

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1485 (Delegate Jacobs, *et al.*)
Environmental Matters

Oyster Sanctuaries - Oyster Bar Cleaning and Removal of Diseased Oysters

This bill authorizes the Department of Natural Resources (DNR) to (1) allow a person to catch oysters in an oyster sanctuary by hand tong or, if lawful, power dredge for the purpose of cleaning an oyster bar or removing diseased oysters; (2) establish a schedule for the cleaning of oyster bars and removal of diseased oysters on oyster sanctuaries; and (3) adopt regulations establishing standards and procedures to implement the bill.

Fiscal Summary

State Effect: Because DNR does not intend to conduct oyster bar cleaning in sanctuaries, this analysis assumes that the bill does not affect State operations or finances. However, to the extent State policies and research outcomes change and DNR implements oyster bar cleaning in sanctuaries, general and special fund expenditures increase, potentially significantly, for costs associated with conducting disease assessments, cleaning oyster bars, and providing additional enforcement at oyster sanctuaries. To the extent DNR implements oyster bar cleaning in sanctuaries, oyster bushel tax special fund revenues may increase and federal funding for oyster sanctuaries may decrease.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Oyster sanctuaries have been established via statute and regulation. Statutory provisions designate several oyster sanctuaries – protected oyster restoration

areas – in waters of the State that are contiguous to Calvert, Dorchester, Somerset, and St. Mary's counties. Current regulations designate numerous oyster sanctuaries throughout the Chesapeake Bay, including significant portions of the Chester, Choptank, Magothy, Severn, and South rivers.

DNR is generally authorized to take measures which seem best calculated to increase the productivity or utility of oyster resources in the State. Current regulations designating oyster sanctuaries identify this broad statutory authority as the basis for such designations.

Background: Since 1994, the Chesapeake Bay's oyster population has languished at 1% of historic levels, suitable oyster habitat has decreased 80%, and the number of harvesters has dwindled. To help reverse this trend, DNR unveiled a new management and restoration plan for oysters and the State's oyster industry in December 2009. The plan increased the State's network of oyster sanctuaries from 9% to 24% of the bay's remaining quality oyster bars, established oyster aquaculture leasing opportunities and related financial assistance programs, and maintained 76% of the bay's remaining quality oyster habitat for a public oyster fishery.

The expansion of Maryland's oyster sanctuary network was identified as the preferred strategy for restoring the bay's oyster resource in a six-year regional Programmatic Environmental Impact Statement on oyster restoration alternatives and by the Maryland Oyster Advisory Commission. DNR advises that the sanctuary network was designed to protect half of the bay's most productive oyster grounds and investigate why they remain productive despite disease, facilitate development of natural disease resistance, provide essential natural ecological functions, serve as a reservoir of reproductive capacity, provide broad geographic distribution across all salinity zones, and increase the State's ability to protect important areas from poaching.

Oyster bar cleaning is a strategy intended to limit disease on an oyster bar by removing infected oysters. Conceptually, by removing existing sources of disease before planting disease-free seed oysters, disease acquisition in the planted oysters can be delayed, allowing them to live longer and grow larger before being harvested. However, recent data suggests that bar cleaning does not produce discernible disease protection benefits. A March 2008 report of the Oyster Advisory Commission concluded that bar cleaning is an ineffective strategy for protecting planted oysters from acquiring the Dermo oyster disease.

DNR advises that because the objective of DNR's sanctuary program is to foster natural disease resistance, removing diseased oysters is inconsistent with the program's purpose. Removing diseased oysters from sanctuaries will make it more difficult to build a population of natural disease resistant oysters. DNR further advises that implementing

bar cleaning in oyster sanctuaries will likely prompt a significant reduction in or elimination of federal funding for oyster sanctuaries in State waters. Thus, DNR does not intend to conduct oyster bar cleaning in sanctuaries.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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