

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

House Bill 1525 (Delegate Hucker, *et al.*)
 Environmental Matters

Natural Resources - Oysters - Fishery Management Plan and Sanctuaries

This bill requires the Department of Natural Resources (DNR) to include specified information in fishery management plans for oysters. By October 1, 2010, DNR must establish regulations that prohibit the harvest or attempted harvest of oysters from State waters until (1) a fishery management plan for oysters is developed that meets specified requirements, and (2) DNR has established specified oyster sanctuary regulations. By December 31, 2010, DNR must establish regulations creating oyster sanctuaries that cover at least 50% of the unleased available oyster habitat in the Chesapeake Bay, including those areas already designated by law as oyster sanctuaries. Specified provisions concerning oyster sanctuaries and prohibiting oyster harvesting do not apply to aquaculture activities authorized in the Natural Resources Article.

The bill takes effect June 1, 2010.

Fiscal Summary

State Effect: DNR special fund revenues decrease by \$355,100 in FY 2011 only due to lost oyster surcharge, bushel tax, and licensing revenue as a result of closing the 2010-2011 oyster season. DNR special fund expenditures decrease, potentially significantly, in FY 2011 and future years due to reduced enforcement costs.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
SF Revenue	(\$355,100)	\$0	\$0	\$0	\$0
SF Expenditure	-	-	-	-	-
Net Effect	(\$355,100)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Fishery management plans for oysters must:

- include objectives concerning (1) retention of reef habitat, (2) development of disease tolerance in oysters, (3) preservation of connectivity between reef habitats to support the role oysters play in the Chesapeake Bay ecosystem, and (4) long-term biological and ecological sustainability of oysters in State waters;
- include conservation and management measures with (1) specific fishing mortality rate limits based on biological and ecological reference points, and (2) specific harvest thresholds and guidelines for action if the thresholds are met or exceeded; and
- recognize and adjust for likely discrepancies between the oyster harvest reported to DNR and the actual oyster harvest and difficulties in enforcing oyster management laws.

“Available oyster habitat” is the area of habitat available for oyster settlement as determined by the process described in Section 2.2, Appendix A, of the Final Programmatic Environmental Impact Statement for oyster restoration in the Chesapeake Bay that was completed in 2009.

Current Law: DNR is required to prepare fishery management plans for a number of specified species, including blue crabs, yellow perch, herring, and oysters. A “fishery management plan” is a document or report that contains a systematic description of a given fishery and the objectives and conservation and management measures for the fishery. Conservation and management measures adopted under a fishery management plan seek to prevent overfishing, while attempting to achieve the best and most efficient utilization of the State’s fishery resources; must be based on the best information available; may not discriminate unfairly among groups of fishermen or have economic allocation as their sole purpose; must account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and must avoid duplication of regulatory efforts and unnecessary costs to the State and to any other person.

The Secretary of Natural Resources adopts fishery management plans and associated conservation and management measures by regulation. The State’s fishery resources must be harvested in accordance with the conservation and management measures in the fishery management plan and any regulations implementing or amending the plan.

DNR is required to present an annual fishery management plan report to the Legislative Policy Committee; the Education, Health, and Environmental Affairs Committee; and the Environmental Matters Committee.

Background: DNR's Fisheries Service is responsible for managing commercial and recreational fishing in the State. The Fisheries Service seeks to develop a management framework for the conservation and equitable use of fishery resources; manage fisheries in balance with the ecosystem for present and future generations; monitor and assess the status and trends of fisheries resources; and provide high quality, diverse, and accessible fishing opportunities. The Fisheries Service develops science-based strategic management plans for species of commercial, recreational, or ecological interest. Public stakeholder input regarding proposed management actions is developed through the use of interim commissions, task forces, and committees.

At its peak, the Chesapeake Bay's oyster population acted as a natural filter, removing 133 million pounds of nitrogen annually. Affected by diseases, habitat loss, and harvest pressures, the oyster stock has significantly declined. Today, the oyster population has dropped to less than 1% of its original population, and remaining oysters remove only about 250,000 pounds of nitrogen from the bay each year.

In 2004, the U.S. Army Corps of Engineers, Maryland, and Virginia, agreed to implement an Environmental Impact Statement process to assess various alternatives for restoring oyster populations to meet ecological and economic goals. After approximately five years of studies and evaluation, a Final Programmatic Environmental Impact Statement was announced in April 2009 that recommended a native oyster only strategy for revitalizing oyster restoration and aquaculture in the bay.

In December 2009, Governor Martin O'Malley proposed a new management and restoration plan for oysters and the Maryland oyster industry. The proposal seeks to increase Maryland's network of oyster sanctuaries, expand oyster aquaculture leasing opportunities, and maintain 167,720 acres of natural oyster habitat for a public oyster fishery. During January 2010, DNR held a series of open houses to solicit public comments on the oyster plan's proposed implementation regulations. Comments and suggestions were collected and are currently being reviewed.

DNR advises that it would not be possible to develop and establish an oyster management plan that meets all the criteria the bill requires until the 2011-2012 oyster season that begins on October 1, 2011. As a result, DNR will be required to close the public oyster fishery for one year – the 2010-2011 season – while the required oyster management plan is developed.

State Fiscal Effect: Because DNR would be required to close the public oyster fishery for the 2010-2011 season, DNR special fund revenues decrease by \$355,050 in fiscal 2011 due to forgone oyster surcharge, bushel tax, and licensing revenue. This estimate is based on fiscal 2009 data concerning the number of \$300 oyster surcharges (555), \$50 oyster harvester licenses (756), and \$250 dredge boat licenses (3) issued as well as revenue generated from the \$1 oyster bushel tax (\$150,000).

DNR expenditures decrease, potentially significantly, in fiscal 2011 due to the public oyster fishery being closed and less resources being required to enforce oyster laws and regulations. This estimate assumes DNR can absorb any costs associated with developing the additional oyster fishery management plan information and oyster sanctuary regulations. DNR advises that implementation of an oyster fishery management plan with accountability measures, as the bill requires, may also result in reduced DNR law enforcement expenditures in fiscal 2012 and future years.

Small Business Effect: Maryland's public oyster fishery has an average annual dockside value of approximately \$3 million and approximately 489 individuals actively participate in the fishery. Thus, closing the public oyster fishery for a year will have an average gross income impact of \$6,135 per harvester. Closure will also affect oyster processors in Maryland, as well as seafood dealers, seafood restaurants, and marine supply businesses. However, DNR advises that being required to implement a sustainable fishery management plan and develop an expanded sanctuary program, as the bill requires, may increase oyster abundance and, in the long run, have a positive economic impact on the commercial oyster industry as well as the sport fishing community.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Department of Legislative Services

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