Commercial Shellfish Aquaculture Lease Application Process
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MD Aquaculture Conference
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• New steps for leasing in MD
• Joint State/Federal Lease Application Process
  – Consultation/ Pre-planning
  – Aquaculture Review Board
  – Application materials
• Lease Application Review Process
  – DNR Review and ACOE Review
• Public Notice Process
• Lease Agreement / Permit Issuance
DNR’s New Role in Maryland Aquaculture

• Consolidation and reorganization of leasing process effective July 1, 2011
  – DNR now responsible for issuing shell-on-bottom and water column (cages, floats) leases in Chesapeake and MD Coastal Bays

• Creation of Aquaculture Division at DNR
  – Leasing & Permitting Program
  – Field Operations Program
  – 5 total staff
• Review the application materials and instructions
  – www.dnr.state.md.us/fisheries/oysters/industry/aquaculture

• Review all applicable statutes and regulations
  – For laws, see: www.lexisnexis.com/hottopics/mdcode/
  – For regs, see: www.dsd.state.md.us/comar/

• Inform yourself about potential lease sites
• Contact us to discuss potential conflicts
  – Get a map to fine tune your area of interest
• Mark the center of the area with a stake
• Educate neighbors
Things to avoid when choosing your site:

- Public Shellfish Fishery Areas (PSFAs)
- Yates Bars within Sanctuaries
- Harvest Reserve Areas
- Submerged aquatic vegetation (SAV)
- Registered pound net sites
- Restricted/prohibited water classification
- Other existing leases
- Federal navigation channels and buoys
- Commercial fishing conflicts
- AND other resource conflicts not shown here
One-on-one meetings are available to review proposed lease locations in advance of submitting an application.
Aquaculture Review Board:

- Panel of reviewers from multiple State and Federal agencies
  - MD DNR (Chair, K. Roscher)
  - MD DHMH
  - MDE
  - MHT
  - NOAA NMFS
  - ACOE Baltimore District
  - USCG Hampton Roads
Joint Application Form

- Revised to reflect the July 1st changes to the leasing process and in-sanctuary leasing allowance

- Fee structure
  - $300 on-bottom
  - $150 AEZ
  - $0 water column

- Individual or Corp. may apply, if eligible
Application Materials

Major components of the application:

- Applicant / Corporation information
- Description of lease location and site
  - waterway, min. & max depth, tide, bottom type, distance from shore, other uses
- Maps: lease location, offloading site, staging/equipment storage site and nursery facility (upweller, remote setting tank, etc.)
- Diagrams: Cross-section, in-water equipment
- Production Information
- Signatures
Example of how to show the location of your proposed site using a map and aerial diagram:

*Please include this info on all diagrams submitted with your lease application*

Name/Business: John I. Doe
Town, State: Your Town, MD
Waterbody: Your River
Date: October 1, 2010

*At least two of these corner coordinates should match those given on your cross-section diagram.*

Marker buoy (8x12" with name and lease #)
Cross-Section Example 1: Constant bottom depth

- Marker buoy (8x12" with name and lease #)

- MHW = mean high water
- MLLW = mean lower low water

- 9'6" max. depth above shell (1' diurnal tidal range)

- Maximum height = 6" oyster shell added on bottom

- Water depth at MLLW

- MHW

- MLLW

- 8'6" min. depth above shell

- xx°xx.xxx' N
- xx°xx.xxx' W

Name/Business: John I. Doe
Town, State: Your Town, MD
Waterbody: Your River
Date: October 1, 2010

*Please include this info on all diagrams submitted with your lease application

*These corner coordinates should match those given in the aerial map.

*Your water depths and max shell depth should be specific to your proposed site and production plan.
Cross-Section Example 2: Variable bottom depth

- **Marker buoy** (8x12” with name and lease #)
- MHW = mean high water
- MLLW = mean lower low water

*Please include this info on all diagrams submitted with your lease application*

- **Name/Business:** John I. Doe
  - **Town:** Your Town, MD
  - **State:** Your Town, MD
  - **Waterbody:** Your River
  - **Date:** October 1, 2010

*These corner coordinates should match those given in the aerial map.*

- Maximum height = 6” oyster shell added on bottom
- 21’ max. depth above shell (1.5’ diurnal tidal range)
- 4.5’ min. depth above shell
- 5’ water depth at MLLW
- 20’ water depth at MLLW

- Offshore
- 450 yards
- Nearshore
Cross-Section Example 3: Constant bottom depth with predator exclusion net

**Marker buoy (8x12” with name and lease #)**

**MHW** = mean high water

**MLLW** = mean lower low water

- **9’6” max. depth above shell**
  - (1’ diurnal tidal range)

- **8’6” min. depth above shell**

- **Maximum height**
  - = 6” oyster shell added on bottom

450 yards

*Please include this info on all diagrams submitted with your lease application*

**Name/Business:** John I. Doe  
**Town, State:** Your Town, MD  
**Waterbody:** West River  
**Date:** October 1, 2010

*These corner coordinates should match those given in the aerial map.*
Cross-Section Example 4: Constant bottom depth with cages, floats, and/or predator exclusion net

- Marker buoy (8x12” with DNR contact info)
- MHW = mean high water
- MLLW = mean lower low water
- Floats with max dimensions = 10’ x 5’ x 12”
- Cages with max dimensions = 6’ x 8’ x 24”

Name/Business: John I. Doe
Town, State: Your Town, MD
Waterbody: West River
Date: October 1, 2010

38°25.631’N
76°35.775’W

38°25.324’N
76°35.277’W

19’ max. depth above shell
(~1.5’ diurnal tide range)

18’ min. depth above shell

Maximum height = 24” of cages added on bottom

Maximum height = 6” oyster shellnet added on bottom

800 yards
• 3-D sketches and/or photos of all in-water equipment
• Dimensions (l x w x h)
• Quantity
• Configuration within lease area
DNR Application Review Process

- Submission of application to DNR
- State review of application for completeness
- State legal and resource review
- Hydrographic survey of proposed lease location
  - Determination and marking of legal corner coordinates
- Additional materials created by DNR to accompany the application to Corps
- Application forwarded to Corps
DNR Public Notice Process

- Four consecutive weeks notification in county newspaper followed by a 30 day comment period
- Other Notifications: Adjacent landowners, Chair of County Oyster Committee, DNR website
- Public Information Session and/or Legal Mediation and/or Administrative Law Hearing
- Content: Applicant(s) names, lease county and general location description, lease Type, survey coordinates, expected harvest method(s) and shell planting depth, instructions and deadline for requesting further action, map of lease and vicinity
ACOE Application Review Process (Baltimore Dist.)

- Application materials received from DNR
- Determination of permit review process
  - Individual Permit (IP)
  - Regional General Permit-1 (RGP-1)
- Corps review of application for completeness
- Partner agency consultations
- 30-day public notice (IP only)
- Permit issuance within ~120 days
Regional General Permit-1 Eligibility and Process


- Single project lease acreage thresholds:
  - 50 acre bottom lease
  - 5 acre water column lease w/cages
  - 3 acre water column lease w/floats

- Partner agency consultations streamlined

- No Federal public notice required

- DNR to assist with Federal Agency notifications:
  - Notice to Mariners, PATON Application, Nav Charts, SAHP

- RGP-1 Verification Letter issued within 60 days of receiving complete application
DNR Lease Agreement

- Mailed to primary applicant once notice process has concluded and any significant public concerns are resolved
- Work in coordination with the Corps to ensure that both agencies plan to issue at approximately the same time
- Once signed agreement is received back, State executes and records lease
- Executed copy mailed back to primary applicant with other enclosures
- Valid for 20 years with one renewal
Contact Information

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