

Chapter 389

(House Bill 89)

AN ACT concerning

Environment – Wetlands and Waterways Program Fees – Aquaculture

FOR the purpose of exempting aquacultural activities for which the Department of Natural Resources has issued a certain permit from a requirement to pay certain fees under the Wetlands and Waterways Program; requiring the Aquaculture Coordinating Council to report certain information to the Department of the Environment and the General Assembly on or before a certain date; and generally relating to the Wetlands and Waterways Program.

BY repealing and reenacting, without amendments,

Article – Environment

Section 5–203.1(a) and (b)(1)

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section 5–203.1(b)(2)

Annotated Code of Maryland

(2007 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

5–203.1.

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

(2) “Major project” means a project that:

(i) Proposes to permanently impact 5,000 square feet or more of wetlands or waterways, including the 100–year floodplain;

(ii) Is located in an area identified as potentially impacting threatened or endangered species or species in need of conservation by a geographical information system database that:

1. Includes sensitive species project review areas and waterfowl concentration and staging areas;

2. Has been developed and maintained by the Department of Natural Resources; and

3. Is used by the Department to screen incoming applications;

(iii) Is located in an area that has been identified as potentially impacting historical or archeological resources by a geographical information system database that:

1. Includes Maryland archeological sites, the Maryland Inventory of Historic Properties, the National Register of Historic Places, the Maryland Historical Trust Preservation Easements, the Annapolis Maryland Inventory of Historic Properties, and the Annapolis Maryland Inventory of Historic Properties street map;

2. Has been developed and maintained by the Maryland Historical Trust; and

3. Is used by the Department to screen incoming applications;

(iv) Is located in an area identified as potentially impacting a nontidal wetland of special State concern by a geographical information system database that:

1. Has been developed and maintained by the Department of Natural Resources; and

2. Is used by the Department to screen incoming applications;

(v) Is adjacent to Use III or Use IV waters, as defined in regulation by the Department; or

(vi) Requires the issuance of a public notice by the Department.

(3) “Minor project” means a project that:

(i) Proposes to permanently impact less than 5,000 square feet of wetlands or waterways, including the 100–year floodplain; and

(ii) Does not meet the definition of a major project.

(b) (1) Except as provided under paragraph (2) of this subsection, all applications for wetlands and waterways authorizations issued by the Department under §§ 5-503, 5-906, 16-202, 16-302, and 16-307 of this article or wetlands licenses issued by the Board of Public Works under § 16-202 of this article shall be accompanied by an application fee as follows:

(i) For an application for a minor project or general permit.....\$750;

(ii) For an application for a minor modification \$500;

(iii) For an application for a major project or major modification with a proposed permanent impact of:

1. Less than 1/4 acre.....\$1,500;

2. At least 1/4 acre, but less than 1/2 acre.....\$3,000;

3. At least 1/2 acre, but less than 3/4 acre.....\$4,500;

4. At least 3/4 acre, but less than 1 acre.....\$6,000; and

5. 1 acre or more.....the impact area in acres multiplied by \$7,500.

(2) The following are exempt from the application fees established under paragraph (1) of this subsection:

(i) Regulated activities conducted by the State, a municipal corporation, county, bicounty or multicounty agency under Article 28 or Article 29 of the Code, or a unit of the State, a municipal corporation, or a county;

(ii) Performance of agricultural best management practices contained in a soil conservation and water quality plan approved by the appropriate soil conservation district;

(iii) Performance of forestry best management practices contained in an erosion and sediment control plan:

1. Prepared by a registered forester; and

2. Approved by the appropriate soil conservation district;

[and]

(iv) Stream restoration, vegetative shoreline stabilization, wetland creation, or other project in which the primary effect is to enhance the State's wetland or water resources; AND

(v) AQUACULTURAL ACTIVITIES FOR WHICH THE DEPARTMENT OF NATURAL RESOURCES HAS ISSUED A PERMIT UNDER § 4-11A-02 OF THE NATURAL RESOURCES ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Aquaculture Coordinating Council shall report to the Department of the Environment and, in accordance with § 2-1246 of the State Government Article, the General Assembly on:

(1) The status of commercial aquaculture in the State;

(2) The fiscal impact of the fee exemption established under this Act;

and

(3) Any other findings and recommendations related to the implementation of this Act.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, May 4, 2010.