1. Lives on the farmland;

2. Worked on the farmland for 30 or more days during the prior 12–month period; or

3. Manages the farmland.

(d) (1) A person may apply for a hunter's license to any person designated by the Department.

(2) The application shall be on a form the Department prepares and supplies.

(3) The applicant shall fill out, sign, and submit the application to the person designated to issue the hunter's license.

(4) A person may apply by mail.

(e) (1) The application shall contain the applicant's name, height, color of eyes and hair, place of residence, and the last four digits of the applicant's Social Security number, if the applicant has a Social Security number.

(2) If the applicant is a nonresident, the applicant also shall present the applicant's driver's license, voter's card, or resident hunter's license.

(f) Before a hunting license may be issued the applicant for the license shall sign a statement which says:

"I understand that this hunting license does not of itself permit me to hunt on private property, and if I do so without permission of the owner, I may be subject to a fine."

(g) (1) There shall be the following types of hunting licenses in the State:

(i) A resident hunting license that enables the purchaser to hunt all legal game birds and mammals during any appropriate season in Maryland without the purchase of additional stamps, unless the purchaser is hunting migratory game birds or deer during bow and arrow season or black powder season. To hunt migratory game birds the purchaser must also buy a Maryland migratory game bird stamp and to hunt wild waterfowl the purchaser must buy both a Maryland migratory game bird stamp and a federal migratory bird hunting and conservation stamp. To hunt deer during bow and arrow season and black powder season the purchaser must also purchase a bow and arrow or black powder stamp.

(ii) A nonresident hunting license that enables the purchaser to hunt all legal game birds and mammals during any appropriate season without the purchase of additional stamps unless the purchaser is hunting migratory game birds or deer during bow and arrow season or black powder season. This license enables the purchaser to hunt migratory game birds only with the purchase of a Maryland migratory game bird stamp and to hunt wild waterfowl only with the purchase of both a Maryland migratory game bird stamp and a federal migratory bird hunting and conservation stamp. This license enables the purchaser to hunt deer during bow and arrow season and black powder season only with the purchase of a nonresident bow and arrow or black powder stamp.

(iii) A nonresident 3–day hunting license that enables the purchaser to hunt all legal game birds and mammals except deer and turkey for the 3 consecutive legal hunting days in a single season that are specified on the license by the issuing

agent. The purchaser must also purchase a Maryland migratory game bird stamp to hunt migratory game birds and a federal migratory bird hunting and conservation stamp to hunt wild waterfowl with this license. Under no circumstance does this license authorize the purchaser to hunt deer and turkey.

(2) Residents may purchase a senior hunting license beginning in the calendar year in which they attain the age of 65.

(3) A nonresident of any age must purchase either a nonresident hunting license or a nonresident 3–day hunting license to hunt in the State.

(4) The fees for hunting licenses are according to the following schedule:

(i) Resident, junior, under the age of 16 years ..... $ 10.50

(ii) Resident, regular, at least 16 years old and under the age of 65 years..... $ 24.50

(iii) Resident, senior, at least 65 years old ..... $ 5.00

(iv) Nonresident, regular, at least 16 years old ..... $ 130.00

(v) Nonresident, junior, under the age of 16 years ..... $ 65.00

(vi) Complimentary license authorized to be issued under § 10–303 of this subtitle..... No fee

(vii) Nonresident 3–day hunting license ..... $ 45.00

(5) The fees for individual hunting stamps are according to the following schedule:

(i) Bow and arrow stamp ..... $ 6.00

(ii) Nonresident bow and arrow stamp ..... $ 25.00

(iii) Black powder stamp..... $ 6.00

(iv) Nonresident black powder stamp..... $ 25.00

(v) Maryland migratory game bird stamp..... $ 9.00

(vi) Resident bonus antlered deer stamp ..... $ 10.00

(vii) Nonresident bonus antlered deer stamp for each type of deer hunting season..... $ 25

(h) The person designated to sell the hunting licenses and individual hunting stamps shall issue the hunting licenses and individual hunting stamps and collect the

fee prescribed in subsection (g) of this section. A hunting license may not be issued to any person under the age of 16 years without the written consent of the person's parent or guardian. The Department shall furnish the hunting licenses and individual hunting stamps to the designated person. The issuing person shall countersign the license, and retain the duplicate copy of the license. The duplicate copies and money collected every month shall be mailed to the Department on the first day of the succeeding month each year. The designated person who sells and issues the hunting licenses and individual hunting stamps shall retain as compensation 75 cents for each resident senior hunting license and individual hunting stamp sold and issued and shall retain as compensation $1.50 for each resident junior, nonresident junior, resident regular, nonresident regular, and nonresident 3–day hunting license sold and issued.

(i) A hunting license shall be valid for the period August 1 through July 31, of each year.

(j) The licensee shall sign the licensee's name in ink on the hunting license at the time the licensee obtains the hunting license. It may not be transferred to any other person.

(k) Upon issuing any hunting license, the Department shall furnish the licensee with a list of the names and addresses of every general hospital in the State which offers emergency medical treatment.

(l) When the Department has adequate computer capability, the Department shall compile statistics after the close of the hunting season each year concerning the sale of hunting licenses for the previous season, including the names, addresses, counties of residence, and ages of the persons who purchased the hunting licenses and the types of hunting licenses sold.

(m) Repealed.

(n) The Department may enter into contracts with farmers in the State to reimburse the farmer for planting and leaving grains, grasses, and legumes, including clover, alfalfa, and soybeans, unharvested in the fields in order to be used to provide food or cover for any upland game birds and mammals and wetland game birds in the State.

(o) (1) In this subsection, "Fund" means the Upland Wildlife Habitat Fund.

(2) There is an Upland Wildlife Habitat Fund in the Department.

(3) The purpose of the Fund is to facilitate the implementation and management of upland habitat programs.

(4) The Department shall administer the Fund.

(5) (i) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(6) The Fund consists of:

(i) Voluntary contributions made to the Fund at the time of purchase of a hunting license under this section;

(ii) Any other donations made to the Fund; and

(iii) Any investment earnings of the Fund.

(7) (i) The Fund may be used only for:

1. Providing cost–share assistance to landowners for planting upland wildlife habitat;

2. Providing matching funds to acquire grant funding for upland wildlife habitat programs;

3. Hiring contractual staff to implement upland wildlife habitat programs in the State;

4. Promoting the Fund and upland wildlife habitat programs; and

5. Covering administrative costs calculated in accordance with § 1–103(b)(2) of this article.

(ii) The Secretary may prioritize the duties under subparagraph (i) of this paragraph to maximize the effectiveness of upland wildlife habitat programs.

(iii) A designated person who sells hunting licenses under this section and who also collects donations for the Fund may retain as compensation 10% of each donation the person receives.

(8) (i) The Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund.

(9) Expenditures from the Fund may be made only in accordance with the State budget.

§10–301.1.

(a) (1) (i) On or after July 1, 1977 a person under 18 years of age may not procure a hunting license or hunt in the State, unless the person has first been issued

a certificate of competency in firearms and hunter safety.

(ii) On or after July 1, 1977 a person, regardless of age, may not procure a hunting license without producing a certificate of competency or a hunting license issued prior to July 1, 1977 or making out an affidavit that the person had such a license.

(2) This section does not apply to nonresidents of Maryland who purchase a hunting license in the State to hunt wild waterfowl. However, this does apply to nonresidents of Maryland who purchase hunting licenses in the State to hunt other wildlife.

(b) (1) The Department shall prescribe a course of instruction in conservation and in competency and safety in the handling of firearms.

(2) The Department shall designate those persons or agencies authorized to give the course of instruction, and this designation shall be valid until revoked by the Department. Those designated persons shall submit to the Department validated listings naming all persons who have successfully completed the course of instruction.

(3) The Department shall issue a certificate of competency and safety to each person who successfully completes the course of instruction, and the certificate shall be valid until revoked by the Department.

(4) The Department may not issue a certificate of competency and safety to an individual under the age of 18 unless the individual has completed satisfactorily the course of instruction, or produces a certificate of competency or a hunting license issued prior to July 1, 1978 or makes out an affidavit that the individual had such a license.

(c) (1) The Department shall institute and coordinate a statewide course of instruction in conservation and in competency and safety in the handling of firearms, and in so doing, the Department may cooperate with any political subdivision or with any reputable organization having as one of its objectives the promotion of competency and safety in the handling of firearms, such as the National Rifle Association and local rod and gun clubs.

(2) The Department may conduct the course in hunter safety and issue the certificates, using Department personnel or other persons at times and in areas where other competent agencies are unable or unwilling to meet the demand for instruction.

(3) Any similar certificate, or hunting license, issued outside the State by a governmental agency, shall be accepted as complying with the requirements of paragraph (1) of this subsection, if the privileges are reciprocal for Maryland residents.

(d) The Department shall adopt regulations to provide for the course of instruction and the issuance of the certificates consistent with the purpose of this section.

(e) (1) On or after July 1, 1977 any person who obtains a hunting license by presenting a fictitious certificate of competency or who attempts to obtain a certificate of competency or hunting license through fraud shall have his hunting privileges revoked by the Department for a period not to exceed 1 year.

(2) Any applicant who is refused a certificate of competency under this section may appeal the decision or action of the issuing unit to the Secretary.

(f) (1) The Department or a person designated by the Department may issue a 1–year gratis hunting license to a Maryland resident under the age of 16 years who has successfully completed a hunter safety course.

(2) A hunting license issued under this subsection shall include all applicable hunting stamps, except for migratory game bird stamps and bonus deer stamps.

(3) An individual may be issued only one such license during the individual's lifetime.

(g) (1) The Department or a person designated by the Department shall issue a complimentary hunting license each year to an individual who:

(i) Has been authorized by the Department to give the course of instruction in conservation and in competency and safety in the handling of firearms under subsection (b) of this section;

(ii) Has completed at least 5 years of service as an instructor of this course;

(iii) Maintains active certification as an instructor of this course;

(iv) Has taught two hunter safety courses during the fiscal year preceding the issuance of the license; and

(v) Has indicated to the Department an interest in receiving a complimentary hunting license.

(2) A hunting license issued under this subsection shall include all applicable hunting stamps, except for migratory game bird stamps and bonus deer stamps.

§10–301.2.

(a) There is a patron's hunting license.

(b) The Department shall issue on a yearly basis a patron's hunting license to any person who:

(1) Applies to the Department on a form provided by the Department; and

(2) Pays $500.

(c) The holder of a patron's hunting license may hunt any game birds or mammals during any open season and in any manner permitted in the State without obtaining any other license or stamp, except the federal migratory wild waterfowl stamp and the Maryland migratory game bird stamp.

§10–301.3.

(a) There is a commemorative lifetime hunting license.

(b) The Department shall issue a limited number of commemorative lifetime hunting licenses to certain nonprofit organizations, consistent with eligibility criteria developed by the Department, until December 31, 2011.

(c) Nonprofit organizations issued hunting licenses under this section may, in cooperation with the Department, market and sell the hunting licenses.

(d) All proceeds from sales of hunting licenses under this section shall be used by the Department to fund conservation law enforcement by the Natural Resources Police Force.

(e) The Department may adopt regulations to carry out the provisions of this section.

§10–302.

(a) Any person engaged in a retail business who desires to sell the resident hunting license, either nonresident hunting license or individual hunting stamps as an agent under the Department's control and supervision shall apply to the Department on forms prepared and prescribed by the Department. The Department may furnish resident and nonresident hunting licenses of any type and individual hunting stamps on consignment to any agent who provides a bond or other security deemed sufficient and adequate by the Department to insure payment for the resident and nonresident hunting licenses of any type and individual hunting stamps.

(b) (1) The agent shall fill out every license and duplicate license in a legible and proper manner.

(2) The agent shall submit any necessary report of sale together with the duplicate license after the first day of each month as long as the agent sells these licenses in accordance with § 10-301 of this subtitle. The report and duplicate licenses shall reach the Department by the seventh day of each succeeding month.

(3) The Department shall reimburse any agent not operating on consignment the sum paid for unissued resident and nonresident hunting licenses of

any type and individual hunting stamps provided they are returned intact, and still attached in the issuing books by June 30 of each year, and have been checked and found to be correct by the Department. Every hunting license and individual hunting stamp not returned by June 30 shall be deemed sold and not reimbursable unless accompanied by a statement under oath stating why the hunting license or individual hunting stamp is returned late. The Department, after review, may reimburse the agent.

(c) A designated person may not make any false statement concerning any date of issuance or other resident or nonresident hunting license of any type or individual hunting stamp data. Every hunting license book, duplicate individual hunting license, or individual hunting stamp shall be available for any law enforcement officer to inspect at any time during the regular business day. An agent may not issue any hunting license or individual hunting stamp without receiving the fees required by law. A receipt may not be issued in lieu of a hunting license or individual hunting stamp.

(d) In addition to any other penalty provided for by the provisions of this title, any agent convicted of violating the provisions of this section shall have the agent's hunting license and individual hunting stamp issuing privilege rescinded.

§10–303.

(a) (1) The Department annually may issue a complimentary hunter's license to the President of the United States, the governor of any state, or an official or an enforcement officer of the game and fish management agency of another state which reciprocally offers complimentary hunting licenses.

(2) The Department may issue a lifetime complimentary hunter's license to a Maryland resident who certifies that the resident is a former prisoner of war or 100% service connected disabled American veteran.

(3) A complimentary license is not transferable and shall be issued on forms designated by the Department.

(b) For the purposes of this section, "former prisoner of war" means a person who, while serving in the active military, naval, or air service of the United States, was forcibly detained or interned in the line of duty by an enemy government or its agents, or a hostile force, during a period of armed conflict.

§10–304.

Any money the Department receives for hunter's licenses shall be accounted for by the Department to the State Treasurer. The amount the Treasurer receives shall be credited to the State Wildlife Management and Protection Fund, and the Treasurer shall pay out of the Fund on warrant of the Comptroller upon requisition of the Department.

§10–305.

If any person loses the person's hunter's license, the person may make affidavit stating the date the license was issued, its number, description, and the name of the designated person who issued the license. Upon receipt of this information the Department may issue a duplicate hunting license for a $5 fee.

§10–306.

A person shall have in the person's possession the person's hunter's license while hunting and, upon demand, shall exhibit the license to the Natural Resources police officer or any law enforcement officer, the landowner on whose property the person is hunting, or the landowner's representative.

§10–307.

The Department may issue a special permit to a disabled person who has a hunting license authorizing the person to hunt from a stopped vehicle which is not on a public highway. The Department shall prescribe regulations requiring applicants to submit reasons for granting this permit, and shall require every licensee to carry this permit while hunting.

§10–308.

(a) The Department shall use $1 from the sale of each resident regular and full season nonresident hunting license as follows:

(1) Up to 40 percent to:

(i) Provide bow hunter education;

(ii) Acquire, construct, and maintain public archery ranges; or

(iii) Perform any study necessary to evaluate any program or project related to bow or muzzle loader hunting; and

(2) The remaining percentage to:

(i) Establish an effective and efficient deer checking system during the muzzle loader and bow hunting deer season;

(ii) Acquire additional hunter access during the muzzle loader and bow hunting season by:

1. The opening of additional State–owned lands to muzzle loader and bow hunting;

2. The purchase of rights–of–way or access roads to reach areas not open to muzzle loader and bow hunting;

3. The acquisition of additional lands for muzzle loader and bow hunting; and

4. The administration of a permit system applicable to newly opened areas; and

(iii) Police hunting lands during the muzzle loader and bow hunting season and provide additional law enforcement personnel as necessary to accomplish additional hunter access under item (ii) of this item.

(b) The Department shall use $1 from the sale of each resident regular and full season nonresident hunting license to provide funding for the processing of deer for donation to the needy.

§10–308.1.

(a) In addition to any other requirement, a person hunting migratory game birds in the State first shall purchase a Maryland migratory game bird stamp.

(b) (1) A person may obtain a Maryland migratory game bird stamp for a fee of $9.00 from any person designated by the Department. The issuing person designated shall retain the sum of 75 cents as compensation for issuing each stamp. The balance of the fee is paid over and accounted for to the State Treasurer. The Treasurer shall credit all such fees received to the State Wildlife Management and Protection Fund, in accordance with § 10-209 of this title.

(2) The Department may sell expired stamps below face value to the general public for a period of 3 years, after which time the Department shall shred any unsold expired stamps. All revenues derived from the sale of these stamps shall revert back to the Game Management Fund.

(c) A printed receipt from the Department showing proof of purchase of the Maryland migratory game bird stamp must be carried on the person while hunting migratory game birds.

(d) (1) All revenues accruing to the Wildlife Management and Protection Fund from sales of the migratory game bird stamps shall be expended solely for the following purposes:

(i) Migratory game bird projects included in an approved State program to create, develop, enhance, maintain, and manage nesting cover, winter foods, and other habitat components on public lands to satisfy the habitat requirements of a broad range of wintering migratory game birds and native migratory game bird species;

(ii) Migratory game bird research, management, and surveys; and

(iii) Not more than 30% to adopt and implement a program to control

the species Phragmites communis (phragmites) on private lands.

(2) To encourage waterfowl habitat conservation on private lands, the Department shall implement a 10-year licensing agreement for approved projects on privately owned lands detailing the landowner's responsibilities. Expenditures by private landowners on private land for these waterfowl projects approved by the Department and covered by the licensing agreement shall be considered a contribution to the State.

(3) The Governor shall appoint a Migratory Game Bird Advisory Committee of 9 members who have a practical knowledge of migratory game bird habitat conservation, migratory game bird ecology, migratory game bird management, or migratory game bird hunting.

(4) The Committee shall advise the Department on:

(i) Matters relating to expenditures of funds derived from the sale of Maryland migratory game bird stamps;

(ii) Policy, regulations, and legislation related to migratory game birds; and

(iii) Migratory game bird habitat conservation projects.

§10–308.2.

Notwithstanding any other provision of law, a nonresident may hunt snow geese in this State without a resident or nonresident Maryland hunting license if:

(1) The nonresident possesses a valid hunting license from the nonresident's home state;

(2) The nonresident purchases a Maryland migratory game bird stamp; and

(3) The nonresident's home state allows a Maryland resident to hunt snow geese without a nonresident hunting license from the home state in accordance with the following conditions:

(i) The Maryland resident must possess a valid Maryland hunting license; and

(ii) The Maryland resident must purchase a migratory waterfowl stamp from the home state.

§10–309.

(a) (1) In this section the following words have the meanings indicated.

(2) "Waterfowl hunting guide" means an individual who:

(i) Is an employee of a waterfowl outfitter; and

(ii) Furnishes personal guiding services in assisting individuals to hunt wild waterfowl.

(3) (i) "Waterfowl outfitter" means an individual who receives monetary consideration for the outfitting or guiding of hunters to hunt wild waterfowl.

(ii) A "waterfowl outfitter" may be:

1. Self-employed; or

2. An officer of a corporation or partner in a partnership that operates a commercial service that outfits or guides hunters to hunt wild waterfowl.

(iii) "Waterfowl outfitter" does not include a waterfowl hunting guide, agent, employee, or helper of a waterfowl outfitter.

(b) An individual must be licensed by the Department as a waterfowl outfitter or a waterfowl guide before the individual may receive monetary consideration for outfitting or guiding a hunter to hunt wild waterfowl.

(c) The Department shall adopt regulations that include:

(1) Minimum qualifications to obtain a waterfowl outfitter and waterfowl hunting guide license and other application requirements;

(2) Procedures for the review of applications;

(3) Criteria for the issuance and denial of licenses;

(4) Grounds for license suspension and revocation;

(5) Standards for the conduct of waterfowl outfitters and waterfowl hunting guides; and

(6) Any other provisions the Department finds necessary to regulate waterfowl outfitters and waterfowl hunting guides.

(d) (1) The fees for licenses are as follows:

(i) Waterfowl outfitter $300

(ii) Waterfowl hunting guide $50

(2) The term of a waterfowl outfitter license and a waterfowl hunting guide license is 1 year from August 1 through July 31 of each year.

(e) The Department may suspend or revoke a waterfowl outfitter license of an individual based on a conviction for a violation by a waterfowl hunting guide committed while the waterfowl hunting guide was employed by the waterfowl outfitter.

§10–310.

A person may not obtain a hunter's license issued pursuant to the provisions of this subtitle under an assumed name, an address other than the person's legal place of residence, or by making any false statement.

§10–311.

If any person, convicted of violating § 10-306 of this subtitle under any penalty provided in this title, presents the person's hunter's license to the court within five days after the person's conviction, the court, if it determines that the person held the license prior to the person's arrest and that the violation was due to inadvertence, may reduce by one-half any penalty originally imposed.

§10–312.

(a) A Natural Resources police officer or law enforcement officer shall confiscate a person's hunter's license if the license is used or presented by a person other than the person to whom the license was issued.

(b) In addition to any penalty provided in this title, if any person is convicted of hunting without a proper hunter's license in the person's possession, or using another person's hunter's license, the hunter's license shall be confiscated. The person upon whom the hunter's license is found and the licensee may not procure a hunter's license the following calendar year. However, this section does not apply to a licensee who does not knowingly give the licensee's license to another.

§10–313.

For the purpose of managing wildlife the Secretary may issue a permit when the Secretary deems it advisable to any person to trap game on property owned or acquired by the State, controlled by the Department, or on any property where permission is obtained from the owner.

§10–401.

(a) Except for unprotected birds and game birds hunted during open season, a person may not hunt, destroy, or possess in any manner any wild bird within the State whether killed in the State or in any other state, territory, or country.

(b) Unless prohibited by federal law, this section does not prohibit a landowner or his agent from shooting hawks or owls when considered necessary to protect poultry or game birds or mammals on the landowner's property from destruction. In addition, this section does not prohibit the Department from controlling birds or mammals which

have become obnoxious in nature or habit or are damaging wildlife on any lands in the State.

(c) (1) Except for the sale of captive breed birds of prey as permitted under federal and State propagation or federal and State falconry regulations, a person may not sell, offer for sale, offer to purchase, barter, or exchange the plumage, skin, or body of any nongame bird, whether caught within the State or in another state, territory, or country.

(2) Except as otherwise provided, a person may not possess any game bird for sale whether caught within the State or in another state, territory, or country.

§10–402.

(a) A person may not take or destroy or attempt to take or destroy the nest or eggs of any wild bird or possess the nest or eggs.

(b) A person may not hunt or take any nest or egg of any bird regulated by the United States Department of the Interior pursuant to the Migratory Bird Treaty Act, 40 Stat. 755, except in the manner and by the means prescribed by the rules and regulations adopted by the Secretary of the Interior of the United States and approved by the President of the United States pursuant to the provisions of the Migratory Bird Treaty Act, 40 Stat. 755.

(c) A person may take or possess any nest or egg of any wild bird regulated by the United States Department of the Interior pursuant to the Migratory Bird Treaty Act, 40 Stat. 755, for scientific purposes if the person first obtains a permit from the Secretary of the Interior of the United States and a scientific certificate from the Department.

§10–403.

(a) A person may not hunt, purchase, sell, barter, exchange, or attempt to hunt, purchase, sell, barter, or exchange any game bird except as provided by federal or State laws and rules and regulations.

(b) A person may not hunt or possess any game bird in excess of the limits prescribed by federal or State laws and rules and regulations.

(c) A person may not hunt game birds at any time or in any manner on land or in waters within the boundary lines of any federal or State-owned or controlled migratory bird refuge unless permitted by federal or State laws or rules and regulations.

§10–404.

(a) In this section, "officially inspected" means venison inspected and passed in accordance with standards established by the:

(1) U.S. Department of Agriculture (USDA); or

(2) U.S. Food and Drug Administration (FDA).

(b) (1) Notwithstanding the provisions of subsections (c) through (e) of this section, a person may import, sell, offer for sale, purchase, offer to purchase, barter, or exchange domestically raised, officially inspected, and processed venison that the person lawfully obtains, other than white–tailed and sika venison.

(2) A person who imports, sells, or offers for sale venison shall maintain records documenting the lawful origin of any venison imported or sold, including the species of deer, country or state of origin, the person from whom the venison was obtained, date of delivery, by whom the venison was officially inspected, and quantity of venison.

(3) These records shall be kept by the importer or seller at the importer's or seller's place of business for a period of 1 year following delivery of the venison.

(4) The importer or seller shall allow the Department to inspect these records at the importer's or seller's place of business at any reasonable time.

(5) This subsection does not exempt a person who imports, sells, or offers for sale venison from applicable provisions of Title 21, Subtitles 2 and 3 of the Health – General Article.

(c) (1) A person may not hunt or attempt to hunt any game bird or mammal except during open season.

(2) Except as provided in this section or as authorized under Subtitle 5 or Subtitle 9 of this title, a person may not possess any game bird or mammal during any closed season whether hunted in the State or in another state, territory, or country.

(3) A person may possess:

(i) A dead game bird or dead game mammal legally acquired for use as food;

(ii) A mounted specimen of a game bird or game mammal legally acquired for personal use;

(iii) Hair, antlers, feathers, feet, or skin of game birds or game mammals legally acquired for personal use; or

(iv) Deer antlers that have been manufactured into an article of commerce.

(d) A person may ship or bring into the State by express or as baggage any game bird or game mammal the person legally killed in any other state, territory,

or country. The game bird or game mammal shall be accompanied by a copy of the hunter's license and any necessary permit of the state, territory, or country in which the game bird or game mammal was killed. If the state, territory, or country does not require documentation, then the game bird or game mammal shall be accompanied by a statement indicating the owner of the specimen, the owner's address, and the state, territory, or country of origin.

(e) (1) Except as provided in paragraph (2) of this subsection or § 10–512(a)(2)(ii) of this title, a person may not sell, offer for sale, barter, or exchange, at any time within the State any game bird or game mammal taken from the wild, in the State or in another state, territory, or country.

(2) The prohibitions of paragraph (1) of this subsection do not apply to the:

(i) Meat, pelt, carcass, or mounted specimen of any beaver, coyote, fisher, fox, mink, muskrat, nutria, opossum, otter, raccoon, skunk, or long–tailed weasel legally taken by the person;

(ii) Hide, hair, tail, or feet, excluding a mounted specimen of deer, squirrel, or rabbit legally acquired;

(iii) Feathers, skin, or feet, excluding a mounted specimen of upland and forest game birds legally acquired;

(iv) Except as prohibited by federal law, feathers of wetland game birds legally acquired; or

(v) Antlers of deer legally acquired in another state and manufactured into an article of commerce in another state.

(f) Nothing in this section may be construed as allowing deer farming for the purpose of selling deer meat.

(g) Except as authorized under Subtitle 5 or Subtitle 9 of this title, a person may not purchase, offer to purchase, barter, or exchange any game bird or game mammal or any part of a game bird or game mammal if the sale, offer for sale, barter, or exchange is prohibited by this section.

§10–405.

(a) (1) Pursuant to § 10–205 of this title, the Department shall establish by regulation and publish by July 1 each year the open season to hunt forest and upland game birds and mammals.

(2) Except as provided under § 10–410 of this subtitle, the Department may not authorize hunting on a Sunday.

(3) (i) 1. Subject to subsubparagraph 2 of this subparagraph, the

Department shall establish by regulation by July 1 of each year a junior deer hunt to occur on a Saturday and Sunday on the same weekend during a deer hunting season.

2. The regulations adopted under this subparagraph may not authorize the junior deer hunt to occur on a Sunday in a county in which deer hunting is not authorized for that Sunday.

(ii) A person may participate in the junior deer hunt if the person:

1. Is 16 years of age or younger;

2. Possesses a valid hunting license or is exempt from hunting license requirements; and

3. Is accompanied by a person who:

A. Is at least 21 years of age;

B. Possesses a valid hunting license or is exempt from hunting license requirements; and

C. Is not in possession of a firearm, a bow, or any other hunting device.

(iii) A person who participates in the junior deer hunt may use a firearm to hunt deer on the days of the hunt.

(b) If the Department by regulation pursuant to § 10-205 of this title restricts or reduces the number of days normally allowed to hunt, possess, sell, purchase, ship, transport, carry, or export any game bird or mammal because of an emergency situation, the Department may extend the open season to provide a comparable number of days in any given season.

(c) The Department shall establish by regulation the maximum open season for hunting crows which is permissible under federal law, and shall include in its regulations such provisions as are permitted under federal law for control of crows at any time they are found to be committing or about to commit depredation upon ornamental or shade trees, agricultural crops, livestock or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance.

§10–406.

(a) Except during the hunting and trapping season or as allowed under subsection (b) of this section, a person may not hunt or trap any fur–bearing mammal or possess the meat or pelt of any fur–bearing mammal, whether hunted or trapped within the State or any other state, territory, or country.

(b) (1) (i) A person may possess any green pelt of any fur–bearing mammal until March 25 for purposes of curing the skins.

(ii) However, in Frederick, Garrett, Allegany, Carroll, Howard, and Washington counties, a person may hunt or trap mink or muskrat between November 15 and February 15, of the year following, and a person may possess any green mink and muskrat pelt until February 25 for purposes of curing the skin.

(iii) 1. In the remainder of the State except for the counties in subsubparagraph 2 of this subparagraph, a person may hunt or trap mink or muskrat between January 1 and March 15.

2. In Baltimore, Cecil, Harford, Kent, Queen Anne's, Somerset, and Worcester counties, a person may hunt or trap mink or muskrat between December 15 and March 15 of the year following.

(iv) The Department may extend any muskrat season set by this subsection for a period of 1 week, if the Department considers it necessary for any reason, including weather conditions.

(2) A person may possess the meat of muskrat or otter no more than 10 days after the close of open season for these mammals in order to dispose of the meat for food. However, a person may apply for a permit to store the meat during the closed season if the meat was hunted lawfully.

(3) A muskrat damaging any embankment or impoundment may be destroyed by the owner at any time.

(4) A person may hunt or trap and possess the pelt or meat of raccoon or opossum during those periods and under the restrictions, including bag limits, the Department may establish by regulation.

(5) In Charles and Dorchester counties, a person may hunt or trap a fox or possess the pelt of a fox at any time of year.

(6) A person may hunt or trap on the person's land a coyote, fox or skunk that is damaging or destroying the personal or real property of the landowner.

(7) A person may:

(i) Trap a coyote during the trapping season established by the Department; or

(ii) Hunt a coyote:

1. While the person is legally hunting for any other species of game bird or mammal, by any method legal for use at the time in hunting that other species; or

2. At any time of year, by predator calling.

§10–407.

(a) Before establishing the open season for ducks, except sea ducks, geese, and swan as required by subsection (b) of this section, the Department shall conduct public hearings on the proposed season, at least 1 of which shall be held, on an alternating basis, in Wicomico, Somerset, Worcester or Dorchester counties.

(b) The Department annually shall establish and publish the open season, excepting Sundays, for doves, mergansers, woodcock, and wetland game birds, including wild waterfowl, in conformity with the federal migratory bird rules and regulations adopted annually by the Secretary of Interior of the United States.

§10–408.

(a) In this section, "handgun" means a firearm:

(1) With a barrel length not exceeding 6 inches; and

(2) That does not have a scope or an electronic device attached.

(b) (1) Except as provided in paragraph (2) of this subsection, the Department shall:

(i) Prescribe by regulation the means or weapons for hunting designated wildlife; and

(ii) Set forth any restrictions relating to weapons used to hunt designated wildlife, including the amount and size of ammunition for designated game birds or mammals.

(2) The Department may not prohibit a licensed bow hunter from openly carrying a handgun that the hunter is otherwise authorized to carry under § 4–203 of the Criminal Law Article if the bow hunter:

(i) Is at least 21 years old;

(ii) Is hunting in deer management Region A as defined by the Department's Guide to Hunting and Trapping;

(iii) Is carrying the handgun for personal protection; and

(iv) Does not use the handgun to kill wildlife wounded by a vertical bow or crossbow.

(c) The Department shall make the regulations available for distribution with each hunting license purchased.

(d) This section does not authorize the Department to restrict the use of firearms except in the activity of hunting designated wildlife.

§10–408.1.

(a) A person, while trapping or attempting to trap animals, may not place, set, maintain, or operate any snares, body-gripping, or leghold traps within 150 yards of a permanent human residence.

(b) This section does not apply to:

(1) State and federal wetlands;

(2) Private wetlands as designated by the Department;

(3) Land which qualifies for agricultural assessments, as provided under § 8-209 of the Tax - Property Article, and timberland and lands used for reforestation;

(4) Except in Howard and Harford counties, owners and lessees of any privately owned land; and

(5) Owners and lessees of any privately owned land in Howard and Harford counties as long as a trap described in subsection (a) of this section is not within 150 yards of the permanent residence of another person.

(c) This section does not apply to the use of body-gripping traps with a jaw spread of less than 6 inches that are placed, maintained, and operated completely submerged in water.

(d) This section does not apply to the use of snap-type traps used to catch rats and mice.

§10–408.2. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2017 PER CHAPTER 574 OF 2014 //

(a) The Department shall establish a program in Charles County and St. Mary's County to train rifle shooters to hunt deer for the purpose of controlling the deer population in Charles County and St. Mary's County.

(b) When selecting applicants for participation in the program under subsection (a) of this section, the Department shall give priority to an applicant who holds a Deer Management Permit issued by the Department.

(c) The Department may terminate the program to protect public safety and welfare.

(d) On or before December 1, 2016, the Department shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the

implementation of the program.

(e) The Department shall adopt regulations to implement this section, including a system for staggering participation in the program.

§10–409.

Pursuant to § 10-205 of this title, the Department shall establish and publish by April 25 each year the bag limits per day for game birds and mammals by regulation for the ensuing year. The bag limits for ducks, geese, brant, railbirds, woodcock, mergansers, doves, and snipe may conform to the federal migratory bird rules and regulations adopted annually by the Secretary of Interior of the United States.

§10–410.

(a) (1) Except as provided in paragraphs (2), (3), (4), (6), (7), (8), and (9) of this subsection, a person may not hunt any game bird or mammal on Sundays.

(2) The following persons may hunt the specified game birds and mammals on Sundays:

(i) A person using State certified raptors to hunt game birds or mammals during open season;

(ii) An unarmed person participating in an organized fox chase to chase foxes;

(iii) Provided that the provisions of § 10–906(b)(3) of this title are met, a person:

1. Using a regulated shooting ground under § 10–906 of this title to hunt the following pen–reared game birds:

A. Pheasants;

B. Bobwhite quail;

C. Chukar partridge;

D. Hungarian partridge;

E. Tower released flighted mallard ducks; and

F. Turkey on a regulated shooting ground that was permitted to release turkey before September 1, 1992; and

2. Having the written permission of the owner of the land or other person designated by the owner of the land, if the land is owned or leased by a person other than the person hunting on Sundays;

(iv) Subject to the provisions of § 10–411 of this subtitle, in Calvert, Caroline, Carroll, Charles, Dorchester, Harford, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester counties, a person hunting deer on private property with a bow and arrow or crossbow during open season on the last three Sundays in October and the second Sunday in November;

(v) In Calvert County, Caroline County, Charles County, Dorchester County, and St. Mary's County, a person hunting turkey on private property on any Sunday during the spring turkey hunting season; and

(vi) In Dorchester County, a person hunting turkey on public land that is designated for hunting by the Department on any Sunday during the spring turkey hunting season.

(3) Subject to the provisions of § 10–415 of this subtitle, in Calvert County, Caroline County, Charles County, Harford County, Queen Anne's County, St. Mary's County, Somerset County, and Worcester County, a person may hunt deer on private property on:

(i) The first Sunday of the bow hunting season in November; and

(ii) Each Sunday in the deer firearms season.

(4) Provided that the provisions of § 10–415 of this subtitle are met and subject to paragraph (5) of this subsection, the Department may allow a person to hunt deer on private property on the first Sunday of:

(i) The bow hunting season in November; and

(ii) The deer firearms season.

(5) The Sunday deer hunting provisions under paragraph (4) of this subsection do not apply:

(i) In Baltimore, Howard, and Prince George's counties; and

(ii) In Baltimore City.

(6) (i) This paragraph applies only in Carroll County.

(ii) Subject to §§ 10–411 and 10–415 of this subtitle, the Department may allow a person to hunt deer on a Sunday on private property from the first Sunday in October through the second Sunday in January of the following year, inclusive.

(7) A person who is 16 years of age or younger may hunt deer with a firearm on a Sunday through participation in the junior deer hunt established under § 10–405(a) of this subtitle.

(8) (i) This paragraph applies only in Allegany County, Garrett County, and Washington County.

(ii) The Department may allow a person to hunt any game bird or game mammal, except migratory game birds and wetland game birds, on a Sunday during the open season for that game bird or game mammal on:

1. Private property, subject to § 10–411 of this subtitle; and

2. Public land that is designated for Sunday hunting by the Department.

(9) (i) This paragraph applies only in Frederick County.

(ii) Subject to § 10–415 of this subtitle, the Department may allow a person to hunt deer on a Sunday from the first Sunday in October through the second Sunday in January of the following year, inclusive, on:

1. Private property, subject to § 10–411 of this subtitle; and

2. Public land that is designated for Sunday hunting by the Department.

(b) A person may not hunt any game bird or mammal, except raccoon and opossum, at nighttime.

(c) (1) A person may not shoot at any species of wildlife from an automobile or other vehicle or, except as provided in § 4–203(b) of the Criminal Law Article and Title 5, Subtitle 3 of the Public Safety Article, possess in or on an automobile or other vehicle a loaded handgun or shotgun, or a rifle containing any ammunition in the magazine or chamber.

(2) If this subsection is violated by an occupant of a vehicle which has 2 or more occupants and it cannot be determined which occupant is the violator, the owner of the vehicle, if present, shall be presumed to be responsible for the violation. In the absence of the owner of the vehicle, the operator of the vehicle shall be presumed to be responsible for the violation.

(3) Provisions of this subsection do not apply to a disabled person who obtains a special permit under § 10–307 of this title.

(d) (1) (i) For the purposes of this subsection, "off–road vehicle" means a motorized vehicle designed for or capable of cross–country travel on land, water, snow, ice, marsh, swampland, or other natural terrain.

(ii) "Off–road vehicle" includes four–wheel drive or low–pressure tire vehicles, automobiles, trucks, motorcycles and related two–wheel vehicles, amphibious machines, ground–effect or air–cushion vehicles, snowmobiles, boats, farm–type

tractors, earth–moving or construction equipment, lawn mowers, snowblowers, garden or lawn tractors, or golf carts.

(2) A person may not pursue wildlife with an off–road vehicle.

(e) (1) A person or 2 or more persons together may not hunt or attempt to hunt at nighttime any species of wild bird or wild quadruped with a light, including the headlights of any vehicle, and a person may not cast the rays of any artificial light when the rays emanate from a vehicle on any woods, fields, orchards, livestock, wild animals or birds, dwellings, or buildings. The provisions of this paragraph do not apply to the normal use of headlights of a vehicle traveling on any public or private road in a normal manner, to any police, emergency or utility company vehicle using spotlights in the performance of their duties, or to any farmer or landowner on the farmer's or landowner's own or leased land using artificial lights to check on the farmer's or landowner's land, crops, livestock, or poultry. However, raccoons, fox, or opossum may be hunted on foot at nighttime during open season with the use of a dog or light, or both.

(2) (i) In Baltimore City and Montgomery and Prince George's counties only, a person may cast the rays of an artificial light from a vehicle on woods, fields, orchards, livestock, wild animals, or wild birds for the sole purpose of observing or photographing wildlife until 9:00 p.m.

(ii) If a person casts the rays of any artificial light under this paragraph, the person has the burden of establishing that the person was doing so for the purposes of observing or photographing wildlife.

(iii) If a person casting artificial light under this paragraph or anyone with the person casting artificial light has a firearm or bow in the person's possession, the person shall be presumed to be in violation of paragraph (1) of this subsection.

(f) A person may not shoot at any species of wildlife on, from, or across any paved public highway or the shoulder of the highway. A person may not shoot from any public highway, whether paved or unpaved, in Kent County and Queen Anne's County or shoot from any public road, whether paved or unpaved, within the boundaries of the Hanover municipal waterworks property in Carroll County.

(g) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person, other than the owner or occupant, while hunting for any wild bird or mammal may not shoot or discharge any firearm or other deadly weapon within 150 yards, known as the "safety zone", of a dwelling house, residence, church, or other building or camp occupied by human beings, or shoot at any wild bird or mammal while it is within this area, without the specific advance permission of the owner or occupant.

(2) A person, while hunting for any wild bird or mammal, may not shoot or discharge any firearm within 300 yards of a public or nonpublic school during school hours or at a time when a school–approved activity is taking place.

(3) (i) For archery hunters in Carroll County or Frederick County, the safety zone described in paragraph (1) of this subsection extends for 50 yards from a dwelling house, residence, church, or any other building or camp occupied by human beings.

(ii) For archery hunters in Harford County or Montgomery County, the safety zone described in paragraph (1) of this subsection extends for 100 yards from a dwelling house, residence, church, or any other building or camp occupied by human beings.

(4) During any open hunting season, a person, other than the owner or occupant, may not hunt or chase willfully any wild bird or mammal within the safety zone without the specific advance permission of the owner or occupant.

(h) A person may not dig in or drive a motor vehicle on any cleared field while hunting, except with the permission of the owner, tenant, or other person in charge of the land, or park or leave standing any motor vehicle so that the motor vehicle blocks the means of ingress or egress to any person's property, cattle ways, or fields.

(i) A person may not carry a firearm to hunt any wild bird, mammal, amphibian, or reptile while intoxicated or under the influence of alcohol or any narcotic drug.

(j) (1) A person may not hunt or attempt to hunt wild birds or mammals from an aircraft within the State.

(2) Any person who violates provisions of this subsection is guilty of a misdemeanor and upon conviction is subject to a fine of not more than $1,000 or imprisonment for not more than 6 months or both, with costs imposed in the discretion of the court.

(k) A person may not set any trap, except box traps for rabbits, net, or snare of any description to take any game birds or mammals, except fur–bearing mammals. A trap, net, or snare found in the possession of any person shall be prima facie evidence that the device was used to violate this subsection. A law enforcement officer of the State shall confiscate and destroy the device. A person may not place traps of any description on another person's property without the other person's written permission.

(l) A person may not hunt with any ferret or weasel.

(m) A person may not kill, attempt to kill, or injure by poison wildlife or domestic poultry.

(n) A person may not smoke, burn, injure, hunt, or molest any game birds or mammals in any den or damage or destroy the den of any game bird or mammal.

(o) (1) In Anne Arundel, Baltimore, Howard, Montgomery, and Prince George's counties, a person may not use, set, place, or maintain any steel jaw leghold

trap on land. The steel jaw leghold trap may be used for the capture of fur–bearing mammals in water only.

(2) This subsection does not apply to:

(i) Traps set on farmland by the owner of the farmland, by the owner's agent or tenant, owner's lessee, or by any member of the owner's or tenant's immediate family who resides on the farmland; or

(ii) Traps set by an authorized agent of the Maryland Forest, Park and Wildlife Service who exercises the agent's duties for wildlife control under guidelines established by the Department.

(p) (1) (i) "Snare trap" means a device made of wire, synthetic cord, or other material that:

1. Is in the form of a noose with a slipknot, stop, swivel, or eyelet holes; and

2. Is designed or set with the intent of capturing an animal by the neck.

(ii) "Snare trap" includes:

1. A pole snare;

2. A hanging snare; and

3. A neck snare.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, in Anne Arundel, Baltimore, Carroll, Cecil, Harford, Montgomery, and Prince George's counties, a person may not use, sell, possess, set, place, or maintain a snare trap.

(ii) In Anne Arundel County, from July 1, 1990 through June 30, 1992, a person may sell or possess a snare trap.

§10–411.

(a) A person may not upon any pretense come to hunt on the lands owned by another person without the written permission of the landowner or the landowner's agent or lessee.

(b) Any person hunting on this private property is liable for any damage the person causes to the private property while hunting on the private property.

(c) The landowner may not be liable for accidental injury or damage to the person whether or not the landowner or the landowner's agent gave permission to hunt on the private property.

(d) In Harford County a person who violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to a fine of not less than $25 and not exceeding $250.

§10–412.

(a) (1) In this section the following words have the meanings indicated.

(2) "Baiting" means the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for birds a lure, attraction, or enticement to, on, or over any areas where persons are attempting to hunt them.

(3) "Baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed capable of luring, attracting, or enticing birds is directly or indirectly placed, exposed, deposited, distributed, or scattered, and this area remains a baited area for 10 days following complete removal of all corn, wheat or other grain, salt, or other feed.

(b) A person may not hunt wetland game birds or upland game birds, except quail and pheasant, by the aid of baiting, or on or over any baited area.

(c) This section does not prohibit:

(1) The hunting of wetland and upland game birds on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(2) The hunting of all upland game birds on or over any lands where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed has been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife purposes. Manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown.

(d) By rule or regulation, the Department may exempt from this section captive raised mallard ducks which are released on a regulated shooting ground to be shot at immediately after release.

§10–413.

(a) An owner of a dog may run or train the owner's dog on woodcock, pheasants, or any imported species, ruffed grouse, rabbit, hare, and quail at any time of year if an attendant accompanies the dog. An attendant of the dog may not carry firearms of any description, except a handgun, or permit the dog, while being trained, to kill any game birds or mammals except during the open season for the game. Each attendant shall

possess a valid hunting license while training any dog.

(b) A person may not willfully allow any dog belonging to the person to destroy the eggs or nest of any game bird or mammal. Any person harboring a dog shall be deemed its lawful owner.

(c) Any Natural Resources police officer or any law enforcement officer may kill any dog, which does not bear a license, found destroying game birds or mammals or the nest or eggs of any game bird or mammal.

(d) A Natural Resources police officer or any law enforcement officer shall and any other person may destroy any cat found hunting any game bird or mammal or protected bird or mammal. A cause of action for damages cannot be maintained for this act.

(e) (1) The owner or custodian of a retriever dog shall obtain a permit from the Department before the owner or custodian may shoot artificially reared game birds for the purpose of training the dog. The permit is not required in order to shoot game birds during an open season or on a licensed shooting preserve.

(2) Only the trainer of a retriever dog and not an assistant to the trainer is required to obtain a permit under this subsection.

(3) On payment of the $5 permit fee, the Department shall issue annually a permit to the owner or custodian of a retriever dog to train the dog at any time of the year.

(4) A permittee under this subsection may, while training a retriever dog, possess and shoot with a shotgun any artificially reared game bird that has been liberated by hand and tagged before its use with an identification band provided by the Department.

§10–414.

(a) A person may not possess any live raccoon or opossum unless the person first procures a permit from the Department. Any raccoon or opossum reduced to possession by a hunter or trapper shall be immediately killed.

(b) Notwithstanding any other provisions of this title, the owner of a marsh or the owner's employees may hunt any raccoon which destroys a muskrat or its home in a marsh area of the State at any time.

(c) A landowner or the landowner's agent may set or use steel traps or similar devices at any time to trap raccoon or opossum which are damaging property.

(d) A person may not cut a tree for the purpose of hunting or dislodging a raccoon or opossum without the consent of the owner of the tree.

§10–415. IN EFFECT

(a) (1) There are the following 3 seasons to hunt deer:

(i) Deer bow hunting season;

(ii) Deer firearms season; and

(iii) Deer muzzle loader season.

(2) Notwithstanding any other provision of law, a person may hunt deer with a shotgun approved by the Department from January through March in Charles County and St. Mary's County.

(b) (1) Every person killing a deer shall report with the deer to a designated checking station within 24 hours after killing the deer.

(2) Notwithstanding any requirement of law, if the designated checking stations are closed in the county where a person kills a deer, a Natural Resources police officer shall authorize the person to report with the deer to a designated checking station in another county.

(c) (1) A person with a hunting license also may purchase bonus deer stamps from the Department.

(2) A bonus deer stamp allows a person with the hunting license to hunt 1 deer for each stamp purchased in any of the following hunting seasons for deer in the State:

(i) Deer bow hunting season;

(ii) Deer muzzle loader season; and

(iii) Deer firearms season.

(3) An individual who purchases a bonus antlered deer stamp but does not use it during a particular season may use that stamp during any subsequent season in that hunting license year.

(4) The fee for each bonus antlered deer stamp issued in accordance with this subsection shall be $10.00 for residents and $25.00 for nonresidents.

(5) The Department may establish by regulation the type and number of deer stamps issued under this subsection if necessary to control the deer harvest in various areas of the State.

(d) (1) In this subsection, "Deer Management Permit" means a permit issued by the Department authorizing the holder to hunt deer outside of deer hunting season for the purpose of preventing damage to crops.

(2) In Charles County and St. Mary's County, an individual who holds a Deer Management Permit may:

(i) Use a shotgun approved by the Department to hunt deer throughout deer season in the locations and under the conditions set forth in the permit; and

(ii) Hunt deer on State agricultural crop land located in Charles County and St. Mary's County to the same extent as the person is authorized under the Deer Management Permit to hunt on private land in Charles County and St. Mary's County.

(3) The Department may not require an individual who holds a Deer Management Permit in Charles County or St. Mary's County to apply for renewal more than once every 3 years.

(4) The Department may not authorize an individual in Charles County or St. Mary's County to hunt deer on Sundays under a Deer Management Permit.

(5) To protect public safety and welfare, the Department may:

(i) Terminate the deer hunting season established under subsection (a)(2) of this section; and

(ii) Restrict the lands on which an individual may hunt deer.

(e) A person may not remove the head or hide or any part from any deer, except internal organs, or cut the meat into parts until the deer has been checked by the Department or 1 of the Department's agents at a designated checking station. Removal of the head or the hide of any deer not checked at a designated checking station shall be prima facie evidence that the deer was hunted illegally. Each separate deer or part of any deer taken illegally or found in possession shall be considered a separate offense.

(f) Any person who, while operating a motor vehicle on any highway in the State, accidentally strikes and kills a deer on the highway may have the deer if the person produces visible evidence of collision with the deer to any Natural Resources police officer, State law enforcement officer, or other designated representative of the Secretary. The provisions of this subsection shall be applicable to deer killed by collision with a motor vehicle at any time whether during the open season for killing deer or during the legally closed season.

(g) A person may not hunt a deer while the deer is taking refuge in or swimming through the waters of the State.

(h) Abrogated.

(i) Upon written request from a federal facility for a variance from the established deer hunting season, the Department shall review the request and may:

(1) Approve the request;

(2) Deny the request; or

(3) Approve the request with conditions.

10–415. // EFFECTIVE JUNE 30, 2017 PER CHAPTER 574 OF 2014 //

(a) There are the following 3 seasons to hunt deer:

(1) Deer bow hunting season;

(2) Deer firearms season; and

(3) Deer muzzle loader season.

(b) (1) Every person killing a deer shall report with the deer to a designated checking station within 24 hours after killing the deer.

(2) Notwithstanding any requirement of law, if the designated checking stations are closed in the county where a person kills a deer, a Natural Resources police officer shall authorize the person to report with the deer to a designated checking station in another county.

(c) (1) A person with a hunting license also may purchase bonus deer stamps from the Department.

(2) A bonus deer stamp allows a person with the hunting license to hunt 1 deer for each stamp purchased in any of the following hunting seasons for deer in the State:

(i) Deer bow hunting season;

(ii) Deer muzzle loader season; and

(iii) Deer firearms season.

(3) An individual who purchases a bonus antlered deer stamp but does not use it during a particular season may use that stamp during any subsequent season in that hunting license year.

(4) The fee for each bonus antlered deer stamp issued in accordance with this subsection shall be $10.00 for residents and $25.00 for nonresidents.

(5) The Department may establish by regulation the type and number of deer stamps issued under this subsection if necessary to control the deer harvest in various areas of the State.

(d) Repealed.

(e) A person may not remove the head or hide or any part from any deer, except internal organs, or cut the meat into parts until the deer has been checked by the Department or 1 of the Department's agents at a designated checking station. Removal of the head or the hide of any deer not checked at a designated checking station shall be prima facie evidence that the deer was hunted illegally. Each separate deer or part of any deer taken illegally or found in possession shall be considered a separate offense.

(f) Any person who, while operating a motor vehicle on any highway in the State, accidentally strikes and kills a deer on the highway may have the deer if the person produces visible evidence of collision with the deer to any Natural Resources police officer, State law enforcement officer, or other designated representative of the Secretary. The provisions of this subsection shall be applicable to deer killed by collision with a motor vehicle at any time whether during the open season for killing deer or during the legally closed season.

(g) A person may not hunt a deer while the deer is taking refuge in or swimming through the waters of the State.

(h) Abrogated.

(i) Upon written request from a federal facility for a variance from the established deer hunting season, the Department shall review the request and may:

(1) Approve the request;

(2) Deny the request; or

(3) Approve the request with conditions.

§10–416.

(a) (1) A person may not hunt deer in the State with any automatic firearm. In this subsection, an automatic firearm means a firearm designed to fire, or which is mechanically altered to fire, 2 or more shots with 1 continuous pressure on the trigger.

(2) A person may not use full metal-jacketed, incendiary, or tracer bullets in hunting deer in the State. However, the use of metal-jacketed bullets designed to expand on impact is not prohibited.

(3) A person may not hunt deer with any firearm that uses an ammunition clip holding more than 8 cartridges or bullets. In this paragraph, "ammunition clip" includes a cartridge or bullet holder called a banana clip.

(b) (1) Except as provided in regulations adopted by the Department under paragraph (2) of this subsection, a person may not:

(i) Take a dog into the woods or possess or control a dog in the woods; and

(ii) Use the dog to hunt or pursue deer.

(2) The Department shall adopt regulations governing the use of dogs to aid in the prompt recovery of killed, wounded, or injured deer.

(3) (i) In Baltimore, Harford, Howard, Montgomery, Prince George's, Somerset, Washington, and Worcester counties, a person may not kill a dog found pursuing a deer.

(ii) In all other counties, any Natural Resources police officer, law enforcement officer, or any other person may kill any dog found pursuing any deer, except in accordance with regulations adopted under paragraph (2) of this subsection.

(iii) In Caroline, Dorchester, Talbot, Kent, Anne Arundel, Cecil, Charles, Garrett, St. Mary's, Queen Anne's, Frederick, Carroll, and Calvert counties, dogs that are engaged in fox hunting and who have broken away may not be killed under this paragraph.

(c) A person or 2 or more persons together may not throw or cast the rays of a spotlight, headlight, artificial light, battery, or other device on any highway or in any field, woodland, or forest while possessing or having under control a firearm or other implement by which any deer could be killed, even though the deer is not shot at, injured, or killed. The provisions of this subsection do not apply where the headlight of a motor vehicle, operated by any person traveling on a highway in the usual way, casts a light upon deer on or adjacent to the highway and there was no attempt or intent to locate the deer.

(d) Any person who violates any provision of subsection (c) of this section is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding $2,000 or imprisonment for not more than 6 months or both, with costs imposed in the discretion of the court. Any person convicted of violating the provisions of this subsection shall have the person's hunting license revoked and shall be denied the privilege of hunting in the State for at least 2 and not exceeding 5 years. In addition to these penalties, every spotlight, artificial light, battery, or device to spot, locate, or hunt for deer, and every firearm, bow and arrow, or device capable of killing a deer, found in or on any vehicle or in possession of the person convicted, or used to violate the provisions of this subsection, shall be confiscated and disposed of by the Secretary as the Secretary deems advisable.

§10–417.

(a) A person may not export from the State any game bird or mammal, except wild waterfowl and fur-bearing mammals. However, a licensed hunter may take out as personal baggage in the open season only the prescribed possession limit as set by regulation. The hunter shall produce the hunter's hunting license upon demand of any Natural Resources police officer, any law enforcement officer, or agent of the common carrier. An express company or any common carrier knowingly may not accept any

game bird or mammal, except wild waterfowl or fur-bearing mammals, for shipment within or outside the State.

(b) A person desiring to export wild waterfowl from the State shall ship them in the open, tied by head or feet and tagged accordingly, or in a container, slatted so that the birds are visible. A person may not export from the State in 1 week more than the prescribed bag limit of wetland game birds the person kills.

(c) A person acting as a common carrier, or an officer, agent, or employee of a common carrier, may not ship, carry, take, or transport any nongame bird within or outside the State.

§10–418.

(a) This section does not apply to any person who:

(1) Hunts any wildlife on the person's property with or without a hunter's license;

(2) Hunts deer with a bow and arrow during the season restricted to hunting with a bow and arrow;

(3) Hunts game birds or mammals during the open season using falcons, hawks, or owls; or

(4) Hunts or accompanies, aids, or assists another person hunting the following species:

(i) Wetland game birds;

(ii) Fur-bearing mammals;

(iii) Crows;

(iv) Doves; or

(v) Wild turkeys.

(b) Except as provided in subsection (a) of this section, a person who hunts any wildlife and a person who accompanies, aids, or assists another person in a field, wooded area, marsh, or on the water to hunt any wildlife shall wear:

(1) A cap of a solid daylight fluorescent orange color;

(2) A vest, jacket, or jacket containing back and front panels of at least 250 square inches of a solid daylight fluorescent orange color; or

(3) An outer garment of camouflage fluorescent orange worn above the waist which contains at least 50 percent daylight fluorescent orange color.

(c) By regulation, the Department may define the term "daylight fluorescent orange" consistent with the recommendations of the North American Association of Hunter Safety Coordinators.

§10–419.

(a) It is unlawful to import into the State for commercial purposes, to possess with intent to sell, or to sell the dead body or a part or product of a seal.

(b) This section does not prohibit the sale or possession with intent to sell of a part or product of a seal when the seller can demonstrate that the part or product was imported prior to July 1, 1973. It does not prohibit the sale of a part or product of a seal by an individual not normally engaging in this type of commercial sale, as long as the part or product was originally possessed and used by the seller for the seller's own private purposes. This section does not prohibit the importation of a seal or a part or product of a seal as long as the importation is done for legitimate zoological, educational, or scientific purposes.

(c) A person who violates a provision of this section shall be guilty of a misdemeanor and upon conviction is subject to a fine not exceeding $1,000, for each violation, or imprisoned for 6 months, or both.

§10–420.

The Department shall establish a separate season for hunting deer with muzzle loading firearms.

§10–420.1.

Notwithstanding any hunting law or regulation to the contrary, a person may hunt deer with a handgun having a barrel length of 6 inches or longer and ammunition which produces a muzzle energy of 700 foot pounds or more during the firearms hunting season only in hunting areas where a high-powered rifle is allowed as provided in § 10-415 of this subtitle.

§10–421.

On the first day of the firearms season for hunting deer, a person may not hunt any animal other than deer in this State, except that waterfowl may be hunted from a licensed gunning rig within the seaduck shooting zone and gunning rig zone.

§10–422.

(a) If the Department determines that a significant interference or disruption of a hunt or hunters is likely to occur on any land managed by the Department, the Department may adopt regulations to prohibit that interference or disruption.

(b) While on private land that is owned by another person or in a hunting area

on land managed by the Department, a person may not:

(1) Interfere intentionally with the lawful taking of wildlife by another person; or

(2) Harass, drive, or disturb any game animal intentionally for the purpose of disrupting a lawful hunt.

(c) A Natural Resources police officer or other police officer of the State who has probable cause to believe that a person has violated this section may:

(1) Order the person to desist or to leave the area; or

(2) Arrest the person on refusal to desist or leave the area.

(d) The conduct declared unlawful in this section does not include any incidental interference arising from lawful activity by private land users or users of land managed by the Department, including farmers, miners, or persons engaged in recreation.

§10–423.

(a) Any penalty imposed under this section does not apply to an individual who kills or wounds a black bear in defense of the individual's own life, the lives of other individuals, or the lives of animals on the individual's property.

(b) If the Secretary adopts any regulation, including an emergency regulation, under § 10–205 of this title or § 10–405 of this subtitle to prohibit the hunting, possessing, selling, purchasing, shipping, carrying, transporting, or exporting of black bears, a person who violates the regulation is subject to the following penalties:

(1) For a first offense, a fine not exceeding $1,500, imprisonment not exceeding 6 months, or both; and

(2) For a second or subsequent offense, a fine not exceeding $2,000, imprisonment not exceeding 1 year, or both.

§10–423.1.

(a) The General Assembly finds that it is in the public interest to provide funding to reimburse a person who has sustained damage to agricultural products as a result of black bear.

(b) (1) There is a Black Bear Damage Reimbursement Fund in the Department.

(2) The Fund consists of:

(i) Proceeds from the sale of a conservation bear stamp or decal which may be purchased at a cost of $5 for each stamp or decal; and

(ii) Gifts, grants, and contributions to the State that are designated for inclusion in the Fund.

(3) The Fund is a continuing, nonlapsing special fund, and is not subject to § 7-302 of the State Finance and Procurement Article.

(4) The State Treasurer shall hold and the State Comptroller shall account for the Fund.

(c) The Department may reimburse a person from the Black Bear Damage Reimbursement Fund in accordance with subsections (d) and (e) of this section for any damage to the person's:

(1) Beehives, fruit, or other crops; or

(2) Livestock and poultry as defined in § 1-101 of the Agriculture Article.

(d) (1) A person is eligible to be reimbursed from the Fund if:

(i) The person has followed all black bear damage preventive measures recommended by the Department;

(ii) The damage amount is determined by an extension agent of the University of Maryland Cooperative Extension Service; and

(iii) The Department has verified that the damage was caused by black bear.

(2) Subject to available funding, a person may be reimbursed from the Fund in an amount not less than $200 or more than $3,000 per year.

(e) If the money in the Fund is not sufficient to satisfy all the claims in accordance with the conditions described in subsection (d) of this section, an equal percent of each claim shall be paid.

(f) The Department shall adopt regulations to carry out the provisions of this section.

§10–424.

While engaged in hunting or pursuing any wildlife, a person may not:

(1) Carelessly or negligently shoot, wound, or kill another person; or

(2) Intentionally or willfully destroy or damage:

(i) Any real property, personal property, or farm livestock of another person; or

(ii) A domesticated animal that is in a safety zone established under § 10–410(g) of this subtitle.

§10–424.1.

In addition to any other penalty provided in this title, the Department may suspend the hunting license of a person who is charged with a violation of § 10–424(1) of this subtitle pending the disposition of the criminal proceeding against the person.

§10–425.

(a) (1) A person may not conduct a waterfowl processing operation unless the person has a waterfowl processing operation license issued by the Department under this section.

(2) The Department may not charge a fee for any license issued under the provisions of this section.

(b) (1) A person desiring a waterfowl processing operation license shall apply on a form the Department supplies.

(2) Upon receipt of a completed application, the Department shall issue a license.

(c) A waterfowl processing operation license:

(1) Shall expire on June 30 following the date of issuance; and

(2) May be renewed by providing a completed renewal application.

(d) A waterfowl processing operation may not receive or have in custody any wild waterfowl unless the wild waterfowl is properly tagged as required by State and federal laws and regulations.

(e) A waterfowl processing operation shall keep on forms provided by the Department a record of:

(1) The number of each species of wild waterfowl processed, received by, or in the custody of the operation;

(2) The location (county and state) where each wild waterfowl received by the operation was taken;

(3) The date each wild waterfowl was received by the operation;

(4) The name and address of the person from whom each wild waterfowl was received;

(5) The date each wild waterfowl was disposed of by the operation; and

(6) The name and address of the person to whom each wild waterfowl was delivered.

(f) A licensee shall submit a copy of the records required by subsection (e) of this section to the Department annually prior to the March 1 immediately following the date of the issuance of the license.

(g) At any reasonable hour, a licensee shall allow any Natural Resources police officer or any law enforcement officer to enter and inspect the premises where the operation is conducted and to inspect records.

(h) In addition to any other penalty under this title, the Department may suspend or revoke the license of a licensee who is convicted of violating a provision of this title, a regulation issued under this title, or a federal game law or regulation.

§10–426.

(a) A person may not shoot at or kill a bird or animal in the State with a gun or other device operated or accessed via an Internet connection.

(b) Accessing, regulating access to, or regulating the control of a gun or device capable of being operated in violation of this section shall be prima facie evidence of the commission of an offense under this section.

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 1 year or both.

(d) The hunting privilege or hunting license of a person convicted of violating this section shall be revoked, and the person shall be denied the privilege of hunting in the State for at least 2 years and not more than 5 years.

§10–501.

(a) In this title the following words have the meanings indicated.

(b) "Fur dealer" means any person who buys or acquires raw and green furs, skins, hides, or pelts of wild quadrupeds from any person and sells or disposes of them.

§10–502.

(a) Any nonresident of the State who desires to trap furbearers, except otter or beaver, first shall procure a nonresident trapper's license in addition to any other license required. The license shall be issued only to residents of other states which grant the same trapping privileges to Maryland residents.

(b) The license shall be:

(1) Issued for a $25.50 fee or a fee equal to that charged by the nonresident's home state for a similar license, whichever is greater;

(2) Issued in accordance with the procedures for issuing nonresident hunting licenses; and

(3) Effective for the same period as a hunter's license.

(c) In addition to the license fee, the designated person who sells and issues the license may collect a processing fee equal to 10% of the license fee, and the balance of the fee shall be paid and accounted for in the manner provided by § 10-209 of this title.

§10–503.

A nonresident of the State may not hunt or trap or attempt to hunt or trap any beaver or otter in the State.

§10–504.

(a) A person may not hunt any muskrat, beaver, or otter in any manner except by trapping. A person may not dig into or in any manner molest or destroy any part of a muskrat, beaver, or otter den or house. A person may not possess at any time the hide or skin of any muskrat, beaver, or otter which has been caught in any way except by trapping, and any muskrat, beaver, or otter hide or skin which has been punctured by a hole which appears to be a shot or bullet hole shall be prima facie evidence that the muskrat, beaver, or otter was killed illegally.

(b) A person may not possess at any time a light for the purpose of hunting muskrats, beaver, or otter at nighttime. Possession of a light shall be prima facie evidence that the light was intended for this purpose.

(c) A landowner or the landowner's lessee shall have the exclusive right to trap for muskrats down to the mean low watermark or on marsh land adjacent to the landowner's land. A person may not enter upon or place traps upon the land without first obtaining the written consent of the landowner or the landowner's lessee.

§10–505.

(a) A person may not possess, buy, sell, transport, or ship out of the State or offer to buy, sell, transport, or ship out of the State any fur or pelt of any wild quadruped, or any part of them, which has been unlawfully hunted, trapped, possessed, or transported.

(b) The possession of a green pelt or part of the pelt by any person during closed season shall be prima facie evidence that the pelt or part of the pelt was taken and possessed illegally.

(c) In addition to any other penalty provided by the provisions of this title,

any person convicted of violating this section may have the person's fur dealer's or taxidermist and fur tanner's license revoked for a period not exceeding 5 years.

§10–506.

(a) Subject to the exceptions of subsection (f) of this section, any person who desires to buy, acquire, sell, transport, ship, or store at any time any fur or pelt of any wild quadruped taken within or outside the State first shall obtain a fur dealer's license from the Secretary.

(b) A person who has resided permanently in the State for a period of not less than 6 months immediately preceding the time of application may obtain a resident State fur dealer's license upon payment of a $50 fee.

(c) A nonresident may obtain a nonresident fur dealer's license upon payment of a $100 fee.

(d) Every application for a license shall contain information the Secretary requires.

(e) Every fur dealer's license issued shall expire on June 30 following the date of issuance.

(f) The Department may not require the following persons to obtain a fur dealer's license:

(1) A person who buys or otherwise acquires any fur or pelt of any wild quadruped for the personal use of the person and not for barter, exchange, or sale;

(2) A person who can substantiate the fact that any fur or pelt the person possesses is bought from a licensed fur dealer or lawfully is obtained from a dealer in another state and is dressed, altered, trimmed, repaired, or manufactured into a finished product but not resold as a fur or pelt;

(3) A tanner or taxidermist who possesses any fur or pelt legally owned by another person and which the tanner or taxidermist temporarily is holding solely for the purpose of processing;

(4) A person who sells or possesses to sell the meat, pelt, carcass, or mounted specimen of any beaver, coyote, fisher, fox, mink, muskrat, nutria, opossum, otter, raccoon, skunk, or long-tailed weasel legally taken by that person;

(5) Any person who butchers a deer for another person and who retains the hide or fur of the deer because the other person did not want or take the hide or fur; and

(6) Any person who sells or possesses to sell the hide, hair, tail, or feet, excluding a mounted specimen of deer, squirrel, or rabbit legally acquired.

(g) The licensee shall allow any Natural Resources police officer or any law enforcement officer to enter the premises and holding facilities where operations are being carried on at all reasonable hours for the following purposes:

(1) To inspect the premises and holding facilities where operations are being carried on;

(2) To inspect wildlife; and

(3) To inspect records.

§10–507.

(a) Each fur dealer shall keep a ledger on a form provided by the Department which includes the name, address, and current hunting, trapping, fur dealer's, taxidermist and fur tanner's, or game husbandry license number of each person from whom any fur was purchased or received within or outside the State, the date of purchase or receipt, the quantity of each species of furs purchased, and the country, state, and county or political subdivision where the furs were taken, and identifies any appropriate official game or fur possession tag number or bill of sale. The ledger must state the final disposition of the furs and the date disposed of. Disposition includes selling, transporting, shipping, storing, or otherwise using or possessing the furs. The licensee also shall include the same information with regard to any wildlife taken from the wild by the licensee. The ledger shall cover every transaction from date of issuance of the fur dealer's license until date of expiration and shall be kept up-to-date. In addition to any other penalty provided by this subtitle, any person convicted of failing to maintain and keep up-to-date a ledger as required by this subsection or of making false entries shall have the license revoked for a period of at least 1 year and not exceeding 5 years.

(b) Between July 1 and July 10, every fur dealer shall submit the ledger to the Secretary along with a statement under oath that the information in the ledger is correct on forms furnished by the Secretary, indicating the number or quantity and species of furs possessed, and the county or place of origin where furs were taken, possessed, bought, sold, transported, shipped, stored, tanned, or used by him during the period covered by the previous license. Every fur dealer also shall include in the report the name, address, and current license number of each person from whom any fur was purchased within or outside the State, the date of purchase, the quantity of each species of furs purchased, and the county where the furs were taken, if purchased in the State. Each report shall cover every transaction from date of issuance of the fur dealer's license until expiration. Application for renewal of a fur dealer's license shall accompany the ledger.

§10–508.

A fur dealer shall carry the license on the dealer's person and shall exhibit the license upon demand. The licensee shall allow any Natural Resources police officer and

any law enforcement officer to enter and inspect the premises where operations are being carried on and to inspect records at any reasonable hour.

§10–509.

(a) A person knowingly may not ship, transport, or carry by any means any fur or pelt of any wild quadruped to a point outside the State unless each shipment has a special shipping tag attached on the outside.

(b) Shipping tags shall be obtained from the Secretary.

(c) Each tag shall be composed of 2 parts, and each part shall give the name and address of the consignee and the kind and number of any fur or pelt contained in the package. One part shall be attached to any fur or pelt personally carried open to view or attached on the outside of the container in which any fur or pelt is shipped or transported. The other part of the tag immediately shall be forwarded to the Secretary.

(d) A licensed fur dealer in the State may not be required to attach a special tag to any shipment of furs or pelts of any wild quadruped to another state if the fur dealer's license number for the current year appears on the outside of any package being shipped or transported.

§10–510.

A person may not willfully or wantonly remove, mutilate, or destroy any tag attached to the outside of a container in which any fur or pelt is shipped.

§10–511.

A common carrier or the carrier's agent knowingly may not receive any fur or pelt of any wild quadruped for shipment to any point outside of the State unless the fur or pelt is tagged or marked as required.

§10–512.

(a) (1) Any person desiring to commercially practice the art of taxidermy or fur tanning or who desires to mount, preserve, or tan any species of wildlife for another person first shall obtain a taxidermist and fur tanner's license.

(2) A taxidermist and fur tanner's license also shall permit the holder:

(i) To mount, preserve, or tan any species of finfish pursuant to Title 4 of this article; and

(ii) Except as provided in paragraph (3) of this subsection, with the written approval of the Department for each specimen, to sell or dispose of any tanned, cured, or mounted specimen legally acquired but unclaimed by the customer within 30 days after written notice to the customer by certified mail.

(3) A license holder may not sell or dispose of any tanned, cured, or mounted specimen that is a migratory game bird.

(b) (1) A person desiring a taxidermist and fur tanner's license shall:

(i) Apply on forms the Secretary supplies;

(ii) Pay a $50 annual license fee;

(iii) Pass an examination administered by the Department; and

(iv) Provide recent work samples for examination by the Department.

(2) Upon receipt of the application and license fee, and examination of work samples, the Secretary may issue the license permitting the practice of taxidermy or fur tanning, as provided in the license, if the applicant has passed the examination and the work samples meet minimum professional standards, as determined by the Department.

(c) A taxidermist and fur tanner's license:

(1) Shall expire on June 30 following the date of issuance; and

(2) May be renewed by providing information on forms the Secretary supplies and paying the $50 annual license fee.

(d) Each taxidermist or fur tanner shall keep a ledger on a form provided by the Department indicating the name, address, telephone number and current hunting, trapping, fur dealer's, game husbandry or regulated shooting ground license number of each person, from whom any species of wildlife was purchased or received within or outside the State, the date of purchase, or receipt, and the quantity of each species of wildlife purchased or received and the date the species was delivered or returned to the customer. The ledger shall indicate the country, state, and county or political subdivision in which the species was taken and the date on which the species was taken and identify any appropriate official game possession tag number or bill of sale. The tag or bill of sale shall be attached to the wildlife. The licensee also shall include in the ledger the same information with regard to any wildlife taken from the wild by the licensee. The ledger shall cover every transaction from date of issuance of the taxidermist or fur tanner's license until date of expiration and shall be kept up-to-date. In addition to any other penalty provided by this subtitle, any person convicted of failing to maintain or keep up-to-date a ledger required by this subsection or of making false entries may have the person's license revoked for a period not to exceed 5 years.

(e) The licensee shall allow any Natural Resources police officer or any law enforcement officer to enter the premises and holding facilities where operations are being carried on at all reasonable hours for the following reasons:

(1) To inspect the premises and holding facilities where operations are

being carried on;

(2) To inspect wildlife; and

(3) To inspect records.

§10–513.

In addition to any other penalty provided by the provisions of this title, any person convicted of violating any provision of this subtitle shall be fined $5 for each wild bird or wild quadruped or any part of them mounted or possessed for mounting.

§10–601.

(a) In this subtitle the following words have the meanings indicated.

(b) "Boat" includes any raft, canoe, floating blind, skiff, or other floating device.

(c) "Offshore" means any place on waters of the State below the mean high tide mark on tidal waters or below the mean high water mark on nontidal waters.

(d) "Offshore blind site" means a specific location in the water where a person may hunt wild waterfowl from a boat that is tied to or anchored at a stake which has been licensed pursuant to this subtitle.

(e) "Offshore stationary blind" means an offshore structure built on pilings or stakes that has been licensed pursuant to this subtitle and used for hunting wild waterfowl.

(f) "Waterfowl safety zone" means:

(1) An area 150 yards from any occupied dwelling; or

(2) A section of shoreline not exceeding 250 yards in length owned by a federal or State unit.

§10–601.1.

The Secretary may adopt regulations to implement the provisions of this subtitle.

§10–602.

(a) Notwithstanding any other provision of this subtitle, "nighttime" means the time the Secretary of Interior of the United States adopts by rule or regulation.

(b) A person may not hunt wild waterfowl in the State at nighttime in any manner whether from the shore or otherwise. A person may not possess at nighttime any gun or light used for hunting wild waterfowl in or near the vicinity of feeding and resting grounds. Any gun or light found in possession shall be prima facie evidence of

intention of a violation of this section, and the light shall be confiscated and turned over to the Secretary.

(c) (1) A person may not shoot a wild waterfowl resting on land or water.

(2) A person who wounds and cripples a wild waterfowl may shoot the waterfowl.

(d) A person may not hunt wild waterfowl from a position located more than 10 feet in the air.

(e) (1) The only firearm that a person may use to hunt wild waterfowl is a shotgun fired from the shoulder.

(2) A shotgun used to hunt wild waterfowl may not be larger than a 10 gauge or loaded with shot not approved by the United States Fish and Wildlife Service.

(3) While hunting or attempting to hunt wild waterfowl, a person may not possess shotgun shells that are loaded with shot not approved by the United States Fish and Wildlife Service.

(f) (1) Subject to federal rule or regulation, the prohibition of this subsection does not apply to an automatic loading or hand-operated repeating shotgun with a magazine that is cut off or that is plugged with a one-piece filler incapable of removal through the loading end that reduces the capacity of the gun to hold no more than three shells at any one time in the magazine and chamber combined.

(2) A person may not hunt a wild waterfowl with an automatic loading or hand-operated repeating shotgun capable of holding more than three shells.

(3) A person may not possess a rifle or pistol while hunting wild waterfowl.

(g) (1) A person may hunt wild waterfowl with any bow and arrow.

(2) A person may not hunt wild waterfowl with a crossbow.

(h) (1) A person may hunt wild waterfowl with the aid of a dog or with an artificial decoy.

(2) A person may not hunt wild waterfowl using a live decoy.

§10–603.

(a) Except while lawfully hunting under the requirements of this subtitle, a person in a boat may not purposely or unnecessarily disturb wild waterfowl.

(b) A person may not hunt wild waterfowl while using a floating device towed by a power boat or a sailboat.

(c) A person may not hunt wild waterfowl from a boat, sinkbox, or device that allows the hunter to be completely concealed beneath the water.

(d) (1) A person may not hunt wild waterfowl from a boat that is propelled by a motor or under sail.

(2) A person may shoot and immediately retrieve lawfully wounded or killed wild waterfowl while in a boat if all forward progress of the boat has ceased and the motor has been shut off.

(3) Crippled birds may be shot from a boat under power in the area open for the special sea duck season.

§10–604.

(a) A person may hunt wild waterfowl while standing in water on the natural bottom only in the waters of the Susquehanna Flats, the nontidal waters of the Potomac River, the waters of Tangier Sound, Fishing Bay, Monie Bay, Manokin River, Big Annemessex River, Pocomoke Sound, and Kedges Straits in the waters of Dorchester, Somerset, and Wicomico counties, and in other waters of the State in areas and on days the Department prescribes by regulation.

(b) A person may hunt wild waterfowl while standing in water on the natural bottom at a licensed offshore stationary blind or blind site.

(c) A person hunting wild waterfowl while standing in water on the natural bottom shall remain at least 250 yards from all offshore stationary blinds or blind sites or another person hunting wild waterfowl offshore.

(d) (1) A person hunting wild waterfowl while standing in water on the natural bottom shall be at least 800 yards from shore including shore emerging at mean low water except in the waters of the Potomac River, in the waters of the Susquehanna Flats, in the waters of Harford, Baltimore, and St. Mary's counties, in the waters of Tangier Sound, Fishing Bay, Monie Bay, Manokin River, Big Annemessex River, Pocomoke Sound, and Kedges Straits in the waters of Dorchester, Somerset, and Wicomico counties, or while hunting at a licensed stationary blind or blind site.

(2) A person hunting wild waterfowl while standing in water on the natural bottom shall be at least 400 yards from shore, including shore emerging at mean low water, in the following areas:

(i) The waters of the Susquehanna Flats;

(ii) The tidal waters of the Potomac River that the Department by regulation prescribes for hunting under subsection (a) of this section;

(iii) The waters of Harford, Baltimore, and St. Mary's counties that the Department by regulation prescribes for hunting under subsection (a) of this

section; and

(iv) The waters of Tangier Sound, Fishing Bay, Monie Bay, Manokin River, Big Annemessex River, Pocomoke Sound, and Kedges Straits in the waters of Dorchester, Somerset, and Wicomico counties that the Department by regulation prescribes for hunting under subsection (a) of this section.

(e) A person may not hunt wild waterfowl while standing in State waters on the natural bottom when the natural bottom is privately owned, unless the hunter has the written permission of the landowner.

(f) Except at a licensed stationary blind or blind site, a nonresident may not hunt wild waterfowl while standing in water on the natural bottom unless accompanied by a Maryland resident.

§10–605.

(a) A person may hunt wild waterfowl from a boat that is drifting or being sculled, only in:

(1) The nontidal waters of the Potomac River, Conococheague Creek, and the Monocacy River;

(2) The Susquehanna Flats, Elk River, and that portion of the Sassafras River in Cecil County located west of 75 degrees 58 minutes 45 seconds;

(3) Chincoteague Bay, Sinepuxent Bay, Isle of Wight, Assawoman Bay, and their respective tributaries in Worcester County;

(4) The waters of Tangier Sound, Fishing Bay, Monie Bay, Manokin River, Big Annemessex River, Pocomoke Sound, and Kedges Straits in the waters of Dorchester, Somerset, and Wicomico counties; or

(5) Zones prescribed by the Department by regulation.

(b) While hunting wild waterfowl from a boat that is drifting or being sculled, a person shall remain at least 250 yards from all offshore stationary blinds or blind sites or another person hunting wild waterfowl offshore.

(c) (1) A person hunting wild waterfowl from a boat that is drifting or being sculled shall be at least 800 yards from shore including shore emerging at mean low water except in the waters of the Potomac River, in the waters of the Susquehanna Flats, in the waters of Harford, Baltimore, and St. Mary's counties, in the waters of Tangier Sound, Fishing Bay, Monie Bay, Manokin River, Big Annemessex River, Pocomoke Sound, and Kedges Straits in the waters of Dorchester, Somerset, and Wicomico counties, in Conococheague Creek, and in the Monocacy River.

(2) A person hunting wild waterfowl from a boat that is drifting or being

sculled shall be at least 400 yards from shore, including shore emerging at mean low water, in the following areas:

(i) The waters of the Susquehanna Flats;

(ii) The tidal waters of the Potomac River that the Department by regulation prescribes for hunting under subsection (a)(5) of this section;

(iii) The waters of Harford, Baltimore, and St. Mary's counties that the Department by regulation prescribes for hunting under subsection (a)(5) of this section; and

(iv) The waters of Tangier Sound, Fishing Bay, Monie Bay, Manokin River, Big Annemessex River, Pocomoke Sound, and Kedges Straits in the waters of Dorchester, Somerset, and Wicomico counties that the Department by regulation prescribes for hunting under subsection (a)(5) of this section.

(d) A nonresident may not hunt wild waterfowl from a boat that is drifting or being sculled unless accompanied by a Maryland resident.

§10–606.

(a) A person may hunt wild waterfowl from a boat that is anchored only in:

(1) The nontidal waters of the Potomac River;

(2) The waters of the Susquehanna Flats, Elk River, and that portion of the Sassafras River in Cecil County located west of 75 degrees 58 minutes 45 seconds;

(3) The waters of Chincoteague Bay, Sinepuxent Bay, Isle of Wight, Assawoman Bay, and their respective tributaries in Worcester County;

(4) The waters of Tangier Sound, Fishing Bay, Monie Bay, Manokin River, Big Annemessex River, Pocomoke Sound, and Kedges Straits in the waters of Dorchester, Somerset, and Wicomico counties; or

(5) Zones prescribed by the Department by regulation.

(b) A person may hunt wild waterfowl from a boat that is anchored at a licensed offshore stationary blind or blind site.

(c) A person hunting wild waterfowl from a boat that is anchored shall remain 250 yards from all offshore stationary blinds or blind sites or another person hunting wild waterfowl offshore.

(d) (1) A person hunting wild waterfowl from a boat that is anchored shall be at least 800 yards from shore including shore emerging at mean low water except in the waters of the Potomac River, in the waters of the Susquehanna Flats, in the

waters of Harford, Baltimore, and St. Mary's counties, in the waters of Tangier Sound, Fishing Bay, Monie Bay, Manokin River, Big Annemessex River, Pocomoke Sound, and Kedges Straits in the waters of Dorchester, Somerset, and Wicomico counties, or unless anchored at a licensed offshore stationary blind or blind site.

(2) A person hunting wild waterfowl from a boat that is anchored shall be at least 400 yards from shore, including shore emerging at mean low water, in the following areas:

(i) The waters of the Susquehanna Flats;

(ii) The tidal waters of the Potomac River that the Department by regulation prescribes for hunting under subsection (a)(5) of this section;

(iii) The waters of Harford, Baltimore, and St. Mary's counties that the Department by regulation prescribes for hunting under subsection (a)(5) of this section; and

(iv) The waters of Tangier Sound, Fishing Bay, Monie Bay, Manokin River, Big Annemessex River, Pocomoke Sound, and Kedges Straits in the waters of Dorchester, Somerset, and Wicomico counties that the Department by regulation prescribes for hunting under subsection (a)(5) of this section.

(e) Except at a licensed stationary blind or blind site, a nonresident may not hunt wild waterfowl from a boat that is anchored unless accompanied by a Maryland resident.

§10–607.

(a) (1) Except as provided in paragraph (2) of this subsection, this section shall apply only to owners of riparian property in Maryland regardless of the residency of the owner.

(2) Under this subtitle, persons owning riparian property in:

(i) Maryland or Virginia that is adjacent to the tidal waters of the Potomac River may license state shoreline; and

(ii) Maryland, Virginia, or West Virginia that is adjacent to the nontidal waters of the Potomac River:

1. May license state island shoreline; and

2. May not license state mainland shoreline.

(b) Riparian landowners may license their riparian shoreline:

(1) To establish offshore stationary blinds or blind sites for hunting wild

waterfowl; and

(2) To prevent other persons from licensing the riparian shoreline for the purpose of hunting wild waterfowl offshore.

(c) (1) On the nontidal waters of the Potomac River, Conococheague Creek, and the Monocacy River, the Department may not license riparian shoreline owned by a federal or State unit or the assignee of the federal or State unit.

(2) (i) A federal or State unit that owns riparian shoreline on the nontidal waters of the Potomac River, Conococheague Creek, and the Monocacy River may apply to the Department to establish a waterfowl safety zone in a specified area of the shoreline.

(ii) The Secretary shall review each request and determine whether sufficient need for a waterfowl safety zone exists.

(3) On or before August 15 of each year, the Department shall mark each waterfowl safety zone with clearly visible signs.

(d) (1) Except as provided in paragraph (2) of this subsection, only persons that own at least 250 yards of continuous shoreline, or persons that have the written consent of adjoining landowners to achieve the required 250 yards of continuous shoreline, may erect an offshore stationary blind or blind site.

(2) A riparian landowner who owns less than 250 yards of continuous shoreline may establish an offshore blind site if no other shoreline is licensed within 125 yards of the blind site.

(e) Riparian landowners may lease or assign their rights to license their riparian shoreline.

(f) (1) Except as provided in paragraph (2) of this subsection, riparian landowners may not locate an offshore stationary blind or blind site within 125 yards of the property line or where the line would be if it were extended out over the water perpendicular to the shore at the point where the property line reaches the water's edge.

(2) A riparian landowner who owns less than 250 yards of continuous shoreline may not locate an offshore blind site closer than 125 yards from the nearest licensed shoreline.

(g) Notwithstanding the other provisions of this section, where circumstances require, such as in coves and when two properties extend onto a point of land, the Secretary may determine where an offshore stationary blind or blind site license shall be located. The Secretary shall try to locate the sites so that each riparian landowner gets a site and may locate the blinds closer than 250 yards apart with the written consent of the two riparian landowners.

(h) (1) Riparian landowners, including government agencies, shall license their shoreline either annually or every 3 years in accordance with this section.

(2) An applicant for a license shall:

(i) Submit to the Department:

1. An application by mail prior to June 1 of the year in which the current license expires or for which a new license is requested on a form provided by the Department;

2. A map showing the exact location of the shoreline to be licensed and the exact location of the proposed offshore stationary blinds or blind sites, if any;

3. The written permission of adjacent landowners if necessary; and

4. The written lease or assignment of the riparian landowner if necessary; and

(ii) Pay to the Department a fee of:

1. $20 for a 1-year license; or

2. $60 for a 3-year license.

(3) A unit of government is exempt from the application fee required under paragraph (2) of this subsection.

(i) (1) At least 3 months before a license expires on June 30, the Department shall mail a renewal notice and a renewal application to all riparian landowners holding licenses subject to expiration.

(2) The renewal notice shall state:

(i) The date on which the current license expires;

(ii) The date by which the Department must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(iii) The amount of the renewal fee.

(j) Before June 1st of the year the license expires, the licensee may renew the license for an additional 1-year or 3-year term, if the licensee:

(1) Is otherwise entitled to be licensed;

(2) Pays to the Department a renewal fee of:

(i) $20 for a 1-year license; or

(ii) $60 for a 3-year license; and

(3) Submits to the Department a renewal application on the form that the Department requires.

(k) (1) All applications to license riparian shoreline shall be approved by the Department in accordance with applicable laws and regulations.

(2) Whenever conflicts occur between applicants wishing to establish offshore stationary blinds or blind sites and those conflicts cannot be resolved by application of subsection (g) of this section, the applicant applying first shall prevail. If both applications arrive in the mail on the same day a coin toss shall determine which applicant shall prevail. The applicants may be present for the coin toss.

(l) Funds collected under this section shall be used to administer the licensing program under this section. Any funds not expended in a fiscal year for administering the licensing program under this section may not be transferred or revert to the General Fund of the State, but shall be credited to the State Wildlife Management and Protection Fund.

(m) A riparian landowner who fails to meet the June 1 deadline for license application may license shoreline and establish a stationary blind or blind site for a 1-year period during the licensing process described in § 10-608(b) through (h) of this subtitle.

§10–608.

(a) A Maryland resident who possesses a current year or prior year hunting license may apply to the Department to license riparian shoreline for the purpose of establishing an offshore blind site.

(b) An applicant for a license shall:

(1) Submit to the Department:

(i) An application on a form provided by the Department; and

(ii) A signed statement that:

1. The location of the blind site is at least 125 yards from all other previously licensed riparian shoreline; and

2. The offshore blind site complies with all other pertinent laws and regulations; and

(2) Pay to the Department an application fee of $20 for each license

requested.

(c) (1) The completed application shall be submitted to Department regional service centers or other designated local sites on days designated by the Department.

(2) The Department shall establish and adequately staff a site in each county where licensing occurs.

(3) The Department shall provide public notice of the licensing process through the media, Internet, and other sources.

(4) Licensing shall begin on or before the first Tuesday in August of each year on dates set by the Department.

(d) Each designated site or regional service center shall have maps available by July 15 of each year that show the location of all shoreline licensed by riparian landowners.

(e) Except for riparian landowners licensing their own property, a person may not obtain more than two licenses per day.

(f) Each license shall apply to 250 yards of shoreline. Blind sites shall be located equidistant from the boundaries described by the license.

(g) In Kent County and Queen Anne's County and on the nontidal waters of the Potomac River and its nontidal tributaries, only a riparian landowner owning the amount of shoreline required under § 10-607(d) of this subtitle or a landowner's lessee, licensee, or assignee may erect and maintain a stationary blind or blind site.

(h) Licenses are valid until June 30 of the following year and shall be issued in the order the applications are received in person.

§10–609.

(a) Offshore stationary blinds and offshore blind sites shall be at least 250 yards apart from each other.

(b) Offshore stationary blinds and offshore blind sites shall be located within 300 yards of the shoreline or one-third the distance to the opposite shore, whichever is less, except that in the Chesapeake Bay in Anne Arundel and Calvert counties, and in Prospect Bay in Queen Anne's County, all offshore stationary blinds and blind sites may be no more than 800 yards from the shoreline.

(c) Offshore stationary blinds and blind sites may not be less than 150 yards from any dwelling house without the written permission of the owner of the house.

(d) (1) Except as provided in paragraph (2) of this subsection, offshore stationary blinds shall be marked with the licensee's name and license number and

marked on each side with at least 100 square inches of clearly visible reflective material attached to the outside of the stationary blind at least 3 feet above the high water mark.

(2) Reflective material is not required to be displayed or attached to the outside of a stationary blind while the stationary blind is occupied and is being used for hunting.

(e) Offshore blind sites shall be marked by a stake showing the licensee's name and license number. Each stake shall be marked on all sides with reflective material at least 4 inches wide and located at least 3 feet above the high water mark. All stakes shall be removed within 30 days after the last wild waterfowl season closes.

(f) (1) Except as provided in paragraph (2) of this subsection, the licensee of riparian shoreline shall have the sole right to establish offshore stationary blinds or blind sites within 300 yards of the licensed shoreline or one-third the distance to the opposite shore, whichever is less.

(2) In the Chesapeake Bay in Anne Arundel and Calvert counties, and in Prospect Bay in Queen Anne's County, the licensee of riparian shoreline shall have the sole right to establish offshore stationary blinds or blind sites within 800 yards of the licensed shoreline.

§10–610.

(a) (1) In order to provide greater public access and use of wild waterfowl blinds, in each county of the State where wild waterfowl are adequate and hunting is allowed under this subtitle, the Department shall locate and construct blinds on public lands under the Department's control and make the blinds available for public use.

(2) The Department may allow the hunting of wild waterfowl from a boat that is drifting or anchored or while standing in the water on the natural bottom in waters adjacent to lands owned or managed by the Department.

(3) Except for the purpose of animal control, the Department may not allow waterfowl hunting on public land under this section unless the public land is open to public hunting.

(b) The Department shall encourage local and federal government to make opportunities available for the public to hunt waterfowl from blinds located on public lands under the jurisdiction of the local or federal government by:

(1) Entering into an agreement with the local or federal government to construct the blinds and manage their use; or

(2) Advising the local or federal government on the proper construction, location, and management of blinds to be used by the public for hunting wild waterfowl.

§10–611.

Any person hunting wild waterfowl from a stationary blind or blind site shall possess a hunter's license.

§10–612.

(a) The Department shall inspect a licensed blind site to determine the validity of the certifications in an application upon request of the owner of the shore front property.

(b) If the Department finds that the certifications of the application are erroneous, the Department may revoke the license by giving written notice to the applicant.

§10–613.

If a licensee erects a stationary blind or blind site or sets a stake and the stationary blind, blind site, or stake is lost or destroyed in a manner beyond the licensee's control, the licensee may not lose the licensee's location and may reestablish the stationary blind, blind site, or stake at any time during the current hunting season.

§10–614.

Offshore stationary blinds or blind sites may not be erected, maintained, or licensed in the following waters:

(1) Offshore from lands owned or managed by the Department except the Department may locate and construct offshore stationary blinds or blind sites and make the blinds or blind sites available to the public;

(2) Where the use of the blinds may present a risk to national security or the health and safety of the hunters as determined by the Department;

(3) Where the location of the blinds interferes with the safe operation of an airport;

(4) In Baltimore County on:

(i) The Middle River and its tributaries, westerly or towards shore from a straight line drawn from the tip of Wilson Point in a southwesterly direction to the northwest corner of Cape May Beach;

(ii) Frog Mortar Creek from a straight line drawn from the tip of what is known as Strawberry Point in a southeasterly direction across the creek to the tip of what is known as Galloway Point and extending 1,500 yards northeast up the creek to the point where Glenwood Road approaches the creek shoreline;

(iii) Back River and its tributaries west of the Eastern Avenue bridge; or

(iv) Bird River and its tributaries extending from the head of tide at Whitemarsh Run and Windlass Run and going generally easterly or towards a line that runs in a northerly direction from the northernmost tip of a peninsula called Stumpfs Marsh to the opposite shoreline, but excluding an area that lies between Stumpfs Marsh and a line 150 yards from the shoreline of Stumpfs Marsh; or

(5) In Kent County on:

(i) Turner's Creek; or

(ii) Chester River and its tributaries, except in those waters lying between Durding's Creek and Deep Point or between the property line of Wickliffe Farm and Cedar Point Farm near the point known as Pine Tree Cove and Graveyard Point in Spencer Hall Farm on Eastern Neck Island and the Chesapeake Bay between the north end of Wilson's Point on Trumpington Farm and the mouth of the Chester River.

§10–615.

(a) A person may not enter, use, or occupy another person's licensed stationary blind or blind site or anchor or tie to another person's licensed stake for the purpose of hunting wild waterfowl or for any other purpose without first obtaining the written permission of the licensee, which the person shall possess at the time entry or use is made.

(b) A licensee may institute proceedings against or the Department may prosecute any person who violates the provisions of this section.

§10–701.

(a) A club or association may not hold a field trial with dogs in the State during any closed hunting season without first obtaining a permit from the Secretary.

(b) The Secretary may grant a permit to field trial clubs and associations to hold field trials with raccoon, opossum, bird, or rabbit dogs in the State any time during the closed season. Field trials shall be held pursuant to regulations the Secretary adopts to safeguard the interests of wildlife in the State.

§10–702.

(a) Any club or association holding a field trial during closed hunting season may not shoot or attempt to shoot any game bird or mammal or protected bird.

(b) Game birds bred, raised, or purchased in captivity may be shot in flight immediately upon release at retriever trials after being positively identified.

§10–703.

Dogs brought into the State to participate in field trials and which are to be removed from the State within 15 days after field trials are held shall be exempted from the payment of State, city, or county license tax.

§10–801.

(a) The Department may acquire, by purchase, lease, condemnation, or gift, title or control of any area of land or water in the State suitable to protect, propagate, or manage wildlife or for hunting purposes. The area of land or water shall be known as a wildlife management area. Any area of land or water greater than 100 acres may be acquired in Garrett County or Allegany County only with the approval of that county. This requirement does not apply to any areas which have previously been authorized for acquisition by the General Assembly.

(b) The Department may purchase or erect any structure necessary for wildlife management and may purchase or lease any area of land or water excluding the ownership of and the right to drill any mineral, oil, or gas.

§10–802.

(a) The title to any land or water acquired by purchase, gift, or condemnation shall be taken in the name of the State for the Department's use. The entire control of the area of land and water shall be under the State's direction.

(b) The Secretary may expend from the State Wildlife Management and Protection Fund any amount necessary to purchase or condemn the area of land or water.

§10–803.

(a) If the Department considers it in the State's best interests and the Governor consents, the Department may exchange any area of land or water or part the Department owns together with any improvement on the area of land or water for any privately owned area of land or water equal to or greater in value than the area of land or water the Department exchanges and adapted for wildlife refuge and management. Also, the Department may sell any area of land or water or part of the area of land or water owned by the Department to the person who offers the highest price.

(b) The Department may use any acquired area of land or water as a State park.

(c) The Attorney General shall prepare any deed necessary to complete the exchange or sale of the area of land or water. The Secretary shall execute the deed. The net proceeds of any sale shall be deposited with the State Comptroller and placed to the credit of the State Wildlife Management and Protection Fund.

§10–804.

(a) An acquired area of land or water may be used to create and maintain State wildlife refuges, for wildlife management, and hunting grounds as the Department deems advisable for hunting grounds.

(b) (1) The Department may cut and remove and sell or permit the cutting and removing and selling of timber on lands to which title has been acquired by purchase, gift, or otherwise.

(2) The net proceeds from the timber shall be deposited with the State Comptroller and placed to the credit of the State Wildlife Management and Protection Fund.

(c) The Department may grant rights-of-way on or across any acquired area of land or water if the grant does not affect adversely wildlife protection, management, and propagation.

(d) The Department may appoint a caretaker of the area of land or water and make an agreement with the caretaker for proper care and management of the wildlife refuge.

§10–805.

(a) The Department, in order to protect and propagate wildlife, may establish and maintain State wildlife refuges where wildlife may not be hunted, disturbed, or molested at any time. Upon the consent of the Governor and the superintendent in charge of any area of federally owned or State-owned land or water, the Department may locate a State wildlife refuge on any State-owned or federally owned forest, land, or water.

(b) The boundaries of each wildlife refuge shall be clearly marked. At each refuge a notice shall be posted in a conspicuous place informing the public the area of land or water is a "State Wildlife Refuge -- Hunting Is Unlawful", and other information or regulations the Department considers advisable.

§10–806.

(a) If a person who owns or controls any suitable area of land or water desires to have the area of land or water set aside for a refuge, the person may apply to the Department, giving a description of the area of land or water including a specific location, map, or sketch showing an outline of the area of land or water, the location of any structure or improvement and the nature of the area of land or water, such as woodland, abandoned farmland, or cultivated land, or lake, pond, marsh, or impounded stream.

(b) The Department may examine the area of land or water to determine if the area of land or water is suitable for wildlife protection and management. If the area

of land or water is acceptable as a wildlife refuge, the Department shall notify the person of this fact. The person shall sign a lease, vesting the State with every hunting right in the area of land or water without charge. The lease also shall provide that the owner, the owner's family, agents, tenants, and any other person may not hunt on the area of land or water, and that the person will make every effort to protect the refuge from forest fires, hunting, or any violation of any State conservation law. The lease or agreement shall continue in force for an uninterrupted period of at least 5 years.

(c) If the person who owns or controls the area of land or water named in any lease on which there is no charge sells the area of land or water, the area is released from the operation of the lease unless the purchaser agrees to allow the area to remain under lease. The Department or the owner of the area of land or water may rescind any lease for which there is no charge made pursuant to this section after giving 90 days written notice to the other party of intent to terminate the lease.

§10–807.

(a) A person may not enter in any manner on any State wildlife refuge without the consent of the Department or person in charge of the area of land or water.

(b) (1) A person may not allow any dog, domestic stock, or poultry to enter in any manner on any State-owned wildlife refuge.

(2) The Department may grant a special written permit, subject to revocation at any time, to any person regularly residing on lands included within any wildlife refuge to have any trap, dog, or gun on the refuge. However, the trap, dog, or gun may not be used in hunting wildlife unless done under special permit from the Department for propagating purposes.

(3) Where any portion of a State wildlife refuge is used for a State park, entry by any person within the refuge area for recreational pursuits may not be restricted on the portion used as a State park as long as the person does not carry any firearm or trap nor permit any dog to disturb or chase wildlife.

(c) The Department by written permission may grant to any responsible person the right to hunt for vermin and use any dog and gun in connection with hunting on State wildlife refuges. The Department also may grant permission to hunt wildlife to be used for propagation purposes.

§10–808.

The Department may adopt and post rules and regulations for the proper use and administration of any State land or water the Department controls or owns.

§10–901.

The General Assembly finds and declares that it is in the public interest to insure the conservation, preservation, and condition of wildlife native to Maryland,

by strictly regulating in the State the possession, importation, exportation, breeding, raising, protection, rehabilitation, hunting, killing, trapping, capture, purchase, or sale of certain wildlife which pose a possibility of:

(1) Harmful competition to native wildlife;

(2) The introduction of a disease or pest harmful to native wildlife;

(3) Problems of enforcing laws and regulations relative to wildlife; or

(4) Threatening native wildlife or other natural resources.

§10–902.

(a) Any person desiring to possess, import, export, breed, raise, protect, rehabilitate, hunt, kill, trap, capture, purchase, or sell any wildlife native to Maryland, shall first obtain a permit or license from the Department.

(b) The Secretary shall establish by regulation:

(1) The types and classes of permits and licenses which shall be issued;

(2) The species of wildlife exempt from the permit and license requirement;

(3) Sanitary housing or any other conditions which are necessary for the humane, safe, and healthy possession of wildlife;

(4) Conditions under which captive wildlife may be hunted or released to the wild; and

(5) Record keeping requirements.

(c) The Secretary shall charge a reasonable fee for each permit or license.

§10–903.

The Secretary may adopt regulations prohibiting or restricting the importation, exportation, sale, release, or possession of wildlife not native to Maryland on a finding that the wildlife is harmful to native wildlife or to natural ecosystems.

§10–904.

The Secretary shall coordinate with federal and local governments regarding the issuance of permits, inspection of facilities, and enforcement of compliance with pertinent laws and regulations. This subtitle may not be construed to limit local governments from enacting stricter requirements regarding housing and sanitation conditions under which wildlife must be kept or other health and safety requirements.

§10–905.

(a) (1) On payment of a reasonable fee, the Secretary may issue a game husbandry license to any person who desires to raise, breed, protect, or sell game birds or mammals.

(2) The license shall expire on December 31 after the date of issuance and may be revoked at any time for noncompliance with the license's terms and conditions.

(3) The license shall specify:

(i) The species of game birds and mammals which may be bred, raised, protected, or sold and for what purpose;

(ii) The type of fencing or other requirements necessary to prevent undesirable mixing of native wildlife and the captive game birds or mammals; and

(iii) Any other condition necessary to ensure adequate protection of native wildlife.

(b) (1) If any game bird or mammal raised in captivity is shipped or removed from the licensee's premises, the game bird or mammal must be properly identified until prepared for final consumption or disposition.

(2) Any game bird or mammal moved within the State shall be accompanied by an itemized bill of sale from the licensee.

(3) Any game bird or mammal shipped out-of-state shall have a bill of lading attached to the shipping carton, crate, or other container.

(c) Each licensee shall keep a ledger of any game bird or mammal raised, the number killed, and the number sold dead or alive. The licensee shall allow the Department:

(1) To enter and inspect at any reasonable hour the premises where operations are carried on; and

(2) To inspect the records.

(d) The Secretary may prescribe, by regulation, the conditions under which a person may possess and sell game birds and mammals intended for human consumption which have been purchased from a licensed game breeder.

§10–906.

(a) Any person desiring to establish and operate a regulated shooting ground shall first obtain a permit from the Department.

(b) (1) The Department may issue a regulated shooting ground permit

on payment of a reasonable fee and after determining that the establishment and operation of it does not conflict with any reasonable prior public interest.

(2) The Department may not issue a new permit for a regulated shooting ground to an existing permit holder unless the report required under subsection (c)(2) of this section has been filed.

(3) (i) As part of the application for a regulated shooting ground permit, a person may apply to the Department for authorization to allow hunting on Sunday as provided under § 10–410(a)(2)(iii) of this title.

(ii) The Department shall ensure that all requirements and conditions of applicable law and regulations are met and that issuance of the authorization will not have an adverse impact on the conservation of native game species or to the public interest.

(c) (1) The Department, by regulation, shall govern and prescribe the size of the area, the method of hunting, the open and closed seasons, the release, possession, and use of propagated wildlife, and any reports the Department deems necessary.

(2) The Department shall require each person holding a regulated shooting ground permit to file a report with the Department, on forms provided by the Department, by April 30 of each year for the most recently concluded hunting season. The report shall include:

(i) The number and species of captive raised birds that have been released, killed, or recaptured on the regulated shooting ground each day;

(ii) The number and species of all wild waterfowl that have been killed on the regulated shooting ground excluding any of the captive raised birds listed in subparagraph (i) of this paragraph;

(iii) An estimate of how many captive raised birds by species were released and not captured; and

(iv) Any outbreaks of avian influenza or other diseases in the captive raised birds raised, released, or captured on the regulated shooting ground.

(3) The permittee shall maintain records of the number and species of captive raised birds purchased, the date on which they were purchased, and the name and address from whom they were purchased. These records shall be retained for 12 months from the date of the transaction.

(4) The permittee shall report unusual death or sickness of captive raised birds immediately to the nearest Maryland Department of Agriculture animal health laboratory, and transport dead and sick captive raised birds to the nearest Maryland Department of Agriculture animal health laboratory for diagnostic examination.

(5) The permittee shall allow the Department or the Department's representative to inspect:

(i) Those records required to be maintained under paragraphs (2) and (3) of this subsection; and

(ii) All hatcheries, equipment, and facilities used for rearing and holding captive raised birds.

(6) The permittee shall allow the Department or the Department's representative to:

(i) Collect environmental samples from all hatching, rearing, and holding facilities;

(ii) Culture or biochemical test these samples for the presence of avian diseases; and

(iii) Test a sample of captive raised birds from the permittee's flock. The permittee shall provide the Department captive raised birds for testing at no cost to the Department as the Department deems necessary.

(d) (1) Any person desiring to hunt on any regulated shooting ground shall first obtain a special license. However, a person holding a resident or nonresident hunter's license may not be required to obtain the license prescribed by this section.

(2) The license shall bear the signature of the Secretary and shall be countersigned by the issuing agent who at the same time shall fill out a stub attached to the license with the name and address of the licensee. The agent then shall detach the stub and mail it to the Secretary the first day of each month. The agent shall retain 50 cents as compensation for issuing each license. The agent shall deliver the properly executed license to the applicant in person or by mail without further cost. The licensee shall insert the licensee's name in ink on the license at the time of purchase.

(3) The Department shall charge a reasonable fee for the purchase of a special license.

(4) The license shall expire on June 30 after the date of issuance.

(5) The license is not transferable and if used or presented by any person other than the person to whom it was issued, the license shall be confiscated by the Secretary, any Natural Resources police officer, or any law enforcement officer.

(e) Terminated.

(f) (1) For the purposes of this subsection a second or subsequent conviction is a violation that has occurred within 2 years and that arises out of a separate set of circumstances.

(2) In addition to any other penalty provided by the provisions of this title, if a person who holds a permit to establish and operate a regulated shooting ground under this section or any other guest of that person is convicted of violating on the premises of the regulated shooting ground a provision of State or federal law or regulation that establishes daily or seasonal bag limits, prohibits baiting, or prohibits the hunting of wetland game birds on a regulated shooting ground by the use or aid of live birds as decoys, the Secretary shall suspend the permit:

(i) For the first conviction, for the following permit year; and

(ii) For the second or subsequent conviction, for the following 2 permit years.

(g) If a regulated shooting ground permit is suspended, a new permit may not be issued for that regulated shooting ground, regardless of who applies, until the period of suspension ends.

§10–907.

(a) Any person desiring to take alive, possess, train, fly, and hunt with falcons, hawks, or owls shall first obtain a falconry permit from the Secretary.

(b) The Secretary may issue a falconry permit, on the payment of a reasonable fee, to any properly accredited person who:

(1) Is at least 14 years old;

(2) Has demonstrated adequate knowledge and training in the care and handling of birds of prey; and

(3) Possesses facilities demonstrated to be of sufficient design and size to properly maintain the permitted wildlife in captivity.

(c) The Secretary may adopt regulations governing the issuance, revocation, terms, and conditions of the permit.

(d) The birds authorized under this permit shall be used only for the sport of hunting game birds or mammals during the open season.

§10–908.

(a) Any properly accredited person desiring to assist the Department in the control of wildlife injurious to agriculture or other interests, or to provide care and treatment of sick or injured wildlife for rehabilitation and release back to the wild, shall first obtain a wildlife damage control permit from the Secretary.

(b) (1) The Secretary may issue a wildlife damage control permit, on the payment of a reasonable fee, to a person who:

(i) Has adequate training in the capture, handling, and care of wildlife; and

(ii) Owns or leases facilities demonstrated to be of sufficient size and design to properly maintain the permitted wildlife in captivity.

(2) The Secretary may adopt regulations governing the issuance, revocation, terms, and conditions of the permit.

(c) The Secretary may designate in the permit the species and numbers of wildlife authorized to be possessed and the disposition of the wildlife.

§10–909.

(a) Any properly accredited person of known scientific attainment desiring to collect wildlife, nests, or eggs from the wild for scientific or educational purposes shall first obtain a scientific collection permit from the Secretary.

(b) The Secretary may issue a scientific collecting permit, on the payment of a reasonable fee, to any properly accredited person who has demonstrated a legitimate scientific or educational need for the requested wildlife.

(c) The Secretary may adopt regulations governing the issuance, revocation, terms, and conditions of the permit.

(d) The permit:

(1) Shall expire December 31 of the issuing year; and

(2) May not be transferred to another person.

(e) The permit becomes void on proof that the permittee has:

(1) Captured or killed any wildlife;

(2) Taken any nests or eggs for other than scientific or educational purposes; or

(3) Taken or possessed any wildlife, nests, or eggs not authorized by the permit.

§10–910.

(a) There is a Captive Wildlife Advisory Committee. It shall be composed of 7 members appointed by the Director of the Forest, Park and Wildlife Service.

(b) Of the 7 Committee members:

(1) 1 shall be a representative of the pet industry;

(2) 1 shall be a falconer;

(3) 1 shall be a representative of the shooting preserve industry;

(4) 1 shall be a representative of the game breeding industry;

(5) 1 shall be a representative of a humane society or like organization; and

(6) 2 shall be members of the general public.

(c) The term of a member is 3 years. The terms of the members are staggered. The terms of the initial appointees expire as follows:

(1) 1 member representing the general public, the member representing the pet industry, and the falconry member after 3 years;

(2) 1 member representing the general public, the member representing the game breeding industry, and the member representing a humane society or like organization after 2 years; and

(3) The member representing the shooting preserve industry after 1 year.

(d) At the end of a term, a member continues to serve until a successor is appointed.

(e) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(f) From among its members, the Director shall designate a chairman and a vice chairman of the Committee.

(g) The Committee shall meet at the times and places that the Committee determines.

(h) A member of the Committee:

(1) May not receive compensation; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(i) The Committee shall:

(1) Review pertinent proposed regulations and give recommendations and comments to the Director; and

(2) Advise the Director on other matters relating to captive wildlife.

§10–911.

(a) In addition to any other penalty provided by the provisions of this title, the Secretary may revoke or suspend any license, permit, or certificate issued to any person pursuant to this subtitle if the Secretary finds the person or a guest of the person has violated:

(1) The terms and conditions of the license, permit, or certificate;

(2) Any regulation adopted to implement this subtitle; or

(3) Any State or federal wildlife law or regulation.

(b) Any wildlife for which a license or permit is required under this subtitle and for which a license or permit is not obtained shall be considered a nuisance and contraband and is subject to seizure by any authorized law enforcement officer.

§10–1001.

(a) In this subtitle the following words have the meanings indicated.

(b) "Feeding zone" means the immediate area, not to exceed approximately 600 square yards, in which feed for wild waterfowl is placed.

(c) (1) "Licensed area" means the property controlled by the applicant or applicants upon which the feeding of wild waterfowl is planned and licensed by the Department.

(2) "Licensed area" includes those adjoining waters:

(i) On which the licensee has the lawful right to hunt wild waterfowl; and

(ii) Where the licensee has obtained a licensed feeding zone or hunting blind or stand or both.

(d) "Shooting blind" or "shooting stand" means the area, not to exceed approximately 80 square feet, from which the hunters are attempting to take wild waterfowl.

§10–1002.

In order to aid the relief of crop depredations and to provide further protection to wild waterfowl, any person or group of persons, individually or collectively, may apply to the Department for a license to feed waterfowl upon land owned or operated by the person or group or in waters within 300 yards of a shoreline owned or operated by the person or group in accordance with the following policies and guidelines and the regulations and procedures the Secretary adopts under the authority granted. It is the

purpose of this subtitle to encourage the placement of feed to supplement the dwindling supply of natural feed available to wild waterfowl in the State and to regulate feeding so that it is not a means of attracting wild waterfowl to, on, or over the area where the hunters are attempting to take the waterfowl.

§10–1003.

(a) Each application for a license to feed waterfowl shall be submitted in the form and number of copies as the Secretary prescribes. The submitted application shall show the name and address of each applicant and each owner, or each lessor and lessee if the property is leased. The submitted application shall contain a sufficient description of the property and its location so that the property may readily be identified and located.

(b) Each copy shall be accompanied by a sketch map showing the exterior boundaries, access roads, principal ponds, creeks, and other bodies of water in sufficient detail to identify and clearly record the location of the proposed feeding zones and shooting blinds or stands.

(c) Each application shall be accompanied by a $10 application fee. An annual fee of $25 shall be imposed for each licensed shooting area.

(d) The application shall contain a statement outlining the general plan of feeding to be carried out.

(e) Applications shall be filed with the Department within 2 weeks after the Department has publicly released the waterfowl hunting regulations for the forthcoming season.

§10–1004.

If, in the opinion of the Department, shooting blinds or stands, either on the applicant's property or the immediately adjacent property, are so placed in relation to the feeding zone or zones that wild waterfowl would have to pass within shooting range of the hunters in order to reach the feeding zone, the Department may refuse to issue the applicant a license, or if issued, may cancel a license where the intent of this section is not being observed.

§10–1005.

(a) A licensee may not establish a feeding zone within 400 yards of any building nor within 400 yards of an exterior boundary line of the property unless the licensee obtains notarized written permission to do so from the adjoining land owner and submits the written permission with the application. Where the property is bounded by a body of water, the licensee may establish a feeding zone up to the shoreline or in the adjoining waters within 300 yards of his shoreline, if the feeding zone does not come within 400 yards of another property owner, unless the licensee obtains notarized written permission to do so from the other property owner. These provisions

do not permit hunting or shooting on or from any location which would be unlawful under other laws or regulations of the State.

(b) Within 10 days of receipt of notice of the approval by the Department of any licensed feeding zones, each zone shall be marked with a sign not less than 12 by 18 inches with printing no smaller than 12 lines (2 inches high) gothic type, stating "Waterfowl feeding zone -- shooting within 400 yards prohibited". The sign shall be visible above any vegetation or other obstruction. Prior to the opening of the wild waterfowl hunting season, each licensed shooting blind or stand also shall be posted with a similar sign, stating "Licensed Shooting Area For This Property".

(c) Subsequent to the issuance of a license a person may not change the location of feeding zones or shooting blinds or stands without approval of the Department.

(d) Every club member, guest, agent, and permittee of the applicant is presumed to have knowledge of the location of any feeding zone and any area where shooting is prohibited.

(e) Feeding shall commence on and continue through the date the Secretary designates. Prior to the opening of the wild waterfowl season feeding may be done anywhere on the licensed area, if all food put out in places other than the designated feeding zone is consumed or removed at least 10 days prior to the opening date of the season. After that time, feed may not be placed anywhere except in the designated feeding zones. As used in the regulations, feeding does not include salt blocks, properly shucked corn, standing crops (including aquatics), flooded standing crops, flooded harvested croplands, or grains found scattered solely as a result of normal agricultural practices.

(f) A person may not shoot or hunt or attempt to do so within 400 yards of any licensed feeding zone. The hunter or the hunter's agent may retrieve any dead or crippled bird within that area in any manner lawful under the appropriate federal and State regulations. A person may not shoot or hunt or attempt to do so from any site or location in the licensed area, except the licensed shooting blinds and stands. In addition to any other action by the Department, violation of this section by the licensee or the licensee's agents, club members, guests, or permittees is grounds for immediate revocation of the feeding license.

(g) A blind located within 200 yards of any licensed feeding zone shall be rendered incapable of use.

(h) Within 15 days after the designated closing date for putting out feed, the licensee shall submit a written report to the Department giving the approximate amounts and types distributed and indicating the dates the feed was distributed.

§10–1006.

(a) Licensed areas, not including any houses or other closed-in structures, shall be open to inspection at all times by an authorized representative of the Department

or the U.S. Fish and Wildlife Service, or both.

(b) If upon inspection, any Department representative finds that the terms and conditions of the license are not being observed, the applicant shall be given written notice of the defect and 5 days to make the necessary change. If, upon a second inspection, the requirements have not been met the license may be revoked by the Secretary. Licensees shall be advised in writing of the findings and results of every inspection.

§10–1007.

This subtitle is not applicable to any agency of the United States, the State, or any of its counties or cities. These agencies are authorized to feed at any time without the license issued under this subtitle.

§10–1008.

Any person may feed wild waterfowl at any time under the authority of this subtitle without applying for or obtaining a license if:

(1) The area in which the feeding is done is an area where the hunting of waterfowl is not contemplated or done; or

(2) Where the hunting of waterfowl is contemplated or done the feeding shall cease and all food put out shall have been consumed or removed at least 10 days prior to the opening of the waterfowl season and the feeding may not be resumed until 1 day after the close of season.

§10–1009.

The provisions of this subtitle shall apply in addition to any federal laws or rules and regulations governing the feeding of wild waterfowl.

§10–1101.

(a) For the purpose of this title, each game bird or mammal taken illegally, purchased, offered for purchase, sold, bartered, or exchanged in excess of the bag limit or possessed illegally constitutes a separate offense.

(b) Any person who violates any provision of this title is guilty of a misdemeanor. Unless another penalty is specifically provided elsewhere in this title, the person, upon conviction, is subject to a fine not exceeding $1,500, with costs imposed in the discretion of the court.

(c) (1) Unless another penalty is specifically provided elsewhere in this title any person found guilty of a second or subsequent violation of any provision of this title, is subject to a fine not exceeding $4,000, or imprisonment not exceeding 1 year, or both, with costs imposed in the discretion of the court.

(2) For the purpose of this subsection, a second or subsequent violation is a violation which has occurred within 2 years of any prior violation of this title and which arises out of a separate set of circumstances.

(d) In addition to any administrative penalty provided in this title, violation of any regulation adopted by any unit within the Department pursuant to the provisions of this title is a misdemeanor and is punishable as provided in subsections (b) and (c) of this section.

(e) This section does not apply to a violation of § 10–424(2) of this title.

§10–1102.

(a) If any fine is imposed by the District Court for a violation of any provision of this title, the fine shall be collected pursuant to the provisions of law of the District Court system.

(b) If any fine is imposed by the circuit court of any county, the fine, less the costs of collection, shall be paid to the State Wildlife Management and Protection Fund, unless otherwise provided for.

§10–1103.

If any Natural Resources police officer or any law enforcement officer has probable cause to believe that any person possesses any bird, mammal, amphibian, or reptile or any device in violation of this title, the officer shall go before any District Court judge of the county in which the species of wildlife or device is believed to be and make affidavit to that fact. If the judge finds the affidavit legally sufficient, the judge shall issue a search warrant against the person complained of, directed to the officer making the affidavit, commanding the officer to proceed at once and search for the bird, mammal, amphibian, or reptile or the device and, upon finding it, to seize, take possession, and keep it until further order by the judge. The warrant shall be executed pursuant to the Maryland Rules. The warrant shall be returned within 5 days from the issuing date or within a shorter period of time set forth in the search warrant.

§10–1104.

(a) If a Natural Resources police officer or any law enforcement officer has probable cause to believe that any species of wildlife or any device is possessed in violation of this title, and it is not possible or feasible to secure a search warrant in time to seize the bird, mammal, amphibian, or reptile or the device, then the Natural Resources police officer may examine any boat, railway car, box, crate, package, or game bag without a warrant.

(b) In this event, a Natural Resources police officer, in uniform or accompanied by a uniformed police officer, may stop and search an automobile, any vehicle, or trailer for the purpose of examining the game bags. The Natural Resources police officer also may determine whether the person has an appropriate license.

(c) This section does not permit entering a dwelling house without first procuring a search warrant.

§10–1105.

A Natural Resources police officer or any law enforcement officer, upon arresting any person for violating any provision of this title or any regulation adopted pursuant to this title, may seize every bird, mammal, reptile, and amphibian unlawfully caught, sold, offered for sale, transported, or possessed. The Department may dispose of any seized species of wildlife at the Department's discretion.

§10–1106.

(a) A Natural Resources police officer or any law enforcement officer, upon arresting any person for violating any provision of this title or any regulation adopted pursuant to this title, may seize any device, equipment, conveyance, or property unlawfully used. If the owner or person in charge of the seized device, equipment, conveyance, or property is convicted, the court may declare the device, equipment, conveyance, or property forfeited, in addition to any other penalty provided in this title. Any forfeiture becomes the property of the Department for disposition at the Department's discretion. If the owner is not known, the court may proceed ex parte to hear and determine any question of forfeiture. If the owner or person charged with the violation is not convicted, the device, equipment, conveyance, or property seized shall be released and returned to the owner or person.

(b) The device, conveyance, or property may not be forfeited if the owner was not a consenting party or privy to a violation.

§10–1107.

(a) If a person is convicted of violating any provision of this title and the violation causes or results in the injury, death, or destruction of any wildlife, including a protected species of animal, in addition to any other penalty provided in this title, the court may order the person to pay restitution to the State for the resource value of the wildlife, as determined by the court, taking into account regulations adopted by the Department under subsection (b) of this section.

(b) The Department, by regulation, shall establish a schedule of resource values for individual species or describe a system that a court may use in determining the resource value for the species. The Department may use, but not be limited to, known values to actually replace lost species or the Department may ascribe to a species a value which the individual wildlife or plant provides to the greater public good for the citizens of Maryland.

(c) (1) If 2 or more defendants are convicted for the same violation causing or resulting in the injury, death, or destruction of protected species of animals, the court may impose restitution against them jointly and equally.

(2) Restitution under this section shall be paid within the time prescribed by the court.

(3) In each instance, the court shall order the person to pay the restitution to the State. Moneys paid under this section shall be credited to the Department to be used only for the replacement, habitat management, or enforcement programs for injured, killed, or destroyed wildlife or protected species of animals.

§10–1108.

(a) In addition to any other penalty provided by this title, the Department or the court may suspend for a period not exceeding 5 years the hunting license or hunting privileges of a person who is convicted of a State or federal hunting violation.

(b) The Department shall adopt regulations:

(1) To implement this section; and

(2) That list the criteria for the suspension of a hunting license or the hunting privileges of a person.

(c) (1) During a period of suspension of a hunting license or the hunting privileges of a person imposed by the Department or the court, the person may not:

(i) Hunt, trap, or pursue game in the State; or

(ii) Purchase or attempt to purchase another hunting license.

(2) The following are grounds for an immediate suspension of a hunting license or hunting privileges:

(i) Knowingly making a false statement in a license application;

(ii) A second conviction for violations occurring on separate days within any 12–month period for violations of State or federal hunting law that are not administrative or minor in nature as determined by the Department;

(iii) Failure to submit a report or report to a checking station as required under this title or by regulation; or

(iv) Failure of a nonresident of the State to appear in court in accordance with a citation issued by a Natural Resources police officer, or to any other process issued by any court of Maryland, for a violation of this title.

(3) A suspension imposed in accordance with this section is in addition to any other penalty authorized under this title.

(4) The Department shall initiate any proceeding to suspend a hunting license or hunting privileges under paragraph (2)(ii) of this subsection immediately

after the time for filing an appeal of the second conviction has passed.

(5) (i) Before the suspension of a hunting license or hunting privileges under this section, the Department shall notify the licensee or person in writing of the licensee's or person's right to a hearing on request.

(ii) If a licensee or person submits a written request for a hearing to the Department within 30 days after the date that the notice required under this paragraph is mailed, the Department shall:

1. Hold a hearing after providing at least 10 days' notice to the licensee or person; and

2. Conduct the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(iii) The Department may suspend a hunting license or hunting privileges without a hearing if:

1. The licensee or person does not submit a written request for a hearing; or

2. The licensee or person fails to appear for a scheduled hearing for which the Department provided notice.

§10–1201.

The General Assembly hereby approves and the Governor is authorized to enter into a compact on behalf of this State with any other state or states in a form substantially as follows:

ARTICLE I
Findings, Declaration of Policy, and Purpose

(a) The participating states find that:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors;

(2) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, rules, and ordinances relating to the management of those resources;

(3) The preservation, protection, management, and restoration of wildlife resources contributes immeasurably to the aesthetic, recreational, and economic values of a state;

(4) Wildlife resources are valuable without regard to political boundaries;

therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration statutes, laws, rules, regulations, and ordinances of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife;

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property;

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states;

(7) In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:

(i) Is required to post collateral or a bond to secure an appearance for a trial at a later date;

(ii) Is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for an immediate appearance;

(8) The purpose of the enforcement practices set forth in paragraph (7) of this subsection is to ensure compliance with the terms of a wildlife citation by the cited person who, if allowed to continue on the person's way after receiving the citation, could return to the person's home state and disregard any duty under the terms of the citation;

(9) In most instances, a person receiving a wildlife citation in the person's home state is allowed to accept the citation from the officer at the scene of the violation and immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation;

(10) The practices described in paragraph (7) of this subsection cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and thus is compelled to remain in custody until some alternative arrangement is made; and

(11) The enforcement practices described in paragraph (7) of this subsection consume an undue amount of law enforcement time.

(b) It is the policy of the participating states to:

(1) Promote compliance with the statutes, laws, regulations, rules, and ordinances relating to management of wildlife resources in their respective states;

(2) Recognize the suspension of wildlife license privileges of a person whose license privileges have been suspended by a participating state and treat that suspension as if it had occurred in their state;

(3) Allow a violator, except as provided in Article III, subsection (b) of this Compact, to accept a wildlife citation and, without delay, proceed on the person's way, regardless of the violator's home state, if that state is a party to this Compact;

(4) Report to the appropriate participating state, as provided in the Compact manual, a conviction recorded against a person whose home state was not the issuing state;

(5) Allow the home state to recognize and treat convictions recorded against its residents that occurred in a participating state as though they had occurred in the home state;

(6) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state;

(7) Maximize effective use of law enforcement personnel and information; and

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this Compact is to:

(1) Provide a means through which participating states may join in a reciprocal program to effectuate the policies enumerated in subsection (b) of this article in a uniform and orderly manner; and

(2) Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of violators' rights to due process and the sovereign status of a participating state.

ARTICLE II
Definitions

As used in this Compact, unless the context requires otherwise, the following words have the meanings indicated:

(a) "Citation" means a summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other law enforcement officer for a wildlife violation that contains an order requiring the person to respond.

(b) "Collateral" means cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other law enforcement officer of a citation for a wildlife violation.

(c) "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.

(d) (1) "Conviction" means a conviction, including a court conviction, for an offense related to the preservation, protection, management, or restoration of wildlife that is prohibited by state statute, law, regulation, rule, or ordinance.

(2) "Conviction" includes the forfeiture of bail, bond, or other security deposited to secure the appearance of a person charged with having committed the offense, the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(e) (1) "Court" means a court of law.

(2) "Court" includes a magistrate's court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the participating state that issues a wildlife citation to the violator.

(h) "License" means a license, permit, or other public document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, rule, or ordinance of a participating state.

(i) "Licensing authority" means the governmental unit in each participating state that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) "Participating state" means a state that enacts legislation to become a member of this wildlife Compact.

(k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of the citation.

(l) "State" means a state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(m) "Suspension" means a revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by a license.

(n) "Terms of the citation" means the conditions and options expressly stated in the citation.

(o) "Wildlife" means all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, that are defined as "wildlife" and are protected or otherwise regulated by statute, law, rule, regulation, or ordinance in a participating state. Species included in the definition of "wildlife" vary from state to state. The determination of whether a species is "wildlife"

for the purposes of this Compact shall be based on the law of the issuing state.

(p) "Wildlife law" means a statute, law, regulation, rule, or ordinance developed and enacted for the management of and uses of wildlife resources.

(q) "Wildlife officer" means an individual who is authorized by a participating state to issue a citation for a wildlife violation.

(r) "Wildlife violation" means a cited violation of a statute, law, regulation, rule, or ordinance developed and enacted for the management and uses of wildlife resources.

ARTICLE III

Procedures for Issuing State

(a) When issuing a citation for a wildlife violation, if the wildlife officer receives the recognizance of the person that the person will comply with the terms of the citation, a wildlife officer:

(1) Shall issue a citation to a person whose primary residence is in a participating state in the same manner as to a person residing in the issuing state; and

(2) May not require the person to post collateral to secure appearance, subject to the exceptions noted in subsection (b) of this article.

(b) Personal recognizance is acceptable:

(1) If not prohibited by local law or the Compact manual; and

(2) If the violator provides adequate proof of identification, including an identification document that contains the person's picture, to the wildlife officer.

(c) (1) On conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state where the wildlife citation was issued.

(2) The report shall:

(i) Be made in accordance with procedures specified by the issuing state; and

(ii) Contain information as specified in the Compact manual as minimum requirements for effective processing by the home state.

(d) On receiving the report of conviction or noncompliance under subsection (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and content prescribed in the Compact manual.

ARTICLE IV

Procedure for Home State

(a) (1) On receiving a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall:

(i) Notify the violator;

(ii) Initiate a suspension action in accordance with the home state's suspension procedures; and

(iii) Suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority.

(2) Due process safeguards shall be accorded to the violator.

(b) On receiving a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall:

(1) Enter the conviction in its records; and

(2) Treat the conviction as though the conviction had occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall:

(1) Maintain a record of actions taken; and

(2) Make reports to issuing states as provided in the Compact manual.

ARTICLE V

Reciprocal Recognition of Suspension

(a) All participating states shall recognize the suspension of license privileges of a person by a participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.

(b) Each participating state shall communicate suspension information to other participating states in a form and content prescribed in the Compact manual.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this Compact, nothing in this Compact may be construed to affect the right of a participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

ARTICLE VII
Board of Compact Administrators

(a) (1) For the purpose of administering the provisions of this Compact and to serve as a governing body for the resolution of all matters relating to the operation of this Compact, a Board of Compact Administrators is established. The Board shall be composed of one representative from each of the participating states to be known as the Compact Administrator.

(2) The Compact Administrator shall be appointed by the head of the licensing authority of each participating state and shall serve and be subject to removal in accordance with the laws of the state that the Compact Administrator represents.

(3) A Compact Administrator may provide for an alternate to discharge the Compact Administrator's duties and perform the Compact Administrator's functions as a Board member. An alternate may not be entitled to serve unless written notification of the alternate's identity has been given to the Board.

(b) Each member of the Board of Compact Administrators shall be entitled to one vote. An action of the Board may not be binding unless taken at a meeting at which a majority of the total number of the Board's votes are cast in favor of the action. Action by the Board may be taken only at a meeting at which a majority of the participating states are represented.

(c) The Board shall elect annually from its membership a chairman and vice chairman.

(d) The Board shall adopt bylaws not inconsistent with the provisions of this Compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The Board may accept for any of its purposes and functions under this Compact any and all donations and grants of moneys, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental unit, and may receive, utilize, and dispose of those grants and donations.

(f) The Board may contract with, or accept services or personnel from, any governmental or intergovernmental unit, individual, firm, or corporation, or any private not-for-profit organization or institution.

(g) The Board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this Compact. All procedures and forms adopted in accordance with Board action shall be contained in a Compact manual.

ARTICLE VIII
Entry into Compact and Withdrawal

(a) This Compact shall become effective when it is adopted in a substantially

similar form by two or more states.

(b) (1) Entry into the Compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairman of the Board.

(2) The resolution shall substantially be in the form and content as provided in the Compact manual and shall include the following:

(i) A citation of the authority from which the state is empowered to become a party to this Compact;

(ii) An agreement of compliance with the terms and provisions of this Compact; and

(iii) An agreement that Compact entry is with all states participating in the Compact and with all additional states that legally become parties to the Compact.

(3) The effective date of entry shall be specified by the applying state but shall not be less than 60 days after notice has been given:

(i) By the chairman of the Board of Compact Administrators; or

(ii) By the secretariat of the board of each participating state that the resolution from the applying state has been received.

(c) (1) A participating state may withdraw from this Compact by official written notice to each participating state, but the withdrawal may not become effective until 90 days after the notice of withdrawal is given.

(2) The notice shall be directed to the Compact Administrator of each member state.

(3) A withdrawal of any state may not affect the validity of this Compact as to the remaining participating states.

ARTICLE IX

Amendments to the Compact

(a) This Compact may be amended from time to time. Each proposed amendment shall be presented in resolution form to the chairman of the Board of Compact Administrators and shall be initiated by one or more participating states.

(b) Adoption of an amendment shall require endorsement by all participating states and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a participating state to respond to the Compact chairman within 120 days after receipt of a proposed amendment shall constitute endorsement of the

proposed amendment.

ARTICLE X
Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes stated in the Compact. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of a participating state or of the United States, or its applicability to any government, unit, individual, or circumstance is held invalid, the validity of the remainder of this Compact may not be affected by that invalidity. If this Compact shall be held contrary to the constitution of a participating state, the Compact shall remain in full force and effect as to the remaining states and in full force and effect as to the affected participating state as to all severable matters.

ARTICLE XI
Title

This Compact shall be known as the "Interstate Wildlife Violator Compact".

§10–1202.

When the Governor has executed the Compact under this subtitle, and has filed a verified copy of the Compact with the Secretary of State, and when one or more other states have ratified the Compact, then the Compact shall operate and take effect between this State and the other ratifying states. The Governor may take all actions necessary to complete the exchange of documents between this State and any other state that ratifies the Compact.

§10–1203.

The Compact Administrator representing this State, as provided in Article VII of the Compact:

(1) Is not entitled to additional compensation for performing duties or responsibilities under the Compact; but

(2) May be reimbursed for reasonable expenses actually incurred in connection with those duties and responsibilities in accordance with the State budget.