



MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Anthony G. Brown
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Robert M. Summers, Ph.D.
Deputy Secretary

March 29, 2010

The Honorable Maggie L. McIntosh, Chair
Members of the Environmental Matters Committee
House Office Building, Room 251
Annapolis, MD 21401

Re: Senate Bill 3 - Environment – Wetlands and Waterways Program Fees – Aquaculture

Dear Delegate McIntosh and Committee Members:

Thank you for the opportunity to provide information regarding Senate Bill 3 (SB3) entitled Environment – Wetlands and Waterways Program Fees – Aquaculture. This Bill would exempt aquaculture activities for which the Department of Natural Resources has issued a permit under §4-11A-02 from the application fees established under §5-203.1(b)(2) of the Environment Article.

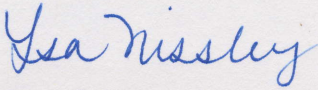
With the exception of aquaculture operations that take place in designated Aquaculture Enterprise Zones (AEZ's), aquaculture activities in tidal waters require a State tidal wetlands license or private tidal wetlands permit under Title 16 of the Environment Article. In addition, aquaculture operations that impact nontidal wetlands or nontidal waterways require a nontidal wetlands and waterways permit under Title 5, Subtitle 5 and Subtitle 9 of the Environment Article. All wetland applications must be accompanied by a \$750 application fee, with major projects (i.e., 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) charged between \$1,500 to the impact area in acres multiplied by \$7,500 for a project with a proposed permanent impact of one acre or more. 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, wetland creation, or other projects in which the primary effect is to enhance the State's wetland or water resources. Application fees, which may be adjusted annually for inflation, are paid into the Wetlands and Waterways Program Fund.

Due to public notice requirements, commercial oyster aquaculture would always be classified as a major project, thus triggering a total fee of \$1,500 (a \$750 initial application fee and a \$750 major application fee). However, in furtherance of the State policy to enhance the environmental and economic benefits of oyster aquaculture activities within the Chesapeake Bay, the Maryland Department of the Environment (MDE) issued administrative guidance on February 5, 2010 stating that aquaculture activities are appropriately covered under the existing exemption established in Maryland law. Oysters serve a vital ecological role by filtering sediment and other particles from the water column and provide a unique bottom habitat for numerous aquatic species. Restoring the Chesapeake Bay's oyster population is a key to improving the bay's environmental health.

The Department's strategy not only complements SB3, but also Governor O'Malley's Oyster Restoration and Aquaculture Development Plan. The Governor's plan aims 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 helps restore the Chesapeake Bay, bring back Maryland's native oyster, and create new jobs and economic activity in the State. Consequently, the Department supports SB3, as amended.

Thank you allowing us to provide information on SB3. If you have any questions or need additional information regarding this issue, please do not hesitate to contact me at 410-260-6301 or lnissley@mde.state.md.us.

Sincerely,



Lisa Nissley
Legislative Liaison/Environmental Justice Coordinator

cc: Heather Barthel, Director, Legislation and Policy, MDE
Jay Sakai, Director, Water Management Administration, MDE