

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1426 (Delegate Adams)
Environment and Transportation

Rules

Natural Resources - Aquaculture Leases and Public Shellfish Fishery Areas

This bill requires the Tidal Fisheries Advisory Commission, in consultation with the Aquaculture Coordinating Council, to establish a workgroup of commercial oyster harvesters, representatives of oyster aquaculture in the State, and other interested stakeholders to (1) review commercial oyster harvest activity and oyster aquaculture production, including specific areas of harvest and production, since the establishment of the public shellfish fishery areas and (2) make findings and recommendations with respect to standards for determining areas appropriate for commercial oyster harvest and aquaculture. By December 1, 2018, the commission must report the findings and recommendations of the workgroup as approved by the commission to the Department of Natural Resources (DNR) and specified legislative committees. **The bill takes effect June 1, 2018, and terminates May 31, 2019.**

Fiscal Summary

State Effect: The bill can be implemented with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Tidal Fisheries Advisory Commission and Aquaculture Coordinating Council

The Tidal Fisheries Advisory Commission is an advisory commission within DNR made up predominantly of commercial watermen, along with one member of the Sport Fisheries Advisory Commission and one representative of the aquaculture industry in the State. The Aquaculture Coordinating Council is made up of government, industry, academic, and nonprofit organization representatives and has various responsibilities relating to advancing Maryland aquaculture.

Public Shellfish Fishery Areas

In consultation with the Oyster Advisory Commission, DNR is required by statute to identify by regulation the public shellfish fishery area (an area in which shellfish is harvested for commercial purposes) in the Chesapeake Bay based on commercial harvesting activity during the three years preceding June 1, 2009, any surveys conducted by DNR, and other quantitative data known or made available to the department. The public shellfish fishery area may not be leased for shellfish aquaculture.

DNR regulations incorporate by reference the document *Public Shellfish Fishery Areas of the Chesapeake Bay and Its Tidal Tributaries (November 2016)*, which designates public shellfish fishery areas in the bay and its tidal tributaries. The regulations allow for a person to petition DNR to declassify a portion of a public shellfish fishery area by submitting a shellfish aquaculture lease application. The declassification of a public shellfish fishery area may be approved:

- if the results of a biological survey conducted by DNR or a designated agent show that the average density of oysters per square meter is equal to or below the maximum threshold of one oyster that is one inch or greater per square meter;
- after commercial harvest activity and other quantitative data is considered by DNR;
- if the lease application meets other specified lease requirements in DNR regulations; and
- if the lease application is approved in accordance with State law governing aquaculture.

Aquaculture Leases

Specified statutory restrictions are placed on the location of shellfish aquaculture leases. The restrictions generally prohibit a lease from being located:

- within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of initial application for the lease;
- within 150 feet of the public shellfish fishery or a registered pound net site;
- within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;
- within 150 feet of a federal navigational channel;
- in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide;
- in a submerged aquatic vegetation protection zone; or
- in a setback or buffer from the Assateague Island National Seashore established by DNR.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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