

LA11
Department of Agriculture – Capital

Capital Budget Summary

State-owned Capital Improvement Program
(\$ in Millions)

Projects	Prior Auth.	2017 Request	2018 Est.	2019 Est.	2020 Est.	2021 Est.	Beyond CIP
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Salisbury Animal Health Laboratory Replacement	\$0.000	\$0.750	\$8.464	\$7.937	\$0.000	\$0.000	\$0.000
Total	\$0.000	\$0.750	\$8.464	\$7.937	\$0.000	\$0.000	\$0.000

Fund Source	Prior Auth.	2017 Request	2018 Est.	2019 Est.	2020 Est.	2021 Est.	Beyond CIP
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GO Bonds	\$0.000	\$0.750	\$8.464	\$7.937	\$0.000	\$0.000	\$0.000
Total	\$0.000	\$0.750	\$8.464	\$7.937	\$0.000	\$0.000	\$0.000

GO: general obligation

Grant and Loan Capital Improvement Program
 (\$ in Millions)

Program	2015 Approp.	2016 Approp.	2017 Request	2018 Estimate	2019 Estimate	2020 Estimate	2021 Estimate
Maryland Agricultural Land Preservation Program ¹	\$19.391	\$20.545	\$21.228	\$26.658	\$41.568	\$42.944	\$44.260
Tobacco Transition Program	2.216	0.868	1.000	1.000	0.000	0.000	0.000
Maryland Agricultural Cost-Share Program	6.190	2.000	6.000	6.000	6.000	6.000	6.000
Total	\$27.797	\$23.413	\$28.228	\$33.658	\$47.568	\$48.944	\$50.260

Fund Source	2015 Approp.	2016 Approp.	2017 Request	2018 Estimate	2019 Estimate	2020 Estimate	2021 Estimate
PAYGO SF	\$6.419	\$4.368	\$22.228	\$27.658	\$41.568	\$42.944	\$44.260
GO Bonds	21.378	2.000	6.000	6.000	6.000	6.000	6.000
Bond Premiums	0.000	17.045	0.000	0.000	0.000	0.000	0.000
Total	\$27.797	\$23.413	\$28.228	\$33.658	\$47.568	\$48.944	\$50.260

GO: general obligation
 PAYGO: pay-as-you-go
 SF: special funds

¹ The fiscal 2015 appropriation includes \$15.2 million in a prior year replacement GO bond authorization and a revised special fund appropriation based on the actual local participation funding level. The fiscal 2016 appropriation includes \$17.0 million in bond premium funding and a revised special fund appropriation based on the estimated local participation funding level. The fiscal 2017 appropriation includes \$3.5 million in a special fund appropriation contingent upon HB 462 and SB 383 authorizing this amount of funding to be allocated, since under the Governor’s proposed budget, these funds are available for program use.

Summary of Issues

Maryland Agricultural Cost-Share Program Funding Supplemented to Handle Phosphorus Management Tool Regulations: The phosphorus management tool regulations, which went into effect on June 8, 2015, impacts the demand for Maryland Agricultural Cost-Share (MACS) funding. However, it appears that the more appropriate form of funding may be through the Maryland Department of Agriculture (MDA) Manure Transport Program. In addition, the Regional Conservation Partnership Program will provide Maryland and Delaware \$4.5 million in cost-share funding primarily for animal-related best management practices, including animal waste storage, stream fencing, heavy use areas, and barnyard runoff. As a result, there appear to be additional resources for handling the costs of the phosphorus management tool, thus defraying the need for MACS funding. **The Department of Legislative Services (DLS) recommends that MDA comment on how it will help farmers meet phosphorus management tool requirements based on the available funding and on whether there are gaps in terms of what is needed.**

Food Hub Plans Still Vague: The Agricultural Business Park and Food Innovation Center is a proposal to create a central, multipurpose facility for food processing and distribution, new farmer incubation, meat and seafood processing, warehouse space, and other identified needs for making agriculture more profitable in Southern Maryland. The Southern Maryland Agricultural Development Commission (SMADC) has noted that it was planning on using fiscal 2016 funding for the project and now indicates that fiscal 2017 funding may be used for this purpose, although hurdles remain for the selection of an actual site on which to develop the center. **DLS recommends that SMADC comment on the status of the Agricultural Business Park and Food Innovation Center, the process of development of a final business plan, the possibility of using the Southern Maryland Regional Farmers' Market, and on whether any fiscal 2016 or 2017 State funding in either its operating or pay-as-you-go (PAYGO) capital budgets will be used to support the development of the proposed center.**

Summary of Updates

Maryland Agricultural Land Preservation Program Repeat Audit Finding Status: The total number of unresolved easement violations has decreased from 465 as of January 2015, to 232 as of January 2016. The biggest change is a reduction of 233 violations of soil conservation and water quality plans. MDA notes that a new policy to enforce potential easement violations was approved by the Maryland Agricultural Land Preservation Foundation (MALPF) Board of Trustees on May 26, 2015. Following this approval, MALPF worked with the Office of Resource Conservation to have local soil conservation offices process the soil conservation and water quality plans and/or updates. As a result, the number of violations has decreased by approximately 50%.

Summary of Recommended PAYGO Actions

1. Concur with the Governor’s allowance of \$21,227,744 in special funds for the Maryland Agricultural Land Preservation Foundation.
2. Concur with Governor’s allowance of \$1,000,000 in special funds for the Tobacco Transition Program.

Summary of Recommended Bond Actions

1. Salisbury Animal Health Laboratory Replacement

Approve the \$750,000 general obligation bond authorization for the Salisbury Animal Health Laboratory Replacement project.

2. Maryland Agricultural Cost-Share Program

Approve the \$6,000,000 general obligation bond authorization for the Maryland Agricultural Cost-Share Program.

Program Description

The MDA capital program is comprised of the Maryland Agricultural Land Preservation Program (MALPP), the Tobacco Transition Program, and the MACS program. In addition, the 2016 *Capital Improvement Program* (CIP) includes funding for the proposed Salisbury Animal Health Laboratory Replacement project, which is a State-owned facility. The programs fit under MDA’s goals to preserve adequate amounts of productive agricultural land and woodland in Maryland and provide and promote land stewardship. Descriptions of the three programs follow.

- **MALPP** – The General Assembly created MALPP to preserve productive agricultural land and woodland, which provides for the continued production of food and fiber; limit the extent of urban development; and protect agricultural land and woodland as open space. MALPP, with the assistance and cooperation of landowners and local governments, purchases development rights easements as a means of protecting agricultural land and woodland production activities. Chapter 12 of 2014 (MALPP – Value of Easement) modified the maximum price MALPP may pay for an easement. Formerly, the maximum price was the landowner’s asking price or the easement value, whichever is lower. Chapter 12 of 2014 prohibited MALPP from purchasing an easement for more than 75% or less than 25% of the fair market value of the land. MALPP is authorized to purchase an easement for less than 25% of the fair market value of the land only if the owner’s asking price is less than 25% of the fair market value of the land. The easement value is determined by subtracting the agricultural value from the appraised fair market value

of the property. Once the development rights have been sold, the property is perpetually protected from further development, with certain rights available only to the owners who originally sold the easement.

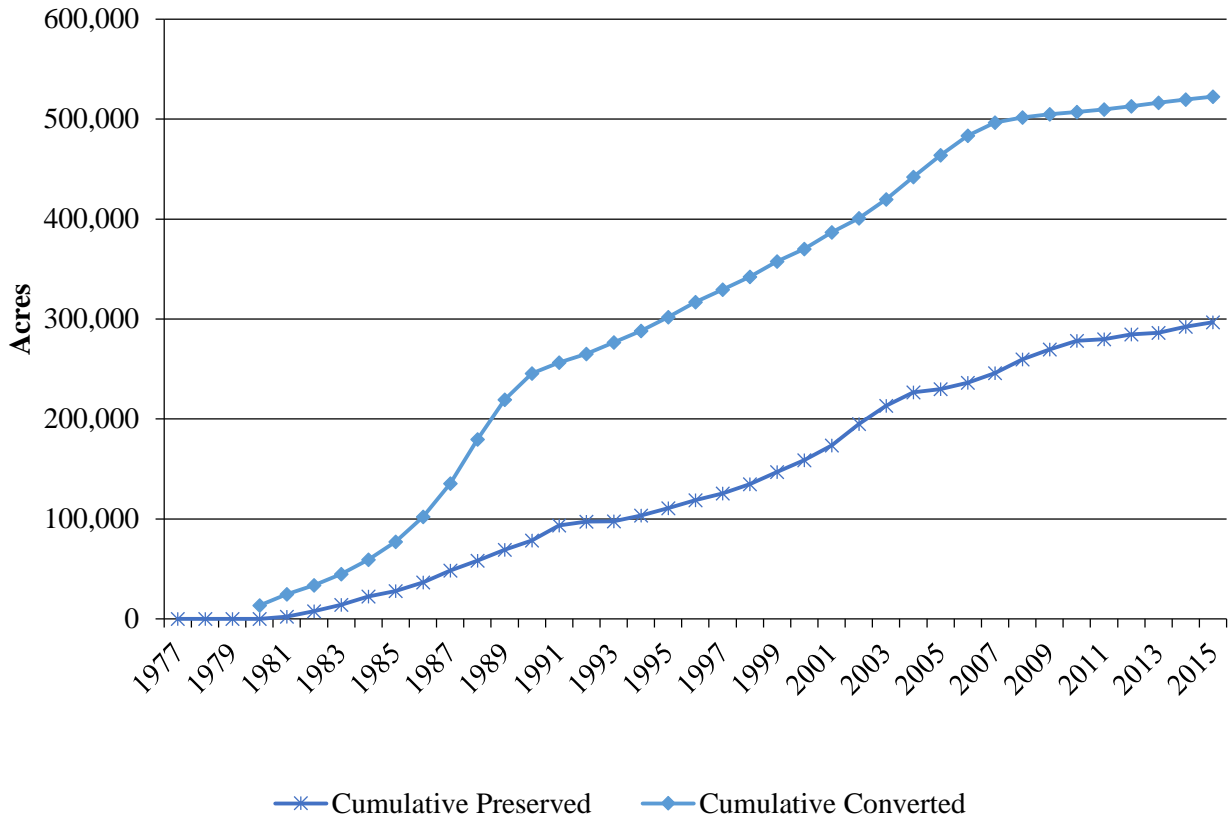
- **Tobacco Transition Program** – In 1999, the General Assembly created the Cigarette Restitution Fund (CRF). Under the legislation, one purpose of the CRF is to fund the implementation of the Southern Maryland Regional Strategy Action Plan for Agriculture adopted by the Tri-County Council (TCC) for Southern Maryland with an emphasis on alternative crop uses for agricultural land used for growing tobacco. Funds are appropriated to MDA, which then issues grants to TCC. TCC is a nonprofit, quasi-governmental body that works with SMADC to develop programs to stabilize the region’s agricultural economy as Maryland growers transition away from tobacco production. TCC’s Strategy Action Plan has three main components: the tobacco buyout (first priority), agricultural land preservation (second priority), and infrastructure/agricultural development (third priority). Final tobacco buyout funding was budgeted for fiscal 2014, and the 2016 CIP reflects final agricultural land preservation funding in fiscal 2018.
- **MACS Program** – The MACS program provides financial assistance to Maryland farmers for installing 1 or more of 30 nationally recognized best management practices (BMP) that reduce soil and nutrient runoff from farmland. The program requires a minimum 12.5% cost-share match from grantees. Animal waste treatment and containment projects are funded up to \$200,000 per project, with a maximum of \$300,000 per farm for all animal waste management practices and up to \$450,000 per farm when combined with other BMPs, and up to \$200,000 per project under a pooling agreement to solve a pollution problem on two or more farms. All other BMPs are funded up to \$50,000 per project, with a maximum of \$150,000 per farm per person, and up to \$100,000 per project under a pooling agreement to solve a pollution problem on two or more farms.

Performance Measures and Outputs

Maryland Agricultural Land Preservation Program

Agricultural land is desirable for conversion to other uses, such as residential development. The MALPP is one tool for keeping farmland in agriculture, as is the agricultural use assessment for taxation purposes. **Exhibit 1** reflects the cumulative agricultural land preserved by the MALPP versus the agricultural land converted from fiscal 1977 to 2015. During this time period, the amount of cumulative agricultural land converted has exceeded the cumulative amount conserved. **Exhibit 2** shows that, with the exception of fiscal 1991 and 2002, there was a net decrease in the annual amount of farmland preserved between fiscal 1980 and 2007. Between fiscal 2008 and 2010, there were annual net increases in farmland preserved. Since fiscal 2010, there has been no real trend, although fiscal 2015 does reflect an increase in net annual acres preserved.

Exhibit 1
Cumulative Agricultural Land Preserved by MALPP versus Converted
Fiscal 1977-2015

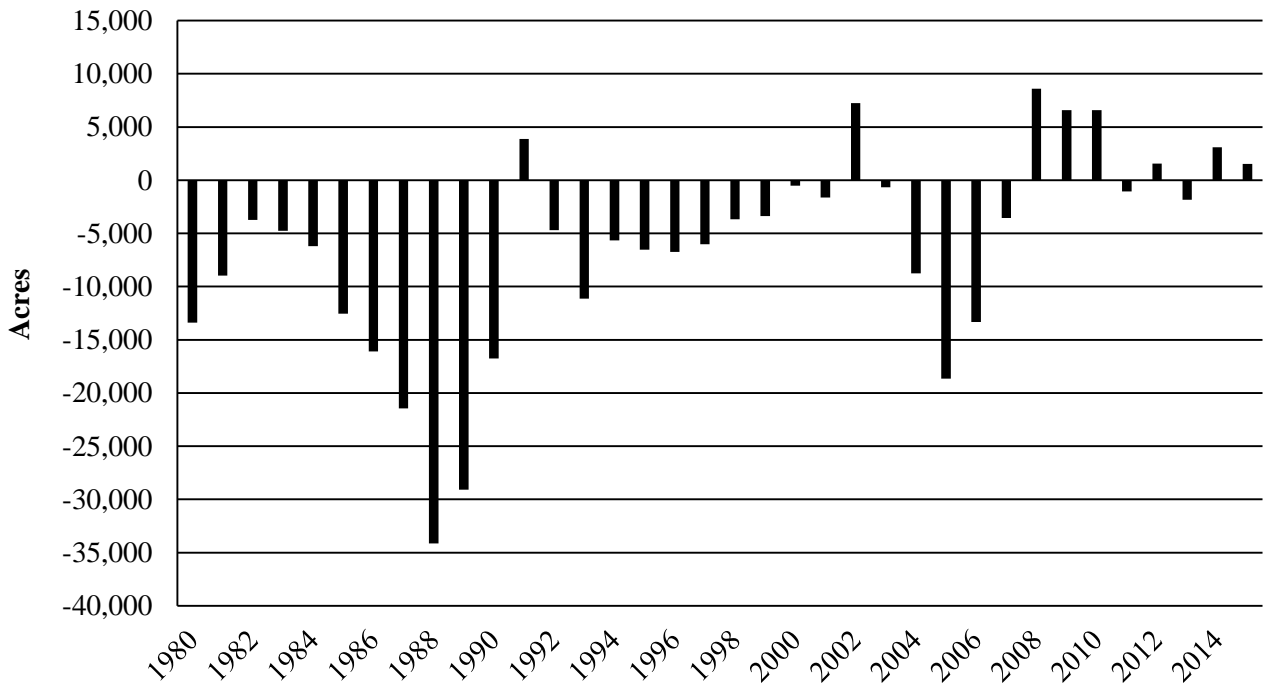


MALPP: Maryland Agricultural Land Preservation Program

Note: Includes easements under the Maryland Agricultural Land Preservation Foundation and the now defunct GreenPrint Program. State records do not exist for agricultural land converted before fiscal 1980.

Source: Maryland Department of Agriculture; Department of Legislative Services

**Exhibit 2
Net Difference in Annual Farmland Preserved and Converted
Fiscal 1980-2015**



Source: Maryland Department of Agriculture; Department of Legislative Services

Senate Joint Resolution 10 of 2002 established a statewide land preservation goal to triple (1,030,000 acres) the number of acres of productive agricultural land preserved by MALPF, GreenPrint, the Rural Legacy Program, and local preservation programs by the year 2022. As of December 2015, a total of 612,121 acres have been preserved; thus, an additional 417,879 acres need to be preserved by fiscal 2022, or 59,697 acres annually, which does not compare well to the 13,180 acres that were preserved on average between fiscal 2008 and 2015. MDA notes that through fiscal 2015, it has conserved 296,682 acres as its contribution to the statewide goal and agrees that it is unclear how the goal will be met.

Tobacco Transition Program

The Tobacco Transition Program’s performance measure is the amount of agricultural land preserved. The 10-year agricultural land preservation goal established in fiscal 2001 for the Tobacco Transition Program was to protect 35,000 acres. SMADC notes that its 10-year Strategic Plan was updated in fiscal 2012 to reflect a new goal of preserving an additional 30,000 acres by fiscal 2020,

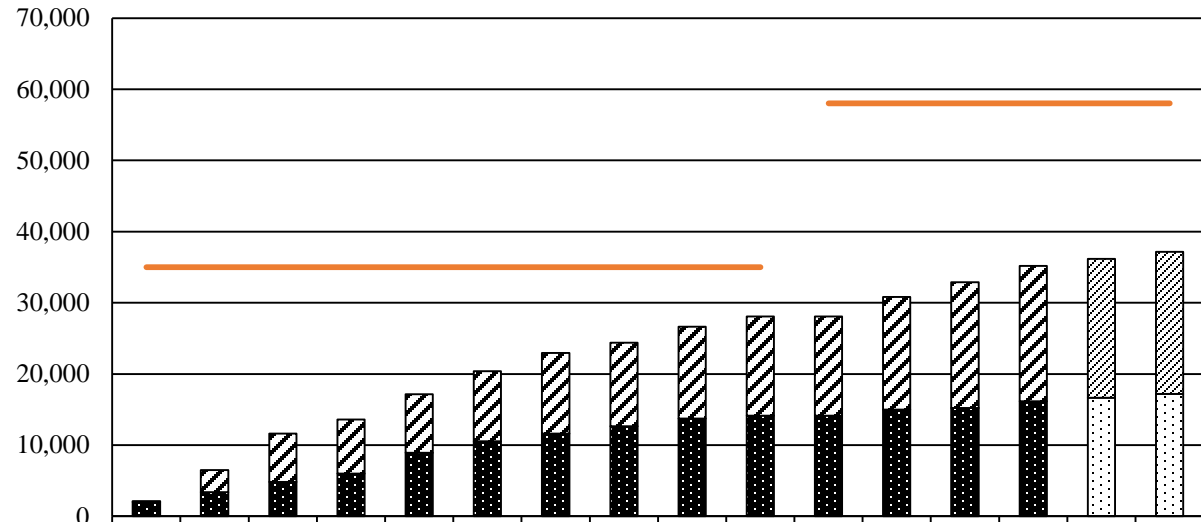
relative to the approximately 28,000 acres preserved up to that point, pending the availability of funding. This acreage preservation goal reflects acres preserved with State funding as well acreage preserved with local funding. SMADC indicates that as of fiscal 2015, 306 farms and 35,174 acres have been preserved using State funding and funding from counties over the 14 years of the program. SMADC's fiscal 2016 goal is to preserve an estimated cumulative total of 314 farms on an estimated 36,174 cumulative acres, and its fiscal 2017 goal is to preserve an estimated cumulative total of 324 farms on 37,174 acres. **Exhibit 3** shows the history of agricultural land preservation.

Maryland Agricultural Cost-Share Program

MDA's Resource Conservation Grants program has the goal of controlling and reducing agriculturally related water pollution through the implementation of BMPs. MDA has implemented a tracking system that reflects both BMPs installed with State funding and federal financial assistance through the U.S. Environmental Protection Agency's Chesapeake Bay Implementation Grant and processed through MACS. In contrast, BMPs funded by U.S. Department of Agriculture are not tracked. MDA has noted that it backfills funding with federal cost-share dollars when federal funding is available. Outside of the State budgeting process, the 2014 Farm Bill authorized the Regional Conservation Partnership Program through the U.S. Department of Agriculture's Natural Resources Conservation Service. On February 12, 2016, it was announced that the overall Regional Conservation Partnership Program funding for federal fiscal 2016 is \$220.0 million, which is to be invested in 84 projects across the nation. Maryland has partnered with Delaware in a regional contract to receive \$4.5 million in cost-share funding primarily for animal-related BMPs, including animal waste storage, stream fencing, heavy use areas, and barnyard runoff.

Exhibit 4 reflects the new BMPs installed by MACS between fiscal 2005 and 2016; no additional information was provided for the fiscal 2017 estimate. As can be seen, the majority of BMPs are installed with State funds, and the combined State and federal projects have reduced between 100,000 and 175,000 pounds of nitrogen pollution per year. In terms of the maintenance of BMPs, MDA has indicated in the past that it inspects 10% of all contracts every year and that in a recent three-year period, it conducted over 500 inspections annually. Unsatisfactory reviews occur in approximately 10% of its inspections. Common reasons for unsatisfactory reviews include the lack of maintenance of BMPs or the lack of transfer of responsibility when ownership changes. Since property transfers make up 50% of the unsatisfactory reviews, MDA has instituted a policy whereby BMPs, for which the State cost share is \$5,000 or greater, are recorded as a lien on the property. If maintenance issues are not resolved within a certain period of time, then MDA may require payback of the State share. MDA noted in last year's analysis that it is beginning to see a decline in unsatisfactory status inspections due to property transfers.

Exhibit 3
Tobacco Transition Program and Leveraged Agricultural Land Preservation
Fiscal 2002-2017 Est.

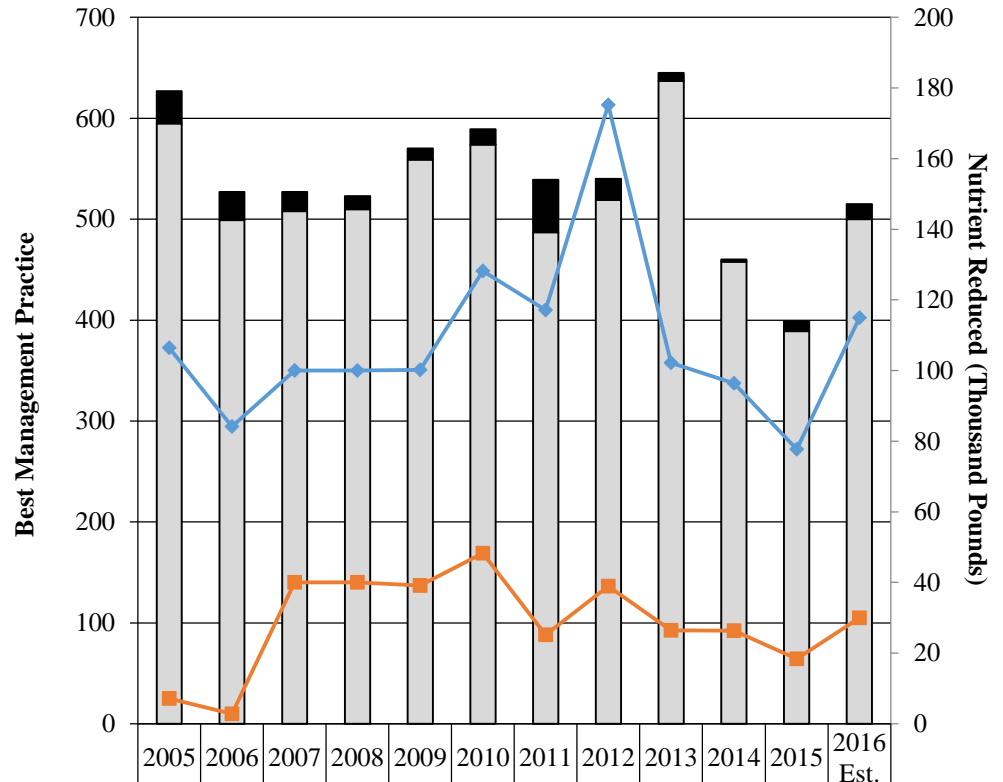


	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016 Est.	2017 Est.
Cumulative Leveraged Acres Preserved	110	3,119	6,794	7,591	8,226	9,850	11,338	11,761	12,922	13,915	13,915	15,806	17,709	18,998	19,498	19,998
Cumulative Tobacco Transition Program Acres Preserved	1,999	3,368	4,822	6,002	8,940	10,520	11,608	12,632	13,716	14,145	14,145	15,012	15,194	16,176	16,676	17,176
Acreage Goal	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	35,000	58,000	58,000	58,000	58,000	58,000	58,000
Cumulative Farms Preserved	16	49	73	92	125	164	190	203	221	237	237	263	284	306	314	324

Note: No funding was provided in fiscal 2012. The 1,000 acre estimate for fiscal 2016 and 2017 is divided equally between the Tobacco Transition Program and leveraged acres purchased.

Source: Maryland Department of Agriculture

**Exhibit 4
MACS New Best Management Practices Installed
Fiscal 2005-2016 Est.**



Federal (EPA grant) Funded BMPs	32	28	19	13	11	15	52	21	8	2	10	15
State-funded BMPs	595	499	508	510	559	574	487	519	637	458	389	500
Reduction in Nitrogen for New BMPs Installed (Thousand Pounds)	106.5	84.2	100.0	100.0	100.2	128.2	117.2	175.2	102.2	96.4	77.8	115.0
Reduction in Phosphorus for New BMPs Installed (Thousand Pounds)	7.2	2.8	40.0	40.0	39.2	48.3	25.2	39.0	26.4	26.4	18.4	30.0

BMP: best management practice
 EPA: Environmental Protection Agency
 MACS: Maryland Agricultural Cost-Share Program

Source: Maryland Department of Agriculture

Budget Overview

Fiscal 2017 Budget

The fiscal 2017 allowance includes \$22.2 million in special funds and \$6.0 million in general obligation (GO) bonds, which includes the \$3.5 million appropriation in special funds that are contingent on HB 462 and SB 383 (State Transfer Tax – Distribution of Revenue) authorizing this amount of funding to be allocated since, under the Governor’s proposed budget, these funds are available for program use.

Fiscal 2017 and 2018 Transfer Modification

The fiscal 2017 budget plan includes the modification of transfer tax transfers to the General Fund that were originally authorized by Chapter 425 of 2013. The proposed modification is reflected in HB 462 and SB 383, which are introduced in the 2016 session. In conjunction, the bills and the fiscal 2017 operating budget bill accomplish the following:

- reducing the fiscal 2017 authorized transfer by \$20.0 million from \$82.8 million to \$62.8 million, and the fiscal 2018 transfer by \$40.0 million from \$86.0 million to \$46.0 million;
- repurposing the \$20.0 million in fiscal 2017 for PAYGO capital programs contingent on the legislation authorizing the appropriations; and
- appropriating contingently in fiscal 2017 as follows:
 - Program Open Space – State Acquisition (Capital Development) – \$2,638,000;
 - Program Open Space – Eager Park Grant – \$4,000,000;
 - Program Open Space – Local – \$5,000,000;
 - Rural Legacy Program – \$4,862,000; and
 - Maryland Agricultural Land Preservation Foundation – \$3,500,000.

Exhibit 5 shows the fiscal 2017 allocation with the enhancement, and **Exhibit 6** shows the fiscal 2018 proposed allocation with the enhancement. The proposed program reductions under the full transfers authorized by Chapter 425 were implemented based on the reduction of roughly half of the capital program distributions instead of by reducing the revenue that would flow through the transfer tax formula and thus affecting all operating and capital programs equally. The enhancement funding is allocated based on the Department of Budget and Management’s estimate of program funding need.

Exhibit 5
Transfer Tax Distribution for Land Preservation Programs
Receiving Enhancements
Fiscal 2017

<u>Program</u>	<u>Statutory Allocation</u>	<u>BRFA of 2013 General Fund Transfer</u>	<u>Allowance Before Enhancement</u>	<u>Enhancement</u>	<u>Allowance</u>
DNR – Land Acquisition and Planning					
Program Open Space – State Share	\$39.0	-\$23.6	\$15.4	\$4.0	\$19.4
Program Open Space – Local Share	39.6	-22.9	16.7	5.0	21.7
Rural Legacy Program	17.0	-9.2	7.8	4.9	12.7
Natural Resources Development Fund	10.1	-7.2	2.9	0.1	3.1
Critical Maintenance Program	6.0	-2.0	4.0	2.0	6.0
Ocean City Beach Maintenance	0.5	-0.5	0.0	0.5	0.5
Maryland Department of Agriculture					
Maryland Agricultural Land Preservation Foundation	30.1	-17.4	12.7	3.5	16.2
Distribution for Programs with Enhancements	\$142.3	-\$82.8	\$59.5	\$20.0	\$79.5

BRFA: Budget Reconciliation and Financing Act

DNR: Department of Natural Resources

Note: The Program Open Space – State share fiscal 2017 \$4,000,000 enhancement is for a grant to the Eager Park project as part of the East Baltimore Development Initiative.

Source: Department of Budget and Management; Department of Legislative Services

Exhibit 6
Transfer Tax Distribution for Land Preservation Programs
Receiving Enhancements
Fiscal 2018

<u>Program</u>	<u>Statutory Allocation</u>	<u>BRFA of 2013 General Fund Transfer</u>	<u>Estimated Allowance Before Enhancement</u>	<u>Enhancement</u>	<u>Estimated Allowance</u>
DNR - Land Acquisition and Planning					
Program Open Space – State Share	\$41.7	-\$24.8	\$17.0	\$3.4	\$20.4
Program Open Space – Local Share	41.7	-23.7	17.9	11.0	28.9
Rural Legacy Program	17.4	-9.4	8.1	9.0	17.1
Natural Resources Development Fund	10.6	-7.6	3.0	5.1	8.1
Critical Maintenance Program	6.0	-2.0	4.0	2.0	6.0
Ocean City Beach Maintenance	1.0	-0.5	0.5	0.5	1.0
Maryland Department of Agriculture					
Maryland Agricultural Land Preservation Foundation	31.7	-18.1	13.7	9.0	22.7
Distribution for Programs with Enhancements	\$150.1	-\$86.0	\$64.1	\$40.0	\$104.1

BRFA: Budget Reconciliation and Financing Act

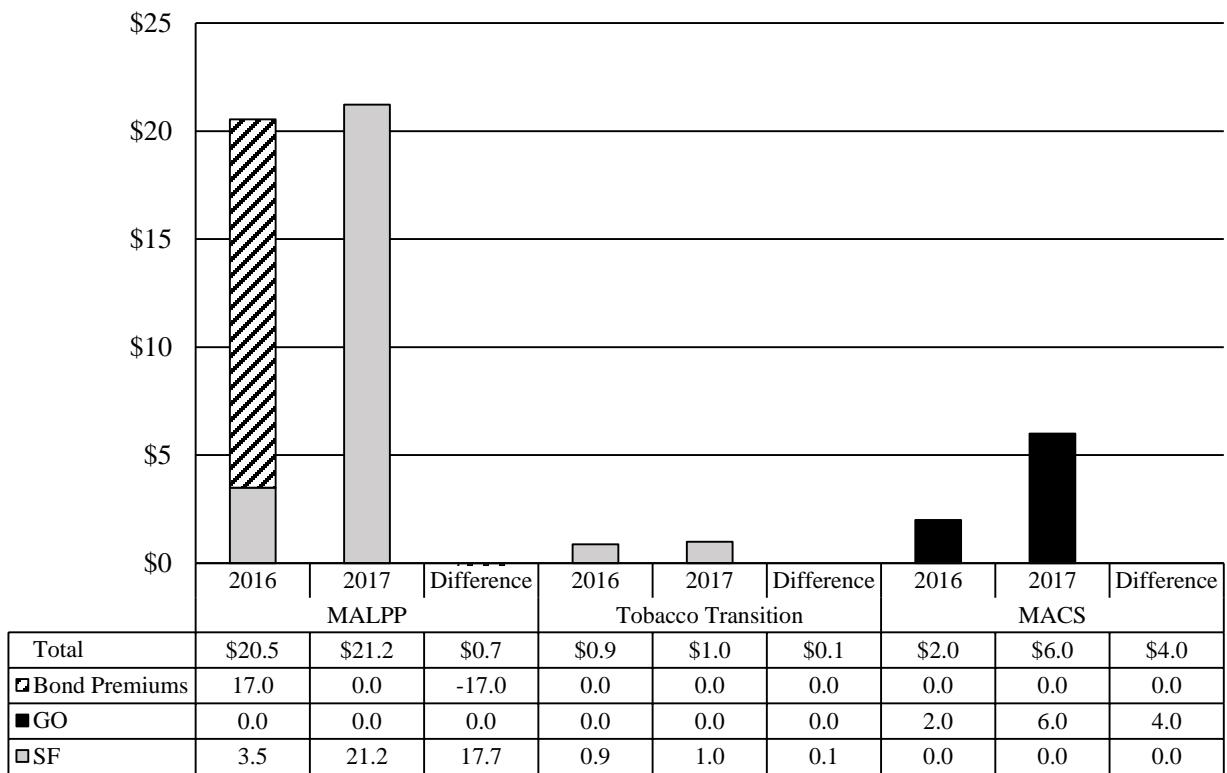
DNR: Department of Natural Resources

Source: Department of Budget and Management; Department of Legislative Services

Funding in the Fiscal 2017 Allowance

Exhibit 7 shows the fiscal 2017 funding for the three programs in the allowance. The figures reflect the inclusion of the contingent appropriation of \$3.5 million for the MALPP in the fiscal 2017 appropriation. The proposed fiscal 2017 funding level is \$4.8 million higher than what was provided in fiscal 2016. This primarily reflects an increase of \$4.0 million in GO bond authorization for MACS.

Exhibit 7
Department of Agriculture Capital Budget Changes by Fund
Fiscal 2016-2017
(\$ in Millions)



GO: general obligation
 MACS: Maryland Agricultural Cost-Share
 MALPP: Maryland Agricultural Land Preservation Program
 SF: special fund

Note: The exhibit includes special funds that are contingent on the enactment of separate legislation providing for \$3.5 million in enhancement funding for MALPP in fiscal 2017. For fiscal 2016, the MALPP special funds reflect local matching funding that is now anticipated to be closer to \$3.5 million.

Source: Department of Legislative Services

Maryland Agricultural Land Preservation Program

MALPF's fiscal 2017 allowance reflects \$21.2 million in special funds, which includes the \$3.5 million enhancement funding. Therefore, the fiscal 2017 funding includes \$12.7 million in transfer tax funding, \$3.5 million in enhancement funding, and \$5.0 million in county participation funding. The estimated cost per acre for MALPF easements is projected to be \$4,200 in fiscal 2017, which is level with fiscal 2016. No federal funding is reflected, which means that there has been no change in the restrictive requirements on the federal Farm and Ranch Lands Protection Program funding.

Of note, the county participation funding in fiscal 2017 reflects a more realistic estimate than has been budgeted in previous years. For instance, in fiscal 2016, \$9.1 million is budgeted while only \$3.5 million is currently anticipated to be available. Over the fiscal 2003 to 2016 time period, local participation has averaged approximately \$8.3 million per year. However, since fiscal 2009, MALPF has instituted two-year easement cycles in order to be able to fund easements in each participating jurisdiction. Since fiscal 2009, the local participation amount has averaged approximately \$5.4 million per year. As noted above, \$5.0 million is budgeted in fiscal 2017, which is in line with the recent six-year average, and reflects the lower amount of agricultural transfer tax counties have collected and used to make commitments.

MALPF notes that the determination of whether a combined cycle will be implemented will not be determined by the MALPF Board of Trustees until after fiscal 2017 funding is determined. This decision will then impact the timing of local funding: a local participation commitment will be determined in April 2016 if a single-year cycle is implemented but will not be determined until May 2017 if a combined fiscal 2017 and 2018 cycle is chosen. MALPF notes that the current combined fiscal 2015 and 2016 cycle was determined by the board in April 2014, and the determination was made to limit the number of applications from each county to eight.

In terms of the MALPF funding plan, MDA estimates that approximately \$38 million is available for the fiscal 2015 and 2016 cycle, and of this amount, approximately \$28 million has gone to the Board of Public Works (BPW), which leaves approximately \$10 million. Of this \$10 million, MALPF anticipates taking approximately \$6 million to BPW in fiscal 2016, which leaves approximately \$4 million that is tied to a particular project, or obligated, but will not be actually encumbered in fiscal 2016. Therefore, there is not anticipated to be any unobligated funding left over from the fiscal 2015 and 2016 easement cycle for fiscal 2017.

Tobacco Transition Program

As in prior years, the CRFs supporting the Tobacco Transition Program are budgeted in both MDA's operating and PAYGO budgets. As shown in **Exhibit 8**, \$5,773,000 in CRF special funds are budgeted as follows: administrative expenses (\$600,000), noncapital grants for infrastructure/agricultural development programs (\$350,000), tobacco bond repayment (\$3,823,000), and agricultural land preservation (\$1,000,000). The overall funding level of \$5,773,000 is lower than

the \$7,039,000 funding level provided in recent years and reflects cost containment actions in recent years.

Exhibit 8
Tobacco Transition Program Funding
Fiscal 2016-2017
(\$ in Thousands)

	Operating Budget			PAYGO Capital Budget		
	<u>Administration</u>	<u>Infrastructure Grants</u>	<u>Bonds Repaid</u>	<u>Buyout Payment</u>	<u>Land Preservation</u>	<u>Total</u>
Fiscal 2016	\$600,000	\$750,000	\$3,823,000	\$0	\$868,000	\$6,041,000
Fiscal 2017	600,000	350,000	3,823,000	0	1,000,000	5,773,000
Difference	\$0	-\$400,000	\$0	\$0	\$132,000	-\$268,000

PAYGO: pay-as-you-go

Note: The Maryland Department of Agriculture provided the \$319,000 final tobacco buyout payment in fiscal 2014.

Source: Department of Budget and Management

Authorization of GO bonds for the Tobacco Transition Program began in fiscal 2004 and ended with the \$5.0 million authorization in fiscal 2010; the funding was authorized by a provision in the Maryland Consolidated Capital Bond Loan of 2006, which altered the use of GO bonds for the tobacco buyout funding plan that were originally laid out in Chapter 103 of 2001. The payment schedule is \$1.8 million in fiscal 2011, \$3.3 million from fiscal 2012 through 2015, and payments of \$3.8 million from fiscal 2016 to 2018 to round out the \$26.6 million required payment. Of note, the 2016 CIP reflects final PAYGO capital funding in fiscal 2018, which is coincident with the end of the bond repayment. **DLS recommends that SMADC comment on the long-term plan for the Tobacco Transition Program’s third priority – infrastructure/agricultural development – given the end of the first two priorities in fiscal 2018.**

Maryland Agricultural Cost-Share Program

The fiscal 2017 allowance for MACS is \$6.0 million. In terms of fiscal 2016 funding that may be available for fiscal 2017, MDA notes that as of January 6, 2016, \$12.6 million is unspent bond balance, of which \$11.7 million has been encumbered. This leaves a working balance of \$0.9 million in bond balance plus to which is added \$0.2 million in anticipated reversions plus \$1.2 million in Chesapeake and Atlantic Coastal Bays 2010 Trust Fund funding for handling nutrient management requirements. Therefore, there is approximately \$2.3 million in available working balance for fiscal 2016, some portion of which could possibly roll over into fiscal 2017.

Salisbury Animal Health Laboratory Replacement

The fiscal 2017 allowance includes \$750,000 in GO bonds for planning the proposed 18,536 square foot Salisbury Animal Health Laboratory replacement project. The Department of Budget and Management advises that the Part 1 program plan for the project is under review and that approval should be forthcoming prior to the start of the fiscal year. The Salisbury Animal Health Laboratory conducts tests that ensure the safety of the food supply and the economic viability of animal industries throughout the Delmarva Peninsula by, among other activities, providing diagnostic and investigatory services that identify and contain animal health emergencies.

The overall project is estimated to cost \$17,151,000 and is staged as shown in **Exhibit 9**. MDA considers the project to have four parts: laboratory, incinerator, necropsy, and storage building. MDA notes that the Animal Health program first requested the project in September 2014, but it appears that this was too late for the project to go through the 2015 CIP process. However, as far back as calendar 2006, a licensed building inspector concluded that the building could not be renovated to meet current laboratory standards.

Exhibit 9 Salisbury Animal Health Laboratory Replacement Authorization Uses (\$ in Millions)

Description	Prior Auth.	2017 Request	2018 Est.	2019 Est.	2020 Est.	2021 Est.	Total
Planning	\$0.000	\$0.750	\$0.626	\$0.000	\$0.000	\$0.000	\$1.376
Construction	0.000	0.000	7.638	7.637	0.000	0.000	15.275
Equipment	0.000	0.000	0.200	0.300	0.000	0.000	0.500
Total	\$0.000	\$0.750	\$8.464	\$7.937	\$0.000	\$0.000	\$17.151

Source: Department of Budget and Management

The primary justifications for the project include the deterioration of the existing infrastructure and the inability to meet current laboratory standards. The existing building has roof, ceiling, wall, and floor failures; mechanical, electrical, plumbing systems that do not meet current requirements; and inadequate space for many laboratory functions. In terms of laboratory standards, the laboratory lacks negative air pressure, and in fact has positive pressure, which means that the existing air system does not minimize the escape of contaminants; and the laboratory lacks biosecurity/safety features to isolate nonpublic areas.

The existing Salisbury Animal Health Laboratory was last accredited two and a half years ago, presumably under the International Standards Organization 17025 standard and will receive accreditation review again in June 2016 for a three-year accreditation period. In the meantime, the International Standards Organization notes on its website that the 17025 standard, which applies to the competence of testing and calibration laboratories, was last reviewed in 2010 and is to be reviewed every five years. MDA notes that the building design will be amenable to updates for technology changes, but that the challenge will be in anticipating technology change in laboratory equipment. **DLS recommends that MDA comment on why the Salisbury Animal Health Laboratory was not identified for replacement until September 2014 when in calendar 2006, a licensed building inspector concluded that the building could not be renovated to meet current laboratory standards.**

Issues

1. Maryland Agricultural Cost-Share Program Funding Supplemented to Handle Phosphorus Management Tool Regulations

The phosphorus management tool regulations, which went into effect on June 8, 2015, impacts the demand for MACS funding. As part of the regulations process, MDA is conducting a two-year on-farm economic analysis to help determine resource needs statewide. MDA also has solicited soil test data to determine the scope of the impact of the phosphorus management tool regulations. The soil test data received on 840,000 acres statewide indicates the following:

- **Not Impacted** – 82.0% of all farmland does not have phosphorous levels high enough to be impacted by the phosphorus management tool;
- **Somewhat Impacted** – 16.9% of farmland in Maryland is impacted but is allowed to use phosphorus on fields up to the amount that crops can remove; and
- **Fully Impacted** – 1.1% of farmland in Maryland is banned from receiving additional phosphorus applications.

This would appear to reflect the need for MACS funding on at least the 1.1% of farmland banned from receiving additional phosphorus applications. However, it appears that the more appropriate form of funding may be through MDA's Manure Transport Program, which actually moves phosphorus-laden manure away from fully impacted farms, rather than MACS funding, which would only provide funding for temporary waste management structures that would not address the underlying saturation of the soil by phosphorus.

The Manure Transport Program has given priority for cost-share grants to poultry, dairy, beef, and other animal producers with high soil phosphorus levels. These producers include those with high soil phosphorus as well as inadequate land to spread manure. Both groups are eligible for up to \$20 per

ton to transport the manure to other farms or alternative facilities for safe use. In addition, as noted previously, the Regional Conservation Partnership Program will provide Maryland and Delaware \$4.5 million in cost-share funding primarily for animal-related best management practices, including animal waste storage, stream fencing, heavy use areas, and barnyard runoff. As a result, there appear to be additional resources for handling the costs of the phosphorus management tool, thus defraying the need for MACS funding. **DLS recommends that MDA comment on how it will help farmers meet phosphorus management tool requirements based on the available funding and on whether there are gaps in terms of what is needed.**

2. Food Hub Plans Still Vague

The Agricultural Business Park and Food Innovation Center is a proposal to create a central, multipurpose facility for food processing and distribution, new farmer incubation, meat and seafood processing, warehouse space, and other identified needs for making agriculture more profitable in Southern Maryland. SMADC has noted that it was planning on using fiscal 2016 funds for the project and now indicates that fiscal 2017 funding may be used for this purpose, although hurdles remain for the selection of an actual site on which to develop the center.

SMADC notes that ideally it would develop a site or series of sites centrally located in Southern Maryland – defined as Anne Arundel, Calvert, Charles, Prince George’s, and St. Mary’s counties – that can house private and/or public partnerships to provide for a number of agriculture-related activities to be phased in over time. SMADC also notes that a preliminary business plan has been developed, with final cost estimates to be dependent on the final site selected. Community surveys and public meetings in calendar 2015 identified the following agricultural needs in prioritized order:

- **Meat Processing Facility** – a regional meat processing facility with retail front;
- **Food Innovation Center** – a food innovation center to create value-added products like salsas, jams, pies, and other products from local farm foods;
- **Distribution Hub** – a distribution hub to efficiently warehouse and distribute food from local farms to wholesale and retail buyers;
- **New Farmer Incubation** – land for new farmer incubation;
- **Farmers’ Market** – a year-round indoor farmers’ market/store, café/deli, and/or outdoor farmers’ market; and
- **Warehouse Space** – warehouse space for local food and food products.

Chapter 207 of 2015 (TCC for Southern Maryland – Financing Purchase or Lease of Property by Other Entities) authorized the TCC for Southern Maryland to use any money available to it to finance the purchase or lease of property only by (1) one or more specified Southern Maryland counties; (2) the

Maryland Food Center Authority; or (3) another entity, as determined by the council, that is authorized to finance or purchase property. The legislation also authorized the council to finance the purchase or lease of property by any combination of Anne Arundel, Calvert, Charles, Prince George's, and St. Mary's counties and specified that if the council determines that money should be used for these purposes, in accordance with State procurement law, the council must request and evaluate proposals and then make a selection. The council may lease office space for its own use; otherwise the council is prohibited from owning or leasing property.

Chapter 207 supports the ability of SMADC to create an Agricultural Business Park and Food Innovation Center. However, there appear to have been additional complications related to the requirement that any property transaction be in accordance with State procurement law. A possible solution to the problems identified in the site selection process lies in the possible use of the Southern Maryland Regional Farmers' Market (Cheltenham Market), which is located in the former State Tobacco Warehouse. **DLS recommends that SMADC comment on the status of the Agricultural Business Park and Food Innovation Center, the process of development of a final business plan, the possibility of using the Southern Maryland Regional Farmers' Market, and on whether any fiscal 2016 or 2017 State funding in either its operating or PAYGO capital budgets will be used to support the development of the proposed center.**

Updates

1. Maryland Agricultural Land Preservation Program Repeat Audit Finding Status

The MALPP is audited annually by the Office of Legislative Audits. Although, HB 84 and SB 116 (State Government – Office of Legislative Audits – Alterations in Audit Requirements) have been introduced in the 2016 legislative session to modify the requirement to audit MALPP annually such that the MALPP is only subject to audit by the legislative auditor.

The most recent audit came out on April 27, 2015, and covers the period beginning July 1, 2013, and ending June 30, 2014. The MALPP had one finding, which is a repeat of the previous audit finding. The audit found that MALPF did not have a comprehensive policy for timely investigation of easement violations and did not ensure that all noted easement violations were resolved in a timely manner. In previous audits, easement violations were noted as an improper dwelling on the property, a subdivision problem, or debris issues. The most recent audit found that there were 496 unresolved violations identified prior to June 30, 2014, and that of these 496 unresolved violations, 93 were considered to be of relatively high priority (such as illegal subdivisions or dwellings), which had been unresolved for periods of six months to eight years, as of December 2014. In addition, the audit noted that State regulations allow MALPF to impose on landowners civil penalties of \$2,500 per day per violation up to \$50,000, as a result of uncorrected violations. One penalty was imposed during fiscal 2014.

Recommendations from the audit include that MALPF (1) develop a comprehensive policy that includes the appropriate and timely steps to be taken to address easement violations, the documentation

required for follow-up actions, and the criteria for assessing penalties; (2) document periodic reviews of the database and related follow-up actions (repeat recommendation); (3) perform and document appropriate and timely follow-up actions on outstanding easement violations consistent with the policy it develops to ensure corrective actions were taken (repeat recommendation); and (4) determine the status of the aforementioned unresolved violations and impose penalties, if deemed appropriate (repeat recommendation).

Recent unresolved violations are reflected in **Exhibit 10**. The total number of unresolved easement violations has decreased from 561 as of January 2015, to 322 as of January 2016. The biggest change is a reduction of 233 violations of soil conservation and water quality plans. MDA notes that a new policy to enforce potential easement violations was approved by the MALPF Board of Trustees on May 26, 2015. Following this approval, MALPF worked with the Office of Resource Conservation to have local soil conservation offices process the soil conservation and water quality plans and/or updates. As a result, the number of violations has decreased by approximately 50%. In contrast, there has been less progress on forest stewardship plans because the backlog to complete a new plan or update an existing plan, either using a contracted forester through the Department of Natural Resources or a private forester, can take a year or more. In addition, county agricultural easement personnel are burdened by the follow-up requirements of remedying the forest stewardship plan violations. Of note, MALPF considers the remaining violations, shown as “other violations” in the exhibit, to be the violations over which it actually has control and of these “other violations” approximately 90% have received an action of some kind in January 2016.

Exhibit 10
MALPF Easement Unresolved Violations
January 2015 to January 2016

<u>Type of Violation</u>	<u>January 2015</u>	<u>January 2016</u>	<u>Difference</u>
Soil Conservation and Water Quality Plan	465	232	-233
Forest Stewardship Plan	41	37	-4
Other Violations			
High Priority	19	19	0
Medium Priority	21	15	-6
Low Priority	15	19	4
Subtotal	55	53	-2
Total	561	322	-239

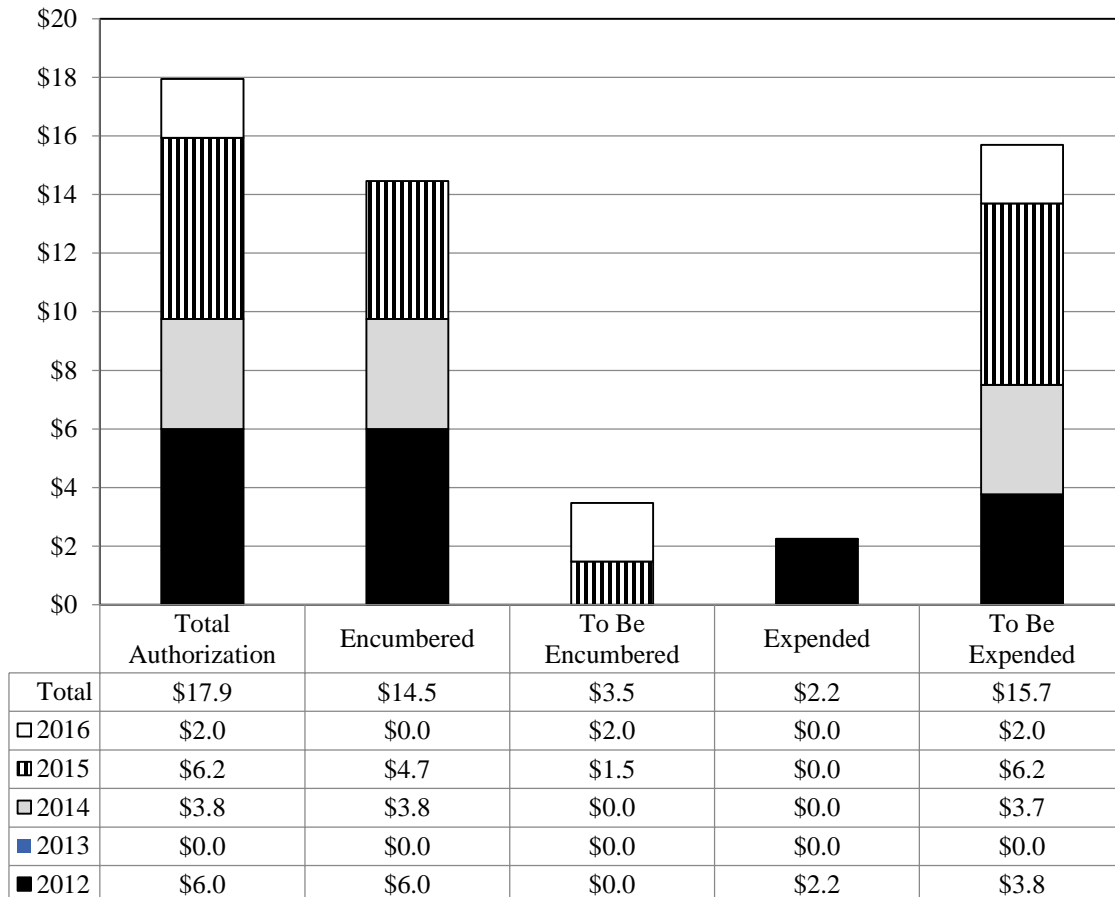
MALPF: Maryland Agricultural Land Preservation Foundation

Source: Maryland Department of Agriculture

Authorization Encumbrance and Expenditure Data

Exhibit 11 reflects the encumbrance and expenditure history for MACS between fiscal 2012 and January 2016. The total authorization for the time period shown is \$17.9 million, of which \$3.5 million remains to be encumbered. MDA notes that the \$3.8 million to be expended from fiscal 2012 is due to projects that have encumbered funding but either have not been completed or have been cancelled and the funds recommitted for more recent projects.

Exhibit 11
Maryland Agricultural Cost-Share Program
Encumbrances and Expenditures
Fiscal 2012 through January 2016
(\$ in Millions)



Source: Maryland Department of Agriculture; Department of Budget and Management

PAYGO Recommended Actions

1. Concur with the Governor’s allowance of \$21,227,744 in special funds for the Maryland Agricultural Land Preservation Foundation.
2. Concur with Governor’s allowance of \$1,000,000 in special funds for the Tobacco Transition Program.

GO Bond Recommended Actions

1. Approve the \$750,000 general obligation bond authorization for the Salisbury Animal Health Laboratory Replacement project to provide funds to begin design of a replacement animal health laboratory in Salisbury.
2. Approve the \$6,000,000 general obligation bond authorization for the Maryland Agricultural Cost-Share Program to provide funds for financial assistance for the implementation of best management practices that reduce soil and nutrient runoff from Maryland farms.