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# The Agricultural Law Resource & Reference Center

## The Agricultural Law Brief

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Summarizing Local, State, National, and International Legal  
Developments Impacting Food and Agricultural Law in Pennsylvania

### INSIDE THIS ISSUE:

**Pennsylvania  
Dog Law**

**Natural Gas –  
Preemption**

**Farm Bill – Base  
Acre Requirement**

**World Food Day –  
October 16**

**Chesapeake Bay  
Litigation**

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### GOVERNOR RENDELL SIGNS LEGISLATION SIGNIFICANTLY AMENDING PENNSYLVANIA DOG LAW

On October 9, 2008, Governor Edward G. Rendell signed legislation (Act 119 of 2008) to overhaul Pennsylvania's Dog Law, 3 P.S. §§ 459-101 to 459-1204. At the ceremonial bill signing, Governor Rendell stated that the new law will make Pennsylvania "a leader in the treatment of dogs in commercial breeding kennels." Press Release, Governor's Office (Oct. 27, 2008). The legislation establishes a new definition for commercial kennels, which are kennels that sell more than 60 dogs annually. These commercial kennels are required to provide dogs with an opportunity for outdoor

exercise, solid or slatted flooring, and regular veterinarian examinations. Additional requirements imposed upon commercial kennels include a limitation on the stacking of cages, the maintenance of permanent records, the presence of smoke alarms and fire extinguishers, and the establishment of a veterinary-client-patient relationship. The legislation also establishes a Canine Health Board, composed of nine veterinarians, to address ventilation and temperature issues in commercial kennels. Although the legislation focuses primarily on commercial kennels, it does impose requirements on non-commercial kennels including the establishment of a veterinarian-approved exercise plan for dogs and the presence of fire extinguishers or smoke alarms in kennels. For more information on this topic, please visit the [Pennsylvania Dept. of Agriculture Dog Law](http://www.Pennsylvania Dept. of Agriculture Dog Law) Web site at [www.DogLawAction.com](http://www.DogLawAction.com).



*Governor Rendell signs House Bill 2525 at a ceremonial bill signing on October 27, 2008. (Pennsylvania Department of Agriculture Photo).*

### GAS COMPANIES APPEAL RULING ON OIL AND GAS ACT PREEMPTION TO COMMONWEALTH COURT

Four gas companies filed a Notice of Appeal with the Pennsylvania Commonwealth Court on October 9, 2008, following an adverse ruling on an issue relating to Pennsylvania Oil and Gas Act, 58 P.S. § 601.602, preemption of municipal regulation. The gas companies sought a declaration that the Oil and Gas Act precluded Nockamixon Township from applying its zoning ordinance to regulate drilling operations. In response, the township filed preliminary objections, arguing that the matter was not properly before the court because the gas companies had not presented the matter to the township's Zoning Hearing Board prior to filing suit. In granting the preliminary objections, the Court of Common Pleas acknowledged that the Oil and Gas Act had some preemptive effect on municipal regulation. The court, however, concluded that it could not reach the question of whether any township ordinances had been preempted in the instant case because the gas companies had failed to utilize available statutory remedies. *Arbor Resources LLC v. Nockamixon Twp.*, No. 2008-4801-31-1, slip op. (Bucks Ct. Com. Pl. Sept. 29, 2008), *appeal docketed*, 1972 CD 2008 (Pa. Commw. Ct. Oct. 9, 2008).

For more information on this topic, please visit the [Agricultural Law Center Natural Gas Exploration Resource Area](http://www.dsl.psu.edu/centers/aglaw/gas.cfm) Web page at [www.dsl.psu.edu/centers/aglaw/gas.cfm](http://www.dsl.psu.edu/centers/aglaw/gas.cfm).

### Congress Passes Legislation to Correct USDA Interpretation of Base Acre Provision in Farm Bill

On October 13, 2008, President George W. Bush signed legislation to clarify the ten-base-acre requirement in the Food, Conservation, and Energy Act of 2008 (Farm Bill). The recently-enacted Farm Bill prohibits a producer from receiving certain USDA payments "if the sum of the base acres of the farm is 10 acres or less." 7 U.S.C.A. § 8711(d)(1) (West 2008). To implement this provision, USDA issued a Notice that it would not permit a producer to aggregate the acreage of multiple farms to meet the ten-acre threshold. 73 Fed. Reg. 36,839-40 (June 30, 2008). This interpretation adversely affected many farmers who leased parcels of small acreage or who segmented their farms for other reasons, such as insurance coverage. Although Congress claimed that USDA had misinterpreted the Farm Bill, it amended the legislation by providing a one-year exception to the acreage requirement "when the aggregate total base acres of all farms of a producer are greater than 10 acres." 7 U.S.C.A. § 8711(d)(2)(C) (West 2008). For more information, see the [House Ag Committee Legislation](http://agriculture.house.gov/inside/legislation.html) page at <http://agriculture.house.gov/inside/legislation.html>.

### United Nations Food and Agriculture Organization Marks World Food Day on October 16

The Food and Agriculture Organization (FAO) of the United Nations observed World Food Day on October 16. World Food Day was established by FAO in 1979 and is held each year to accomplish a number of objectives, such as increasing attention on agriculture and food production, promoting technology transfer to the developing world, encouraging cooperation among developing countries, creating public awareness of world hunger, and highlighting accomplishments in agricultural development. The theme of this year's World Food Day was World Food Security: the Challenges of Climate Change and Bioenergy. In his remarks at the official ceremony, FAO Director-General Jacques Diouf noted that world food production must double by the year 2050 in order to eliminate the problem of world hunger. In addition to events held at FAO headquarters in Rome, Italy, organizations throughout the world also commemorated World Food Day. For more information on this topic, please visit the [World Food Day](http://www.fao.org/getinvolved/worldfoodday/en/) Web page at [www.fao.org/getinvolved/worldfoodday/en/](http://www.fao.org/getinvolved/worldfoodday/en/).

### Chesapeake Bay Foundation Notifies EPA of Intent to Sue Over Chesapeake 2000 Agreement

On October 29, 2008, the Chesapeake Bay Foundation (CBF), together with several individuals and organizations, served notice of intent to sue upon the U.S. Environmental Protection Agency (EPA). CBF alleges that EPA has not taken sufficient action to improve the water quality within the Chesapeake Bay (Bay). Specifically, CBF claims that EPA has violated provisions of the Clean Water Act [33 U.S.C. § 1267(g)(1)], the Administrative Procedure Act [5 U.S.C. § 706(2)(A)], and the various interstate Chesapeake Bay Agreements. CBF bases its claims largely upon EPA being a signatory to the Chesapeake 2000 Agreement, which pledged a 40 percent reduction in pollutants entering the Bay. In its 2006-2111 Strategic Plan, EPA has stated that this goal will not be met. Should CBF file suit in this matter, EPA likely will claim that the pledge contained in the Chesapeake 2000 Agreement is voluntary and not enforceable against it. For more information on this topic, please visit the [Chesapeake Bay Foundation](http://www.cbf.org) Web site at [www.cbf.org](http://www.cbf.org).

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#### ABOUT THE AGRICULTURAL LAW RESOURCE & REFERENCE CENTER

The Agricultural Law Resource and Reference Center is a collaboration between The Pennsylvania State University's Dickinson School of Law and College of Agricultural Sciences. Funded in part by the Pennsylvania Department of Agriculture, the Center is designed to provide the highest quality educational programs, information, and materials to those involved or interested in agricultural law and policy.

*The Center does not provide legal advice, nor is its work intended to be a substitute for such advice and counsel.*

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