Maryland’s Forest Conservation Act—What’s in a Name?

For three decades now, Maryland has sought to minimize the loss of forested lands through residential and commercial development. The reasoning is simple enough. Much of Maryland is forested and population growth has been exponential, especially in the areas surrounding DC, Baltimore, and smaller cities. Inevitably, demand for land upon which to build houses or commercial structures will encroach on forests. Without a strong plan to minimize the impacts, forest land will be converted to another use and lost forever.

In 1991, the Legislature passed the Forest Conservation Act, designed to minimize the loss of forested land. Basically, the law requires developers to identify forests, paying special attention to priority areas such as those adjacent to streams or wetlands, those on steep or erodible soils or those within or adjacent to large contiguous blocks of forest or wildlife corridors. Although the Maryland Department of Natural Resources Forest Service administers the FCA, it is implemented on a local, generally county, level. In order to gain approval of the required “Forest Conservation Plan”, developers will be required to mitigate for any forests cleared through development by identifying high priority areas or agreeing to plant trees in non-forested areas away from the developed areas and then protecting them through such a legally enforceable measure as a perpetual conservation easement.

For foresters and forest landowners, what is important is that this law, despite its name, has virtually nothing to do with forest management. For lands where the intent is to perpetually maintain them as forests, the law has no impact. It does not regulate

Continued on page 11

Anne Hairston-Strang, Associate Director for Statewide Programs MD DNR Forest Service.
MARYLAND DEER ARCHERY SEASON OPENS SEPT. 11

The Maryland Department of Natural Resources announced that archery hunting for white-tailed and sika deer opens statewide Sept. 11, and continues through Jan. 30, 2021.

New for the upcoming deer season, archery and muzzleloader hunters may participate in Primitive Deer Hunt Days from Feb. 1-3, 2021. During this special season, hunters may use vertical longbows, vertical recurve bows, flintlock, or sidelock percussion muzzleloaders only. Telescopic and electronic aiming devices are prohibited during this hunt.

More information on these special hunt days is available in the 2020-2021 Maryland Guide to Hunting and Trapping.

For the 2020-21 season, the statewide bag limit for white-tailed bucks is two deer (no more than one per weapon season). Hunters have the option to take one additional bonus buck in Region B (the state’s central, southern, and eastern regions) after purchasing a Bonus Antlered Deer Stamp.

For all updates visit: news.maryland.gov/dnr/2020/08/20/maryland-deer-archery-season-opens-sept-11/

FPO License

As we wind down summer and start going into the fall and winter seasons, we also look at end of calendar year items that require updating and renewal. One if the items is the Forest Product Operators License or FPO.

Maryland Natural Resources Code 5-608 (2012) states that “Any person engaged in a Forest Products business shall have a Forest Product Operators License”. This license is renewed annually (yearly) through the Maryland Forest Service at DNR. The letter of reminder and renewal form are sent out after the Thanksgiving holiday.

When you apply for a license, you are assigned a license number that stays with you as long as you are in business. The lowest number in the FPO database is Number 12 that was assigned to a sawmill that is no longer in business. The lowest number that is still active is Number 14, assigned to a logger.

When you get your renewal form for those that have been licensed before, your information is filled in saving and excepting the harvest data information. When looking over your form please make sure to correct any information changes such as insurance information, contact information like phone number or email addresses. It is also important to note that if you have unpaid state taxes, the Comptroller’s Office lets the Forest Service know. If this is the case, you will not get your FPO license until the tax issues are resolved.

The harvest information that is also on the form should be filled out as well. The information should be as close to approximate as possible. This information is used by the forest service to keep track of log harvest and mill output. This keeps us informed on how our forests and industry are doing.

Woodland Wildlife Wednesday

Available for Viewing

Did you happen to miss any of the webinars in the Woodland Wildlife Wednesday series? Each of the webinars are now available to watch at your leisure. Go to https://extension.umd.edu/woodland and click on “Webinar Recordings” from the resource menu on the right side of the page.

Don’t miss the next wildlife webinar: Wednesday, Sep. 30, 2020 - 10:45am

https://extension.umd.edu/events/wed-2020-09-30-1045-upcoming-webinars
Executive Director’s Message

Isn’t it great to reminisce? How many of you remember the old MFA Loggers Field Day? That’s me in the picture below, picking up the pumpkins. It was 1988, and I was eleven years old. I didn’t mind attending or helping out because it was what we did as a family. Sawmilling was all I knew. Weekends were usually spent visiting other mills or looking at timber, so the field days were fun in comparison. Back then, there seemed to be a sense of camaraderie, even between competitors in the industry. Everyone seemed to enjoy getting together even if much of the time was spent commiserating. I think most people find comfort in the familiar and relating to others. Somewhere along the line, these events stopped happening, and people across the state fell out of touch, I guess we all got too busy. Now more than ever, I crave that interaction. As an industry, we need it. I encourage you all to attend the Shady Acres Forestry Field Days & Equipment Show that MFA is sponsoring. The event will be entirely outdoors on a 250-acre site that has been successfully holding events with social distancing in place during Coronavirus. There will be food, equipment, vendor displays, competitions, and so much more! But the real benefit is being around your peers. Sometimes, those simple passing conversations can spark a new idea or keep you from making a mistake. Times are tough for loggers and landowners in Maryland due to COVID-19 and mill closures. We, like the rest of the world, are going to have to change and evolve. One way I think we can do that is by communicating better between ourselves. Who knows what opportunities might exist? Join us on October 10 & 11th. Admission is free. Hope to see you there! For more information, contact Tim Thomas 1-240-321-7813.

Beth Hill, Executive Director MFA

Bruce Barnes from Clements, MD was selected as the 2020 Appalachian Region Outstanding Logger Award winner by the Forest Resource Association. Bruce is the current Maryland Logger of The Year, awarded by the Maryland Forest Association and the MD-DE Master Logger program. Bruce will be presented with the award at some point in the future. FRA’s Appalachian Region includes the stretch of mountainous area bordered by Pennsylvania, Missouri, Tennessee, and western North Carolina. Congratulations Bruce!
Funding Donated To Provide Free Maryland-Delaware Master Logger Training Thanks to Loveville Timberworks, LLC

Effective immediately, funds donated by Loveville Timberworks, LLC will be utilized by the MD-DE Master Logger Program to provide core, safety, and best management practices and continuing education courses to residents of Maryland and Delaware at no cost. Recipients are expected to complete and pass all requirements and examinations associated with the training.

The Maryland Forests Association (MFA) and the Maryland-Delaware Master Logger Program (MD-DE Master Logger) are excited to jointly announce this scholarship that will be available until funds are depleted. Beth Hill, Executive Director of MFA states that “These funds are coming at a critical time. Loggers across the state have suffered tremendous hardship over the past several years due to mill closures, and now to COVID-19. Offering free classes will serve to help keep loggers who are already under financial strain professionally trained to continue working safely and effectively to keep our forests healthy.”

The MD-DE Master Logger Program is a voluntary training and education program for loggers who work in Maryland and Delaware. The program helps loggers meet the ever-increasing demands of the logging profession. The courses provide information about current environmental regulations, forestry principles, and safe work practices. Being a MD-DE Master logger also means, loggers are eligible for logging jobs on state property, through state agencies, or for companies certified by the Sustainable Forestry Initiative. To become a MD-DE Master Logger, participants must initially complete four core courses and submit proof of current First Aid and CPR training. To maintain their status, they are to participate in four hours of training per year. Agnes Kedmenecz is the MD-DE Master Logger Program Coordinator. Along with training, she also works to raise public awareness of the benefits of forest management. Agnes feels that this scholarship “is a wonderful gesture and gives loggers and forest managers an opportunity to enhance their harvest strategies knowledge without a financial burden.”

Maryland and Delaware forests are among the most diverse and productive forests on the continent. From the pine flats and cedar-cypress swamps on the Eastern Shore, to the vast oak-hickory forests rolling through the Piedmont and mountains. Residents of these states possess an incredibly resilient and valuable renewable resource. These forests are home to wildlife, filter our water, keep our fertile soil in place, moderate our temperature, and cleanse our air. Our forests provide a healthy continual supply of raw material for some of the finest furniture, lumber, and paper manufacturers in the world. MD-DE Master Loggers are a vital part of the supply chain to the forest products industry. They understand the many functions of our forests and their role as caretaker to ensure sustainability. Harvest plans and practices are followed to help meet the objectives on both private and public lands.

The MD-DE Master Logger Program is endorsed by the Maryland State Implementation Committee of the Sustainable Forestry Initiative (SFI) program and is administered by the University of Maryland Extension. The Master Logger Steering Committee, a subcommittee of the Maryland Forests Association, offers direction for the program. The owner of Loveville Timberworks, LLC, Robert Beale, is the current chairperson of the Master Logger Steering Committee. He says that he decided to fund the scholarship to ensure loggers in Maryland and Delaware receive training to help promote safety and share best management practices with as many participants as possible.

If you are interested in becoming a MD-DE Master Logger, classes are available both online and in person. For more information or to register visit: https://extension.umd.edu/masterlogger/master-logger-training-program

37TH EAST COAST SAWMILL AND LOGGING EQUIPMENT EXPOSITION RESCHEDULED

Our top priority is the safety and health of our Exhibitors, guests, staff, vendors and community. Therefore, due to COVID-19 concerns, Expo Richmond 2020, rescheduled to take place October 9-10, 2020 will be postponed until May 21-22, 2021. Please email info@exporichmond.com with any questions.
Forestry Field Days & Equipment Show

Sunday - Noon Professional Lumberjack Contest

Saturday Noon Amateur Lumberjack Contest

October 10 & 11 Hours: 9-5 Each day

2282 Friendsville Road, Friendsville MD 21531
240-321-7813
www.facebook.com/shadyacresmotocross

Amateur Lumberjack Competition:
Saturday, October 10
Registration - 9am - 11am
Registration fee: $20
Competition starts at Noon

All attendees please adhere to all Maryland COVID-19 regulations
As everyone knows, this has been an extremely unusual year (that’s an understatement!), and it’s been quite an experience for the Forest Service to adapt to the “new realities” of providing forestry services in the midst of the COVID-19 restrictions!

Forest Service staff first received word to stop all normal operations on March 13, right in the middle of spring tree planting and fire season. Although fire response was considered an “emergency essential” activity, tree planting was not. Fortunately, we were able to provide solid justification for Forest Service staff engaged in tree planting and tree nursery operations to continue working, staying in compliance with the required COVID-19 safety protocols, and received permission to finish up these activities. The spring tree planting totals were very impressive: 508,000 tree seedlings planted on 1,030 acres!!

While we were finishing up tree planting and spring fire season, we were also working on how to adjust all of our other operations to meet the COVID-19 safety requirements. Working cooperatively with MFA and AFI and several other forestry partners in Maryland, we were pleased that the majority of Forest Service staff were designated as “Intermittent Emergency Essential (IEE)” employees on April 17. This allowed most of our staff to resume field work activities for a limited number of hours each week, while continuing to Telework the remainder of the week. The IEE designation was directly linked to Forest Service staff performing duties supportive of essential Forest Industry activity (Forest Industry was already designated as an Essential Business sector allowed to continue operations under COVID-19 guidelines).

At the present time, although all Forest Service offices remain closed to the public, Forest Service staff have continued to maintain a high level of productivity under the IEE designation, and are continuing to provide most of the forestry services we offer, with only a few limited exceptions. Through the first half of the year, Forest Service staff have provided direct woodland management assistance to 1,194 woodland landowners on 63,605 acres. Of this total, 14,359 acres are newly enrolled in forestry management assistance programs, and 49,246 acres of assistance was provided to woodland owners who are already enrolled in forest management programs.

A few other items that MFA members should be aware of:

- **Forest Action Plan** – This is a document that lays out long-term strategic goals for the Forest Service for the next 5 years (2020 through 2025). Many MFA members participated in a series of public meetings to gather input for this document that were held around the state in 2019. A Draft Strategy Document incorporating this input will soon be released for public review and comment. Please be sure to look for it in the near future and provide any additional comments that you may have.

- **Forest Industry Economic Adjustment Strategy** – Unfortunately, Maryland’s Forest Industry has been experiencing very difficult economic challenges over the past few years. To help...
address these challenges, a significant effort is currently underway to develop strategies to improve opportunities for existing Forest Industry and attract new forestry business to Maryland. The final Report is expected to be released later this year. Keep an eye out for more information on this, as it should be of great interest to MFA members.

- Forest Harvest Best Management Practice (BMP) Inspections – Forest Service staff are currently working with MDE, local SCD’s, and other County government agency staff to implement a new Forest Harvest BMP Inspection process. A primary goal of this effort is to involve DNR foresters and technicians in the harvest BMP inspection process, resulting in a higher level of forestry knowledge and experience in the inspection process. This effort has been underway since 2018, when a MOU was signed between the Secretaries of DNR and MDE that set this effort in motion. Through a lot of hard work and coordination between multiple agencies, the new process is scheduled to be implemented on October 1, 2020. However, since there are multiple agencies and approvals involved, only a portion of the Counties may be involved at the initial roll-out date, but we anticipate all Counties will be participating at some point in the future.

- 2019 Forest Service Annual Report – In an effort to better communicate all of the various activities that Forest Service staff are involved in to the citizens of the state, Forest Service staff put together an Annual Report highlighting a number of accomplishments for the past year. Although the release of the 2019 Annual Report has been significantly delayed due to COVID-19, we anticipate it will be released soon. Again, please keep an eye out for this document in the near future – there will be a lot of good information in it about Forest Service accomplishments!

If you have any questions about anything in this article, or want further information on any other forestry-related item, please feel free to contact your local DNR Forest Service staff for direct assistance. We’ll be looking forward to hearing from you!

Through the first half of the year, Forest Service staff have provided direct woodland management assistance to 1,194 woodland landowners on 63,605 acres

Maryland Fire Dozer and transport Unit – currently on assignment in TX

These two photos were taken on our annual SFI-FSC Forest Certification Audit on the Chesapeake Forest.
Considering Opening Land to Recreational Uses? Make Sure You Understand MD’s Recreational Use Statute

-Paul Goeringer, Extension Legal Specialist, University of Maryland

Like all states, Maryland has a Recreational Use Statute (RUS) that encourages owners and tenants to allow access to properties for recreational use by lowering the standard of care owed to the visitor. Maryland’s recreational use statute imposes no duty of care for the owner to keep premises safe or give a warning to recreational or educational users. Instead, under the law, the duty of care owed to a recreational or educational user is the same as the duty of care owed to a trespasser and a landowner/tenant, i.e., to refrain from willful or malicious failure to guard against dangerous conditions on the property.

To gain the protections from the RUS, a landowner/tenant must allow the guests on the property for recreational or educational use. Recreational use is “any recreational purpose.” (Nat. Res. § 5-1101(f)). For example, allowing a friend to use your property to ride the friend’s horse or for a hike would be considered recreational. The statute is broad to allow it to encompass as many recreational uses as possible.

Educational uses would include:
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. (Nat. Res. § 5-1101(c)(1)-(6)). For example, if Sally allowed other farmers on her farm to learn about certain practices utilized by Sally would be an educational use. Sally would also be able to invite area school kids on her farm as part of an educational field trip; this is also an educational use.

The recreational or educational user must have access to the property for no charge. The law defines charge as “price or fee asked for services, entertainment, recreation performed, products offered for sale on land or in return for invitation or permission to enter or go upon the land.” (Nat. Res. § 5-1101(b)(1)). In other states, courts have found that “charge” does not include fees paid to park a vehicle, camper, etc. as long as it is unrelated to the admission of people using the property for a recreational purpose. Farmers should also refrain from offering products for sale on the land to retain the RUS law’s protections.

The definition of charge contains three exemptions. The first exemption allows recreational users to share with the landowner/tenant any game, fish, or other products from the recreational use (Nat. Res. § 5-1101(b)(2)(i)). Benefits “to the land arising from the recreational use” also are not considered charges under the RUS. (Nat. Res. § 5-1101(b)(2)(ii)). The benefit to the property from allowing others to use for a recreational/educational purpose (such as an increase in property values) is not considered a “charge” under the statutory definition. For example, deer have been destroying your corn crop, and you allow anyone who wants to hunt to come on your property for deer hunting. The deer hunters are successful, and deer do not further damage your corn crop. This benefit to your land, fewer deer to damage your crops, would not be considered a “charge” under the statutory definition.

“[C]ontributions in kind or services to promote the management or conservation of the land” (Nat. Res. § 5-1101(b)(2)(iii)) are the third statutory exemption from the definition of “charge.” Collecting contributions allows a landowner/tenant to provide sound management of the natural resources found on the property. For example, a forest management specialist enjoys using Mary’s property for hunting and fishing on. In return for access, the specialist provides Mary with expertise in how to manage the property better. This service provided is not a “charge.”

Agritourism operators, wineries, and any other farmers selling farm products to consumers are not likely within the RUS law scope. Visitors to these operations are considered invitees and would need protection from unreasonable dangers. The RUS law does not apply to those operations is collecting fees for admission or rides, or payment for produce, etc. For example,
the operators of a corn maze typically charge an admittance fee or charge some fee to use the corn maze. A winery operator would be excluded from the RUS law’s protections because the operator offers products, like wine, for sale on the property.

A recent court decision by the Maryland Court of Special Appeals does create additional concerns that the landowner/tenant should keep in mind. In Martinez v. Ross, a landowner opened his property to a large social gathering and allowed attendees to ride ATVs on the property. One attendee is injured while riding an ATV provided by the landowner and sues for the injuries. The property was fenced off with access gates and signs clearly stating “No Trespassing” or “Keep Out.” Landowner claims that the RUS applies. The Court of Special Appeals found that the RUS defense did not apply. To the court, the landowner only opened the property to a limited class (partygoers), and to gain the RUS defense, the landowner should have opened the property up to more than just a limited class. The property does not have to be opened up to everyone but could be as simple as allowing horseback riders to use a portion of the property to access a nearby trail.

This compares well to another court decision in Maryland, where a hotel guest was injured while jogging on a path provided by the hotel. In that case, the path was open to all to use, and the hotel did not prevent people from using the trail. The RUS defense applied in that case. We will need more court decisions to determine how open the property needs to be, but at this point, it seems clear the RUS defense potentially will not apply when the property is fenced and marked to prevent others from using it.

The RUS defense is an important one for many landowners. Take time to understand how the law operates. By understanding now, and doing things right as you potentially open your property up, you will add yourself extra protections by ensuring the RUS defense is available when you need it.

Your Membership Matters!

The Maryland Forests Association relies on the support of our members and sponsors to fund our organization and allow us to be the voice for Maryland forestry. Please help make 2020 another successful year for membership!

We are counting on you to renew your membership and ask that you invite your friends, family and colleagues to join us as a collective voice for Maryland forestry. Last year, your contributions helped us boost our scholarship, career camp, and general funds. Help us exceed our 2020 goals and consider a contribution in addition to your membership renewal.

We are working harder than ever to serve you better and represent Maryland’s forestry industry. We cannot do this work without your support. Please look out for membership renewal letters and you can also renew online at mdforests.org. Thank you!

Your Support Makes a Difference!

2020 Membership Rates:
• Student – $10
• Forestry Board Member (NEW!) – $20
• Landowner/General Public – $35
• Natural Resources Professional – $60
• Hunting & Recreational Clubs – $80*
• Businesses/Agencies/Organizations – $150
• Sawmill – $300

* Insurance fees must be paid directly to the insurance company. MFA processes membership only.

Sponsor Membership Rates

MFA offers three levels of Annual Sponsorship, starting at $600. Each level provides an membership with MFA plus additional advertising benefits.

Visit mdforests.org to learn more.
ANNAPOLIS, MD (Aug. 11, 2020) — The Maryland Agricultural and Resource-Based Industry Development Corporation (MARBIDCO) has announced a grant incentive funding opportunity to encourage Maryland’s agricultural producers to expand or diversify their business operations by installing capital assets (equipment and fixtures) to make a product that is “value added.” Eligible applicants must be a crop or livestock producer or processor, agricultural cooperative, seafood processor, or primary or secondary timber products processor, and have been in business for a minimum of two years. Hemp fiber grower-processors may be eligible to apply under certain conditions and must have been in business in Maryland on or before June 30, 2020.

MARBIDCO will offer incentive grants of between $2,500 and $10,000, distributed on a competitive basis, for capital projects that help farmers, forest product operations, and seafood processors to expand or diversify their business operations through value added activities. The financial match required from the rural business must be at least equal to the amount requested from MARBIDCO. The application deadline is 4 p.m. on Thursday, Sept. 24, 2020. Applications received in the mail with a Saturday, Sept. 16, 2020 postmark will also be accepted. Grant award announcements should be made by mid-November 2020.

The application and further information about the MVAPG–CAO Program may also be obtained by contacting Daniel Sweeney, MARBIDCO Financial Programs Associate, at (410) 267-6807 or email at dsweeney@marbidco.org, or by visiting MARBIDCO’s website at www.marbidco.org.
President’s Message Continued...

logging, wildlife management, recreation, or any other objective that a landowner may have for their forests. It will become a factor only if a landowner chooses to clear over an acre of forest land and then convert that land to another use.

Unfortunately, the intent of the “Forest Conservation Act” gets confused, usually by officials at the local level when asked to approve a legitimate plan for logging on lands where continued forest management is the clear objective. The goal of the act is certainly laudable, and it has been effective, but perhaps its name is unfortunate. The important concept is that the Forest Conservation Act is really about development, not forestry. The Maryland Forests Association along with our partners at AFI and the Maryland Forest Service have been working on behalf of the industry and landowners to clarify these misconceptions where they exist.

HUNT LEASE LIABILITY INSURANCE
for Maryland Forests Association Members

For less than the price of a new tree stand, you can protect your hunt club, all of its members and guests, and even the landowner with a $1 million policy. Contact Outdoor Underwriters for more details and don’t forget to tell them that you’re an MFA member!

For more information, contact:
866 - 961 - 4101
or visit them online at: MFA.OutdoorUnd.com

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Sponsors help keep our educational events affordable and improve the overall structure of the MFA.

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