

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 89

(Delegate O'Donnell)

Environmental Matters

Education, Health, and Environmental Affairs

Environment - Wetlands and Waterways Program Fees - Aquaculture

This bill exempts aquaculture activities permitted by the Department of Natural Resources (DNR) from the requirement to pay application fees when applying to the Maryland Department of the Environment (MDE) for wetlands and waterways permits or to the Board of Public Works (BPW) for a wetlands license. By October 1, 2013, the Aquaculture Coordinating Council must report to MDE and the General Assembly on the status of commercial aquaculture; the fiscal impact of the bill's fee exemption; and any other findings and recommendations related to the bill's implementation.

Fiscal Summary

State Effect: The bill is not expected to have a significant impact on State finances, since aquaculture activities are already exempt from wetlands application fees, and the reporting requirement can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An individual may not engage in aquaculture unless permitted by DNR. Certain aquaculture activities may also trigger the requirement to obtain a wetlands license from BPW or a wetlands permit from MDE. Permits granted for work in privately owned wetlands are issued by MDE; licenses granted for work in State-owned wetlands are issued by BPW.

All MDE wetlands permit applications must be accompanied by a \$750 application fee; however, major projects – those that involve more than 5,000 square feet of impact, require a public notice, or otherwise implicate endangered species, historical resources, or other sensitive resources – are charged an application fee that ranges from \$1,500 to an amount equal to the impact area in acres multiplied by \$7,500 when the proposed permanent impact is one acre or more. In addition, an applicant's request to modify an existing authorization is assessed a \$500 fee. Some activities are exempt from the fees, including State and local projects; certain agricultural and forestry best management practices; and stream restoration, vegetative shoreline stabilization, wetlands creation, or other projects in which the primary effect is to enhance the State's wetlands or water resources. Application fees, which may be adjusted annually for inflation, are paid into MDE's Wetlands and Waterways Program Fund.

According to MDE, the Wetlands and Waterways Program recently clarified its fee procedures, including fees associated with oyster aquaculture. No application fee will be assessed for commercial and environmental oyster aquaculture, as they fall under the existing statutory exemption for projects that enhance the State's wetland or water resources. Aquaculture activities occurring in DNR-approved Aquaculture Enterprise Zones (AEZs) in the Chesapeake Bay are exempt from permitting requirements established for State wetlands.

Chapter 405 of 2005 established the Aquaculture Coordinating Council within the Maryland Department of Agriculture. Among other things, the council must formulate and make proposals for advancing Maryland aquaculture.

Background: Since 1994, the Chesapeake Bay's oyster population has languished at 1% of historic levels; quality oyster bars have decreased 80% (from 200,000 acres to 36,000 acres) and the number of harvesters has dwindled from 2,000 in the mid-1980s to just over 500. In December 2009, Governor Martin O'Malley proposed an Oyster Restoration and Aquaculture Development Plan designed to enhance oyster restoration for ecological purposes and encourage the development of aquaculture businesses, while continuing to support a more targeted and sustainable public oyster fishery. The plan seeks to increase the State's network of oyster sanctuaries as well as the State's ability to enforce them, increase areas open to leasing for oyster aquaculture and streamline the permitting process, and identify areas off limits to leasing.

Additional Information

Prior Introductions: None.

Cross File: SB 3 (Senator Klausmeier, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Board of Public Works, Department of Natural Resources, Maryland Department of the Environment, Maryland Department of Agriculture, Department of Legislative Services

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