



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Horacio Tablada, Secretary
Suzanne E. Dorsey, Deputy Secretary

July 13, 2022

Maryland Seafood Cooperative
900 Hickory Circle
La Plata, Maryland 20646

Via email: sabel@ferrycove.org

Re: Agency Interest Number: 175228
Tracking Number: 202260871
Water Quality Certification Number: 22-WQC-0015

Dear Mr. Abel:

Enclosed you will find Maryland's conditioned Water Quality Certification (WQC) and Coastal Zone Management Act (CZMA) consistency determination contained therein as issued for this project. Please take a moment to read and review the WQC and CZMA determinations to ensure that you understand the limits of the authorized work and all of the general and special conditions.

This Water Quality Certification is a final agency decision. Any person aggrieved by the Department's decision to issue this WQC may appeal such a decision in accordance with COMAR 26.08.02.10F(4). A request for appeal shall be filed with the Department within 30 days of publication of the final decision, and specify in writing the reason why the final decision should be reconsidered. A request for appeal shall be submitted to: Secretary of the Environment, Maryland Department of the Environment, 1800 Washington Boulevard, Baltimore, MD 21230. Any request for an appeal does not stay the effectiveness of this WQC.

You should not begin any work until you have obtained all necessary State, local, and federal authorizations. Please do not hesitate to contact me at danielle.spendiff1@maryland.gov or 410-537-4023 with any questions.

Sincerely,

Danielle A. Spendiff, Chief
Regulatory and Customer Service Division



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



WATER QUALITY CERTIFICATION

CERTIFICATION NUMBER: 22-WQC-0015

ISSUED TO: Maryland Seafood Cooperative
900 Hickory Circle
La Plata, Maryland 20646

EFFECTIVE DATE: July 1, 2022

PROJECT LOCATION: Manokin River, approximately 0.5 miles north of Drum Point

DESCRIPTION OF CERTIFIED PROJECT: To place stone on a one-acre portion of an existing commercial shellfish aquaculture submerged land lease agreement with the Maryland Department of Natural Resources (MDNR Lease SO 808). The work includes placement of small, clean, river stone (1 to 1.5 inches in size and not greater than 2 inches in size) in lieu of oyster shell due to its lack of availability on a one-acre portion of Maryland Seafood Cooperative's submerged land lease SO 808 for the purpose of creating bottom conditions suitable for natural oyster recruitment. The stone will be planted at a depth of no more than three inches as allowed by the conditions of the MDNR-issued lease agreement and U.S. Army Corps of Engineers Nationwide Permit 48. Stone will be transported to the planting location via barge and placed overboard using a crane with clamshell bucket attachment, and placement will be completed in such a way as to minimize bottom disturbance and temporary turbidity impacts. The proposed project is located offshore in the Manokin River, approximately 0.5 miles north of Drum Point, within the following coordinates: 38.10768, -75.86319; 38.10732, -75.86288; 38.10738, -75.86397; and 38.10695, -75.86363

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.
- 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.
- 3) Non-native species may not be introduced with adverse effects on the aquatic ecosystem.
- 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.
- 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.
- 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.
- 7) The Certification Holder shall adhere to the construction time of year restriction, unless waived or amended by the Department.

- 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.
- 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.
- 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.
- 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.
- 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.

STATEMENTS OF NECESSITY AND CITATIONS

- 1) Statement of Necessity for Condition 1: 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) Statement of Necessity for Condition 2: 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) Statement of Necessity for Condition 3: 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) Statement of Necessity for Condition 4: 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) Statement of Necessity for Conditions 5, 8, 9: 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) Statement of Necessity for Condition 6: 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) Statement of Necessity for Condition 7: 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) Statement of Necessity for Condition 10: 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

- 9) Statement of Necessity for Condition 11: 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

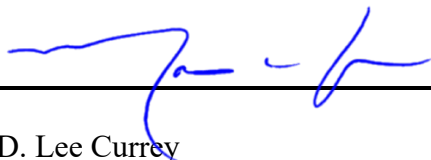
- 10) Statement of Necessity for Condition 12: This condition is necessary to qualify the period of applicability of the terms and conditions of this Certification and Coastal Zone Consistency Determination to be protective of Maryland water quality standards.

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:



7/11/2022

D. Lee Currey
Director
Water and Science Administration

22-WQC-0015

Tracking Number: 202260871
Agency Interest Number: 175228
Effective Date: July 1, 2022

cc: Woody Francis, USACE
Rebecca Thur, DNR
WSA Inspection & Compliance Program