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Streamlining shellfish aquaculture permits in the state of Maryland: Solving the problem, or just another delay? (/full-blog/2011/10/streamlining-shellfish-aquaculture.html)



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By: Collier Marsh, Staff Member

Oysters are a valuable resource to our nation's coastal waterways. In addition to their economic value, they actively filter the water. Historically, oyster populations in the Chesapeake Bay could filter the entire bay in less than a week, and potentially in as little as three days.[1] According to a recent study by the University of Maryland, oyster populations in the Chesapeake Bay are now

at 0.3% of their historic levels.[2] With this decline in oyster populations, it now takes the remaining population more than a year to filter the Chesapeake Bay, thereby decreasing their effectiveness.[3]


The oyster aquaculture industry is a viable way to revive the oyster in the Chesapeake Bay region. However, in the state of Maryland, there are significant barriers that inhibit the industry's growth. A primary deterrent has been the lengthy and ineffective permitting process to receive the right to grow oysters. On August 15, 2011, Maryland Governor Martin O'Malley announced a new streamlined permitting process.[4] The new plan combines the state and federal permitting systems into one process.[5]

Governor O'Malley announced his intentions to streamline the process in 2009,[6] yet the modifications to the system were not officially announced until August of 2011.[7] Such delays are common in Maryland's aquaculture industry, and have been hindering the industry's growth. Despite the value of oysters, aquaculture has faced tough resistance from various interest groups and the existing permitting regime has supported the resistance. Before the announced changes, interested applicants had to deal with at least six different federal and state agencies to get their permits approved.[8] Despite following the guidelines, many applicants find themselves stuck in the process for years.[9]

It now appears that Maryland is ready to take steps to grow the industry. Will the new system bring any real changes? If history is any indication, barriers will remain. Combining the state and federal permitting systems, in theory, will bring about a more rapid response. However, applicants may face the same obstacles that were present in the previous regime. For example, a common response to an applicant after submitting an application was that, instead of approving or denying an application, an agency would request more information. Once the new information was received by the agency, the review would start over again.[10] Will the new system prevent this?

If the new permit process is effective, the state of Maryland should see rapid growth in the aquaculture industry. The growth will face resistance by the same groups that have historically fought the industry. Groups in opposition to the oyster industry may then have to resort to the courts to further their cause. As a consequence, the aquaculture industry can expect a surge of litigation to hinder any progress made by the new permitting system.

The new permitting process seems to be a step in the right direction for Maryland's oyster industry, but obstacles remain. State and federal agencies must ensure that permit applications proceed as intended. The state must also be prepared to handle the response from opposition groups that is certain to ensue. More action will be necessary to successfully develop the oyster industry in Maryland.

[1] *Oyster Fact Sheet*, Chesapeake Bay Foundation, <http://www.cbf.org/page.aspx?pid=511> (<http://www.cbf.org/page.aspx?pid=511>) (last visited September 26, 2011).Description: Link

[2] Timothy B. Wheeler, *Maryland's oysters more depleted than thought, study says; Scientists call for ban on all commercial harvest*, The Baltimore Sun, (Aug. 31, 2011), <http://www.baltimoresun.com/features/green/bs-gr-oysters-0110831,0,1580941.story> (<http://www.baltimoresun.com/features/green/bs-gr-oysters-0110831,0,1580941.story>).

[3] *Oyster Fact Sheet*, Chesapeake Bay Foundation, <http://www.cbf.org/page.aspx?pid=511> (<http://www.cbf.org/page.aspx?pid=511>) (last visited September 26, 2011).


[4] *Governor Martin O'Malley Announces Streamlined Aquaculture Permitting*, Maryland Department of Natural Resources, (Aug. 15, 2011), http://www.dnr.state.md.us/fisheries/news/story.asp?story_id=181 (http://www.dnr.state.md.us/fisheries/news/story.asp?story_id=181).

[5] *Id.*

[6] Liz Holland, *Maryland promotes Aquaculture to boost oyster numbers*, The Daily Times of Salisbury, (Sept. 12, 2011), <http://thedailyrecord.com/2011/09/12/maryland-promotes-aquaculture-to-boost-oyster-numbers/>. (<http://thedailyrecord.com/2011/09/12/maryland-promotes-aquaculture-to-boost-oyster-numbers/>)

[7] *Governor Martin O'Malley Announces Streamlined Aquaculture Permitting*, Maryland Department of Natural Resources, (Aug. 15, 2011), http://www.dnr.state.md.us/fisheries/news/story.asp?story_id=181. (http://www.dnr.state.md.us/fisheries/news/story.asp?story_id=181)

[8] Rona Kobell, *Would-be MD oyster farmers drowning in permit paperwork*, Chesapeake Bay Journal, (January 2011), <http://www.bayjournal.com/article.cfm?article=4009>. (<http://www.bayjournal.com/article.cfm?article=4009>)

[9] *Id.*  Description: Link

[10] *Id.*

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