

Title 08 DEPARTMENT OF NATURAL RESOURCES

Subtitle 02 FISHERIES SERVICE

08.02.23 Shellfish Aquaculture and Leasing

Authority: Natural Resources Article, §§4-215, 4-11A-12 and 4-11A-19, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (10) (text unchanged)

(11) ["Tidal wetlands license" means written authorization by the Board of Public Works under Environment Article, §16-202, Annotated Code of Maryland, to dredge, fill, construct structures, or conduct certain other activities involving State tidal wetlands for shellfish aquaculture.

(12) "Water column lease" means a lease of the column of water on or under the surface of the water and above the surface of the submerged land.

(12) "*Yates Bar*" means any submerged oyster bar, reef, rock, or area represented as an oyster bar on the charts of the oyster survey of 1906 to 1912 not including any amendments.

.03 Lease Procedures.

A. (text unchanged)

B. Aquaculture Activities in the Water Column. Prior to engaging in aquaculture activities in the water column of:

(1) (text unchanged)

(2) Waters of the State not listed in Regulation .05 of this chapter, a person shall apply for a:

(a) (text unchanged)

(b) [Tidal wetlands license as described in Environment Article, Title 16, Subtitle 2, Annotated Code of Maryland.] *Water column lease by submitting an application on a form provided by the Department.*

C. — E. (text unchanged)

F. Locations. In addition to restrictions provided in Natural Resources Article, Title 4, Subtitle 11A, Annotated Code of Maryland, a lease may not be located [in]:

(1) [Waters] *In waters* classified as restricted by the Maryland Department of the Environment unless the person:

(a) — (b) (text unchanged)

(2) *In the* Assateague Island National Seashore as described in 16 U.S.C. §459f; or

(3) [A sanctuary as established in COMAR 08.02.04.15A.] *Within 150 feet of a Yates Bar located in an oyster sanctuary as established in COMAR 08.02.04.15A.*

G. — K. (text unchanged)

.04 Shellfish Aquaculture Harvester Permit.

A. A lease [applicant,] *holder or* a lease transfer applicant[, a tidal wetlands license applicant, or an individual as described in Natural Resources Article, §4-11A-16, Annotated Code of Maryland,] shall submit an application for a shellfish aquaculture harvester permit prior to engaging in aquaculture activities.

B. (text unchanged)

C. Application. An application shall:

(1) (text unchanged)

(2) Include a list of all individuals who may be engaging in aquaculture activities within the area described in the applicant's lease application[or tidal wetlands license application].

D. (text unchanged)

E. Permit Registrants.

(1) An individual engaged in aquaculture activities [on] *within* the area described in the permit applicant's lease [or tidal wetlands license application] shall be:

(a) Named as a *permittee or* permit registrant under the shellfish aquaculture harvester permit; and

(b) (text unchanged)

(2) (text unchanged)

(3) A shellfish aquaculture harvester registration card shall be issued to each shellfish aquaculture harvester *permittee and permit registrant.*

F. A shellfish aquaculture harvester permittee or permit registrant:

(1) — (3) (text unchanged)

(4) Shall have written permission from the Department if in possession of undersized shellfish outside of the leased [or licensed] area; [and]

(5) May only sell oysters[to an oyster buying station, designated under COMAR 08.02.08.02B unless that person has written permission from the Department.] *in accordance with COMAR 08.02.08.02; and*

(6) *Shall implement vibrio parahaemolyticus control measures in accordance with COMAR 10.15.07.06.*

.07 General.

A. Penalties. A shellfish aquaculture harvester permit or a shellfish aquaculture harvester registration card may be revoked or suspended by the Department if the individual:

(1) Receives a violation under:

(a) This chapter; *or*

(b) Natural Resources Article, Title 4, Subtitle 11A, Annotated Code of Maryland[]; or

(c) Environment Article, Title 16, Subtitle 2, Annotated Code of Maryland[]; or

(2) (text unchanged)

B. Fishing in a Leased Area. Fishing is permitted in a leased area if the fishing activity does not destroy or damage shellfish or gear which may be planted *or secured* there.

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