Rebuilding Our Shellfish Industry: Maryland’s New Leasing Program

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A History of Oyster Harvests and Laws in Maryland

c. 1852: Baltimore & Ohio Railroad reaches Ohio River; expanded oyster market to western communities; northern oyster packers opened plants in Baltimore.


1868: "Oyster Police." Collected license fees, enforced fishing restrictions, and protected private grounds.

1877-79: Winslow Oyster Survey documented expansion of oyster beds and decline in number of oysters in Pocomoke and Tangier Sounds.

1882: Oyster Commission surveyed Maryland oyster beds; recommended conservation measures and oyster farming.

1890: Cull Law: Set minimum legal size for market oysters; required return of shells with spat and young oysters to natural oyster bars.

1906: Harman Oyster Culture Law; Shellfish Commission increased leasing allowance, a proposal rendered ineffectual by inter-legislative commission Maryland Oyster Survey (Winslow Survey).

1906-12: Yates Survey of Natural Oyster Bars. Conducted extensive biological and environmental surveys of Maryland's oyster bars.

1916: Maryland Conservation Commission. Consolidated Shell Fish Commission, Fish Commissioners, State Game Warden, and State Fishery Forces into one agency.

1922: Shell-Planting Legislation. Initiated annual placement of shell as cultch for depleted oyster bars.

1927: Ten-Percent Shell Tax. Required oyster processors to make 10% percent of their shellfish harvest available for state use in planting.

1939: Twenty-Percent Shell Tax. Increased shell tax on processors.

1953: Fifty-Percent Shell Tax. Increased shell tax again, but the supply still proved insufficient.

1961: Shell-Dredging Program. Initiated new oyster replenishment program using old shells dredged from non-producing areas.

1965: Twenty-Five Percent Shell Tax. Reduced shell tax; allowed processors the option of cash payment, in place of shell.


1993: Oyster Roundtable Action Plan. An agreement by major stakeholders in the oyster fishery, including watermen and scientists, to develop a science-based plan for sustainable restoration.
Changing Laws

- 1830 “One Acre Law”: first aquaculture
- 1865 “Five Acre Law”: licensing system and expanded minor aquaculture potential
- 1884 Oyster Commission: survey of grounds; recommendations on conservation and expanding aquaculture
- 1906 Haman Oyster Law: Shellfish Commission; renovated leasing; Yates Survey
Onward Into the Century

- 1912 Price-Campbell Bill: improved Haman; increased acreage; dredges allowed
- 1914 Shepherd Bill: protests allowed to block leases; effectively stopped leasing
- 1916 Maryland Conservation Commission: consolidated several advisory groups and police operations
More commissions...

- 1932 Baltimore Association of Commerce
- 1936 State Planning Commission
- 1938 Committee on the Structure of the Maryland State Government
- 1943 Tidewater Fisheries Department Oyster Management Plan
- 1948 Commission on the Conservation of Natural Resources

from Kennedy
Still more commissions...

- 1966 Seafood Advisory Committee of Wye Institute
- 1978 Maryland Oyster Resource Expansion (M.O.R.E.) Task Force
  - Chaired by DECD Asst Secty William Pate
  - Continued disputes between watermen, growers, processors and scientists
  - Resulted in minority report
1992 Oyster Roundtable

- Formed by DNR Secretary Torrey Brown
- Professionally facilitated
- Membership of widely diverse interests
- Total consensus or no agreement
- “No one gets all; all get some”
- Led to action plan that developed Oyster Recovery Partnership, tributary zones, managed reserves and other concepts
2003 Task Force on Seafood and Aquaculture

- Created by General Assembly
- Two sections with 40 members
  - Seafood
  - Aquaculture
- Wide membership base
- 18 month investigation
- Supported by the Maryland Aquaculture Development Conference
- Legislation submitted for 2005 legislature
Analysis of Problems

- Lack of coordination between agencies
- Untimely delays in off bottom permits
- Historic disregard for private culture
- Lack of input to highest levels of state government on regular basis
- Constrained by archaic laws and regulations accumulated over years
- Previous legislation only defined roles and responsibilities of MDA, DNR, and UMD
2005 Legislation

- Sen. Kathy Klausmeier and Del. Tony O’Donnell
- Changed Advisory Committee to Aquaculture Coordinating Council with broad range of charges including BMPs
- Created Review Board chaired by Aquaculture Coordinator for permit tracking and review
Legislation 2007

- Submitted by CBF to allow leases to be used for ecological purposes
- Industry objected; not commercial purpose
- Changed to two 30 acre plots for CBF
- Charged DNR Secretary to appoint an Oyster Advisory Commission
- Increased penalties for oyster theft on sanctuaries, leases and public reefs
Oyster Advisory Commission

- Enhanced sanctuary program
- Move industry to private aquaculture
- Closely regulated public harvest
- Assess EIS for *Crassostrea ariakensis*
- Recommendations for statewide Oyster Management Plan
- Called for expansion of public funding with an end date of 2020
Governor O’Malley and aquaculture

- Aug 2008 - Governor O’Malley visits shellfish aquaculture businesses on the coastal bays
  - Noted increase in Virginia industry in both hard clams and oysters
  - Recognized aquaculture benefits to economy and environment
  - Called for plan to spur development to him within 60 days
Legislation Development

- Aquaculture Coordinating Council provided recommendations for legislation, Sep 08
- Interagency group developed legislation
- Passed 2009 General Assembly with unanimous votes in both houses
- Signed by Governor on 07 May 09
Lease Law Provisions

- Changed from legislative to regulatory framework for management
- Deleted county prohibitions on leasing
- Allowed corporations to hold leases
- Allowed nonresident leasing
- Deleted acreage limitations
- Replaced with “use or lose” program with oversight monitoring and production requirements
Lease Law Provisions

- Natural Oyster Bars became Public Shellfish Fishery Areas able to be leased
- Planting requirements
  - 1 million seed / acre on 1/4 annually
  - waiver if unavailable or other factors
  - Requires production plan with application
  - Requires annual reporting of activity & harvest
- Clearance zones
  - 150’ from channels, pound nets, marinas, launching ramps and PSFAs
  - 50’ from shoreline except by agreement of riparian owner
Key Provisions: Aquaculture Enterprise Zones

- Designated areas for bottom and off-bottom culture
- State gets permits (USACE / MDE) and subleases to growers
- 25% initial set aside for licensed watermen
- Two initial sites in Patuxent River ~176 acres
- More to be designated in other areas
What are the goals of oyster management in Maryland’s Chesapeake Bay?

- Return oysters to a level of former abundance
- Enhance disease resistance in natural stocks
- Rebuild reef structures and expand their footprint through larger sanctuaries
- Create more effective harvest scenarios
- Expand economic opportunity through increased aquaculture
Principal issues

- How to restore natural populations that are at extremely depleted levels due to disease and other factors?
- How to rebuild our oyster industry by moving to private culture, attracting investment capital and offering traditional harvesters the opportunity to transition?
- Both have ecological benefits
Current Activities of the “Oyster Team”

- Develop a low interest loan program for shellfish aquaculture (MARBIDCO)
- Investigate other funding sources to spur development (NRCS; MDA; others)
- Develop application procedures
- Get existing leases back to production
- Determine review and reporting procedures and PSFA rezoning criteria
Contact Information

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