



**STATE OF MARYLAND
DEPARTMENT OF THE ENVIRONMENT
WATER AND SCIENCE ADMINISTRATION**



WATER QUALITY CERTIFICATION

CERTIFICATION NUMBER: 21-WQC-0334

ISSUED TO: Jennifer H. Boyd & James C. Boyd
36889 Bushwood Wharf Road
Bushwood, Maryland 20618

EFFECTIVE DATE: November 19, 2021

PROJECT LOCATION: State of Maryland

DESCRIPTION OF CERTIFIED PROJECT: To establish, operate, and maintain a commercial shellfish aquaculture submerged land lease in accordance with the Maryland Department of Natural Resources Fishing and Boating Services Joint Application for State Commercial Shellfish Lease (DNR Application #507). The project includes placement of a maximum 3" of shell and oyster spat on bottom in the Wicomico River, southeast of Bushwood Wharf and northeast of Bluff Point. The proposed lease coordinates, as surveyed by the Maryland Department of Natural Resources, encompass 12.5 acres more or less.

COASTAL ZONE MANAGEMENT ACT CONSISTENCY DETERMINATION: The Maryland Department of the Environment has determined that the proposed activities comply with, and will be conducted in a manner consistent with the State's Coastal Zone Management Program, as required by Section 307 of the Federal Coastal Zone Management Act of 1972, as amended.

WATER QUALITY CERTIFICATION

UNDER AUTHORITY OF SECTION 401 OF THE FEDERAL WATER POLLUTION CONTROL ACT AND ITS AMENDMENTS AND IN ACCORDANCE WITH § 9-313 THROUGH § 9-323, INCLUSIVE, OF THE ENVIRONMENT ARTICLE, ANNOTATED CODE OF MARYLAND, THE MARYLAND DEPARTMENT OF THE ENVIRONMENT, WATER AND SCIENCE ADMINISTRATION (DEPARTMENT) HAS DETERMINED THAT THE REGULATED ACTIVITIES DESCRIBED IN THE REQUEST FOR CERTIFICATION WILL NOT VIOLATE MARYLAND'S WATER QUALITY STANDARDS, IF CONDUCTED IN ACCORDANCE WITH THE CONDITIONS OF THIS CERTIFICATION.

This Water Quality Certification (Certification) is issued under authority of Section 401 of the Federal Water Pollution Control Act and its Amendments, Title 9, Subtitle 3 of the Environment Article, and Code of Maryland Regulations (COMAR) 26.08.02.10. The Maryland Department of the Environment (Department) has determined from a review of the request application file that the project activities described in the above will not violate Maryland's water quality standards, provided that the following conditions are satisfied. This Certification does not relieve any person conducting activities under this Certification (Certification Holder) from the responsibility to obtain any other approvals, licenses, or permits in accordance with federal, State, or local requirements.

The Certification Holder subject to this Certification shall comply with the following conditions:

CONDITIONS

- 1) The Certification Holder shall obtain and comply with a Maryland Department of Natural Resources State Commercial Shellfish Lease authorization.

Statement of Necessity for Condition: This condition is necessary to confirm that the water is in actual use for shellfish propagation.

Citation: COMAR 26.08.02.02B(3)(b)

- 2) Structures and activities may not interfere with movement of aquatic life, fish, and other wildlife nor cause their entanglement not confined within the mariculture facility area of disturbance or mariculture activity.

Statement of Necessity for Condition: This condition is necessary to prevent restrictions on essential movement of aquatic life which may result in failure to support marine and estuarine aquatic life and growth, propagation of fish, other aquatic life, and wildlife.

Citations: COMAR 26.08.02.02B(2); B(3) and B(4); COMAR 26.08 02.03B(2)(d) – (e); 26.08.02.03-3C(9)(a)

- 3) Non-native species may not be introduced with adverse effects on the aquatic ecosystem.

Statement of Necessity for Condition: Nuisance or non-native species may spread and disrupt and dislodge native species from their habitat, leading to declines in distribution, density, growth and propagation. This may result in failure to support marine and estuarine aquatic life and submerged aquatic vegetation; and growth, propagation of fish, other aquatic life, and wildlife.

Citations: COMAR 26.08.02.02B(2) ;B(3) and B(4); COMAR 26.08 02.03B(2)(d) – (e); 26.08.02.03-3C(9)(a)

- 4) The Certification Holder shall complete all work in accordance with the federally issued U.S. Army Corps of Engineers authorization and its attached plans, including any modifications.

Statement of Necessity for Condition: The U.S. Army Corps of Engineers authorization and plans include details about amount and location of discharges, as well as other conditions for reducing adverse effects to water quality, which ultimately supports maintaining designated uses.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.23.02.06; COMAR 26.08.02.01E(2)

- 5) The Certification Holder shall meet all water quality-related performance standards and conditions required by the Department in any state issued authorization for activities in Waters of the United States to ensure that any discharges will not result in a failure to comply with water quality standards in COMAR 26.08.02. or other water quality requirements of state law or regulation.

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met under unique circumstances for discharges which may otherwise qualify under certified Nationwide Permits and that designated uses of waters are maintained.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.08.02.10E; COMAR 26.23.02.06

- 6) Activities which result in an earth disturbance subject to the requirements in Annotated Code of Maryland, Environment Article, Title 4 and COMAR 26.17.01 shall have an erosion and sediment control plan approved by the appropriate approval authority, including following the stabilization requirements set forth in COMAR 26.17.01.07 and “2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control,” as may be amended.

Statement of Necessity for Condition: Sidecasting of material within or adjacent to regulated resources or other earth disturbance may result in discharges that result in impacts to water quality, clarity, growth and propagation of fish, other aquatic life, wildlife, potable water; and other designated uses.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10E; COMAR 26.08.02.02B(1); 26.08.02.03B(1)(b); 26.08.02.03B(2)(e); COMAR 26.17.01; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24

- 7) The Certification Holder shall adhere to the construction time of year restrictions, unless waived or amended by the Department, as identified in a state authorization.

Statement of Necessity for Condition: Restrictions on instream construction are necessary to protect designated uses for propagation and growth of fish, other aquatic life, and wildlife.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.03.03B(1)(b); 26.08.02.03.03B(2); COMAR 26.23.02.06

- 8) The Certification Holder shall obtain any and all additional authorizations or approvals, including self-certifying General Permits issued by the Department, and shall comply with all conditions of such authorizations.

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met under unique circumstances for discharges which may otherwise qualify under the certified Nationwide Permits and to maintain designated uses of waters.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env.

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Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.23.02.06; COMAR 26.17.01; COMAR 26.23; COMAR 26.24

- 9) This Certification does not obviate the need to obtain required authorizations or approvals from other State, federal or local agencies as required by law.

Statement of Necessity for Condition: The condition is necessary to ensure that water quality standards are met under unique circumstances for discharges which may otherwise qualify under the certified Nationwide Permits and to maintain designated uses of waters.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.08.02.10G(3); COMAR 26.08.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.24; COMAR 26.23.02.06

- 10) This Certification does not authorize any injury to private property, any invasion of rights, or any infringement of federal, state, or local laws or regulations.

Statement of Necessity for Condition: The condition is necessary to clarify the scope of this certification to ensure compliance with water quality regulations, without limiting restrictions through other requirements.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08, COMAR 26.08.02.10E; COMAR 26.23.02.06; COMAR 26.17.04; COMAR 26.23; COMAR 26.24

- 11) The Certification Holder shall allow authorized representatives of the Department access to the site of authorized activities during normal business hours to conduct inspections and evaluations of the operations and records necessary to assure compliance with this Certification.

Statement of Necessity for Condition: Conditions of certification involve precise actions to comply with water quality standards. Site inspection may be necessary to ensure that limits, methods, and other requirements are met to ensure that water quality standards are met and designated uses are maintained.

Citation: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; COMAR 26.17.04

- 12) This Certification is valid for the project identified herein and the associated U.S. Army Corps of Engineers authorization until such time that it expires.

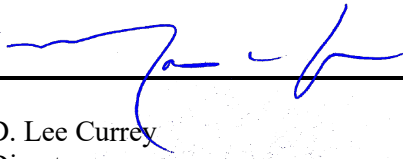
Statement of Necessity for Condition: This condition is necessary to qualify the period of applicability of the terms and conditions of this Certification and Coastal Zone Consistency Determination to be protective of Maryland water quality standards.

Citations: Federal and state laws that authorize this condition include but are not limited to: 33 U.S.C. § 1341(a), (b), & (d); 33 U.S.C. § 1251(b); 33 U.S.C. § 1370; 40 C.F.R. 121, 15 C.F.R. 930, Md. Ann. Code, Env. Article, Title 1, Subtitles 3 and 4; Md. Ann. Code, Env. Article, Title 5, Subtitles 5 and 9; Md. Ann. Code, Env. Article, Title 9, Subtitle 3; Md. Ann. Code, Env. Article, Title 16; COMAR 26.08; COMAR 26.23.02.06; COMAR 26.23; COMAR 26.24; COMAR 26.17.04

Failure to comply with these conditions may subject the Certification Holder to criminal and/or civil penalties or other enforcement action in accordance with applicable law.

CERTIFICATION APPROVED:

DATE:



11/24/2021

D. Lee Currey
Director
Water and Science Administration