

**Maryland Aquaculture Coordinating Council**  
**Minutes - January 8, 2015**  
**Held at the Maryland Department of Agriculture**  
**50 Harry S. Truman Parkway**  
**Annapolis, MD 21401**

**Members Attending:**

Andrew Buck	Don Webster	John Shockley
Reggie Harrell	Karl Roscher	Stacy Kubofcik
Tony O'Donnell	Jon Farrington	Chris Sherman
Joanna Kille	Kathy Brohawn	Erin Butler

**Guests:**

Buddy Hance, MDA	Jill Buck, Patuxent Seafood
Kim Coulbourne, DHMH	John Barnette, Leaseholder
Linda Arnold, MARBIDCO	Nancy Shockley, HIOAC
Stephanie Richards, DNR	Larry Jennings, CCA
Maude Morris, DNR	Ted Cooney, MADHouse Oysters
Alyssa Cranska, DNR	Dave Schwenk, Leaseholder
Steve Schneider, DNR	Tal Petty, Hollywood Oyster
Becky Thur, DNR	Chris Aiken, Self

**Call to Order:**

Chairman Buck called the meeting to order at 6:37 pm and thanked Buddy Hance, Secretary of the Maryland Department of Agriculture (in attendance), for hosting tonight's meeting at MDA. The C-1 Conference Room at the Tawes Building is currently being used by Governor Hogan's transition team.

**Administrative:**

Approval of November Minutes

Motion: (Butler/Brohawn) - Passed

*For the Council to approve the November 13, 2014 Minutes as written.*

Announcements (Chairman Buck and members)

- Mr. Webster highlighted The 41st Annual East Coast Commercial Fishermen's & Aquaculture Trade Expo will be held from January 16 - 18, 2015 at the Ocean City Convention Center in Ocean City, Maryland.
- Mr. Webster also mentioned that The Maryland Aquaculture Facebook page has started putting up announcements. Recent posts include information about tonight's ACC meeting and the grants available from the USDA's Rural Business - Cooperative Service. Interested persons can access the page at: <https://www.facebook.com/marylandaquaculture>
- Ms. Kubofcik, a member of the Young Farmers Advisory Board, encouraged attendance and support at the first meeting of GROW MARYLAND (a new industry-led organization) from 4:30 - 6:30 pm on January 13, 2015 at the Maryland Department of Agriculture. Details about the meeting and an invitation to attend are included on the last page of the ACC meeting packet provided to the Board and guests attending tonight's meeting.
- Delegate O'Donnell announced that he and Mr. Webster had been invited to attend the annual convention of the Aquaculture Association of Nova Scotia (AANS) at the end of January. A fundraising event included with the convention is called the Sip n' Shuck, which combines aquaculture products with wine and microbrewery products. He will report on this at the next meeting.

## **Reports:**

### Aquaculture Division Report (Mr. Roscher)

The Aquaculture Division has received an additional 16 new shellfish lease applications since the last ACC meeting on November 13, 2014. This brings us to a total of 64 applications received in 2014, up from the 27 received in 2013. So far in 2015, the Division has received five applications, which represents a good start and shows continued interest in aquaculture. In addition, there have been four new lease agreements issued and 11 new leases are pending issuance.

There are seven proposed leases on public notice with comment period dates ranging from mid to late January into early February. Since the November ACC meeting, public notice periods for seven proposed leases have concluded, five being without protest. Currently, hydrographic surveys are pending for three lease applications. Once complete, these projects can be moved to public notice and be forwarded to the Corps of Engineers. Mr. Roscher highlighted that public notices play an important part in the application and approval process. In addition, the Division prepared eight new lease application packets that were forwarded to the Corps of Engineers, received three new shellfish import applications (one for shell was issued, plus two for seed), and made two amendments to existing lease agreements, while three lease renewals were executed.

From September 2010 through November 13, 2014, Maryland has received 278 lease applications, 207 of which have been received since August 1, 2011 when the Department began accepting applications for water column leases and leases in sanctuaries. The State has issued 116 new commercial shellfish aquaculture leases totaling approximately 2,315 acres. An additional 104 lease applications are in process, five of which are complete. Mr. Roscher added that while the numbers have increased for applications awaiting processing, we have many leases issued and in use, which is a major change from September of 2010.

The majority of Maryland aquaculture leases are submerged land leases with 266 representing 3793.49 acres. There are 53 water column leases on 204.97 acres. Mr. Roscher provided a summary of 2014 Shellfish Aquaculture Harvester Permit (SAHP) and Registration Card Issuance. In the last year, 392 Permittee cards and 1135 Registrant cards were issued for a total of 1527 permits issued. This represents a total of 498 individuals permitted to work in the industry during 2014. The total number of leases where a harvest was reported in 2014 is 131 (not a final number) and this is up from last year; two leases reported harvesting clams. The total number of individual leaseholders reporting harvest on one or more leases in 2014 is 71 (not a final number); two individual leaseholders reported harvesting clams.

Thus far in 2015 there have been 47 leases permitted. These are ones that have completed the annual review process with Acceptable usage, SAHP renewal forms, summer landing declarations and rent payment. This is a good start to the year, with leaseholders doing their best to get information to us. Out of the 304 annual mailing packets sent to leaseholders, 201 (66%) have been returned as of today's meeting.

Included with the annual leaseholder mailing (one per leaseholder), was a voluntary industry survey. The survey is intended to generate industry numbers and information for the ACC and General Assembly to benefit aquaculture. Of the 120 mailed, 53 (44%) have been returned and it is hoped that this number will increase as the annual leaseholder mailing returns are still being received.

After presenting the Aquaculture Division report, Mr. Roscher responded to Delegate O'Donnell's questions and concerns regarding average cycle times (metric) for lease application approval and the limited grower supply vs. increasing buyer demand and industry goals. The Aquaculture Division does have a metric in place to track applications through the review process to approval and can now determine where things are taking the longest. The established goal is 180 days and delays caused by factors outside of the Department's control are tracked separately.

Lease categories identified for the tracking metric are: All, Standard and Non-Standard. There are currently 95 All and 69 Standard in the tracking metric for 104 lease applications in process.

Summary Table for Aquaculture Division Metric - Lease Application Approval

Category	Processing Time in Days*		
	Minimum	Average	Maximum
All	76	330	500-600
Standard	76	298	430
Non-Standard	236	400+	600

\*Number includes processing time associated with application adjustments requested by the Corps of Engineers (ACOE) and actions involving the Office of the Attorney General (OAH), but does not include the total time it takes to receive a Federal Permit authorization from the Corps.

In 2013 there was an increase in processing time as a result of the numerous applications submitted. By April 2014, when the Division was fully staffed, processing time began to decrease. Hopefully, by the next ACC meeting the Division will have statistics (by county, type, etc.) to analyze the application process. We can see each application at each stage of the process to identify where things get held up.

It was asked if there are still Federal hang-ups that affect the processing time for the lease applications. Mr. Roscher explained that there are some issues that are ongoing and being discussed; the Regional General Permit has helped but there are still requests for additional information received from and required by the Corps of Engineers for qualifying projects. The Council then discussed Federal oversight expectations, the Aquaculture Review Board (ARB) perspective for review of some application factors, identifying and resolving bottlenecks in the process, and improving/reducing the cycle time overall. A report from the Aquaculture Division providing data from the application metric should be available for the ACC at the next meeting in March.

**Motion 1: (Brohawn/Shockley) - Passed**

***That a report from the Aquaculture Division, regarding their new metric for lease issuance, be sent out to the Aquaculture Coordinating Council for review in advance of the next scheduled meeting on March 12, 2015. The purpose of this report (including graphs and statistics), is to use the data provided by the metric to identify specific bottlenecks in the lease application/issuance process so that they can be discussed by the Board at the March meeting.***

**Shellfish Aquaculture Financing Program Status (Ms. Arnold, MARBIDCO)**

No new loans have been received or processed since the last meeting. In the regular Shellfish Aquaculture Program there are 57 projects with approved MARBIDCO Aquaculture loans. This is for a total of \$3,295,317.51 with 40 loans fully drawn. In the Remote Setting Program there are four projects for a total of \$90,500.00 with two loans fully drawn. Overall, there are 61 projects in 10 counties with 50 TFL holders and 11 non-TFL holders participating in the program. Thus far, \$2,514,939.96 has been disbursed in the regular Shellfish Aquaculture Financing Program and \$60,000 in the Remote Setting Program. In addition, there are eight Natural Resources Conservation Service (NRCS) Environmental Quality Incentives Program (EQIP) assignments totaling about \$164,000 that have been contracted with the NRCS as of January 8, 2015. Responding to questions from the Board, Ms. Arnold elaborated that a handful of the loans have amortized and participants, with one exception, are making their quarterly payments; with there being only one loan that was having issues.

Ms. Arnold finished her status report by summarizing the funds currently available for lending. There is \$131,000 for the purchase of seed and \$25,000 for the purchase of shell. For the \$245,000 available for capital equipment, \$226,000 is new fiscal 2015 funding and the remaining \$19,000 are reverted funds.

Workgroup: Active Use Requirements (Mr. Roscher)

In presenting the Active Use Policy information, Mr. Roscher summarized the current application of the requirements by the Department. Thus far, leaseholders are not being required to meet the planting requirements of 1,000,000 shellfish seed per acre, but usage has been evaluated on a case by case basis. To get input on a more feasible active use requirement, two regional meetings with leaseholders (Eastern and Western Shore) were held in August of 2014.

Summary of discussion items obtained from leaseholders at the regional meetings as discussed by the Council:

- 1,000,000 per acre planting density is too high - this number should be reduced.
- 250,000 per acre determined to be a more reasonable, less costly and attainable planting density.
- Working ¼ of lease acreage per year is not unreasonable for most leaseholders.
- Need to establish a minimum harvest (as part of usage) threshold or, if harvest is not shown, the leaseholder would have to comply with planting density/other usage requirements. In general, if a lease is without harvest after several years, there is something wrong. Either it is not being used or it is in a bad area.
- A minimum harvest threshold and, at some point, documentation or verification of natural set for leaseholders who claim that they do not need to plant because they are receiving a sufficient natural reproduction. If a harvest threshold is not met (especially if usage concerns exist), then leaseholders would be required to comply with planting density or other use requirements or forfeit their leases. Discussion ensued on providing guidance from DNR and UME to teach leaseholders how to properly assess and document natural set.
- There should be a mechanism that allows leaseholders to be exempt from planting when warranted (example - When not advisable to plant on top of a natural set).
- Participants agreed that the active use requirements should be based on some combination of activities (Working Bottom, Planting, Natural Set, Harvest) that needs to be detailed on their annual usage reports and reviewed by Aquaculture Division.

The Active Use Workgroup met on December 18, 2014 to review the input on active use requirements received from leaseholders during the regional meetings and formulate recommendations on an appropriate path forward.

The workgroup recommends that the Council consider the following active use policy changes:

- Reduce planting requirements from 1,000,000 shellfish seed per acre to 200,000. This would provide leaseholders with a target minimum planting density that is less difficult and be less costly to achieve while resulting in commercially viable harvests. It would serve as a deterrent to those seeking vanity leases or holding onto productive bottom without working it commercially.
- Reduce the amount of acreage that needs to be planted annually from one-fourth (25%) to one-fifth (20%) of the total lease acreage. This would provide leaseholders with an extra year to plant their entire lease.
- Establish a protocol for the Department to recognize natural set occurring on a lease to qualify as active use in lieu of requiring seed planting. Natural set would need to be verified annually until a history was established (the State can refer back to history during annual usage evaluation). Natural set must be accompanied by other lease management activities such as bottom maintenance, shell planting, etc. in order to satisfy the active use requirements.
- Aquaculture Division staff will continue to evaluate information provided by leaseholders (planting activity, maintenance/working bottom, natural set, harvesting) on a case by case basis to determine if a lease is being commercially used by leaseholder(s). Leaseholders will not be evaluated solely on meeting planting requirements.

Active Use Policy Guidance process moving forward:

- Council will make a formal policy recommendation to the Department after the January meeting.
- Department will finalize policy for distribution to leaseholders in early 2015.
- Leases will be evaluated according to the new policy in January 2016 for calendar year 2015 usage activity.

The Council then discussed in detail the workgroup summary provided by Mr. Roscher. The question was raised whether the usage requirements are in policy or law. Mr. Roscher explained that the Department has the ability (discretion) in the law to review the leases and can adjust the policy with new guidelines. He indicated that after three years of experience in conducting usage reviews, the leases that are not being used tend to stand out and the Department pursues termination action accordingly. There is a mechanism in place for leaseholders to appeal the State's decision regarding the termination of their lease for non-usage.

Reviewing the value added component of ecological filtering from live planting, the Council's discussion continued regarding the best compromise for a minimum planting density requirement. This included considerations for the differences in planting strategies/costs, and associated mortality rates, on submerged land leases (spat on shell) and water column leases (individuals). Concluding their discussion, the Council considered the importance of ensuring usage, determining a realistic density number achievable to an individual grower, while also highlighting the positive impact on water quality improvement.

**Motion 2: (Webster/Butler)**

***For the Council to accept the report on Active Use Policy Guidance as presented by the Active Use Workgroup and recommend that the Department incorporates these changes into their Active Use Policy.***

**Workgroup: Commercial Clamming/Aquaculture (Mr. Parks)**

Mr. Parks was unavailable so Mr. Roscher presented the workgroup's report to the Council. At the last ACC meeting, the workgroup handed out recommendations based on the May/July requests for information to help the State screen lease applications for clamming conflicts. The concept was to have lease applicants voluntarily contact clamming representatives to identify possible conflicts so that they could be addressed earlier in the application process. In addition, maps that show areas historically associated with clamming activity would be created and evaluated and made available for application screening. The workgroup had hoped to have a list of clamming representatives and maps of the clamming areas, which could be used to pre-screen lease sites, by this meeting for the Council to review. Mr. Roscher has been in touch with Mr. Robert T. Brown and Mr. Moochie Gilmore, both with the Maryland Watermen's Association (MWA), to get updates on the list and maps. According to Mr. Brown, one map is complete (St. Mary's County), but more information is needed from others on the Upper Bay areas. There is an expectation that Mr. Brown and others will be meeting after the Watermen's Trade Show to discuss the anticipated list of representatives and clamming area maps and provide them to the Department.

During discussion, a question was raised whether a deadline set by the Council for submission of the clamming representatives list and area maps would be beneficial. It was agreed that a deadline to receive the requested materials by late February would facilitate the process. This approach would also provide the Council with the time necessary to review the information before the next scheduled ACC meeting in March and while the General Assembly is in session.

**Motion 3: (Butler/Brohawn)**

***DNR Aquaculture Division will request that the Maryland Watermen's Association develop a contact list of commercial clamming representatives and maps of important clamming areas by the end of February 2015. The contact list and maps will be used by applicants and the Aquaculture Division to provide information on proposed aquaculture lease application sites to clamming industry representatives earlier in the review process.***

**New Business:**

Applying Timber Industry Legislation to Aquaculture: Jon Farrington, Vice-President of the Southern Maryland Shellfish Growers Association (SMSGA), brought to the Council's attention a topic introduced by Mr. Blackwell at the last SMSGA meeting. He described the protection in law for timber owners so they can hold others liable for loss or damage to their products. He suggested that this type of legal protection be extended to the aquaculture industry, allowing leaseholders to take a claim to court for damages such as theft. After discussing whether aquaculture should go forward with legislation in a similar way, Chairman Buck proposed to add it to the March agenda. Mr. Farrington said that he would be willing to prepare information for the Board in order to facilitate the discussion; Del. O'Donnell volunteered to work on this with Mr. Farrington.

**Motion 4: (Shockley/Farrington)**

*Del. O'Donnell and Mr. Farrington will put together information regarding the possibility of legal protection associated with damage claims (such as those applied to the timber industry) for damage and/or theft of property (product) for restitution; and whether it could be extended to the aquaculture industry. The information is to be presented to the Council as part of the March 12, 2015 Aquaculture Coordinating Council meeting agenda.*

Water Allocations and Nursery Operations Discharge: Del. O'Donnell presented information on concerns regarding the current 10,000 gallon per day discharge limitation for shellfish nursery operations. If the discharge will be in excess of that limit, a discharge permit is required. Ms. Brohawn indicated that she would be willing to meet with MDE staff to discuss the requirements, especially since nothing is being added to the water before it is discharged. Del. O'Donnell suggested that perhaps there might be an exemption from these requirements for aquaculture nursery operations, considering their clean water discharge. It was decided that Del. O'Donnell would host a meeting at his office where he, Mr. Roscher, Ms. Brohawn and appropriate MDE staff can discuss options and report back to the ACC at the next meeting.

Del. O'Donnell concluded his comments by thanking Secretary Hance for his support of agriculture and Maryland aquaculture. Mr. Shockley shared that he had been invited to speak at an agricultural event and found it a very positive experience, feeling welcomed by the agricultural community.

**Public Comments:**

Mr. Tal Petty asked the Board for more information about the process by which lease applications would be reviewed with input from the clambers. He is worried about further limitations on lease areas and wondered how large the areas identified on the discussed maps for clamming would be. The Council responded by explaining that the ACC and DNR Shellfish Program will be involved in evaluating the map areas that are identified by the MWA as associated with (transient) clams. Jill Buck asked how DNR will verify that clams have been harvested in the identified areas. Mr. Roscher responded that DNR biologists will look at historic population and catch data and evaluate industry identified sites to help focus on areas where clambers work and harvest clams recurrently. While there are still unresolved questions/concerns about the proposed clamming areas lease application review process, the Council will review the list and maps provided by the MWA and continue to work on finding solutions.

Ted Cooney spoke about Steve Vilnit and the DNR Seafood Marketing Program. He was concerned that Mr. Vilnit's much appreciated efforts on behalf of growers may be significantly curtailed and asked why. Mr. Roscher provided a brief background on Mr. Vilnit and the Seafood Marketing Program, covering how the commercial license surcharge is used to fund the marketing program and what portion is devoted to marketing for Aquaculture. Members of the Council praised Mr. Vilnit's efforts and cited examples of his work in developing successful programs, such as: True Blue (Maryland blue crab), Maryland Oyster Pledge, Chef Tours (aquaculture farms, pound nets and crab pots) and even his ability to create a market for the Northern Snakehead invasive fish. The Council discussed the possibility of the aquaculture industry contributing to the

surcharge and Chairman Buck agreed to add a discussion of the surcharge and seafood marketing to the agenda for the next ACC meeting.

**Adjourn:**

The meeting was adjourned at 8:23 pm. The next regular meeting to be held Thursday, March 12, 2015 at the Maryland Department of Natural Resources, C-1 Conference Room.