

Article - Natural Resources

§4-11A-06.

(a) This section applies to a submerged land lease in the Chesapeake Bay that is not in an Aquaculture Enterprise Zone.

(b) (1) (i) Subject to subparagraph (ii) of this paragraph, the Department may issue to a person a submerged land lease in waters of the Chesapeake Bay after the Department of the Environment classifies the waters as:

1. Approved, conditionally approved, or restricted for harvest; or

2. Prohibited, provided that the lease is used exclusively for the planting and gathering of seed for aquaculture and the leaseholder complies with the requirements of the National Shellfish Sanitation Program as implemented by the Department.

(ii) The Department may issue a submerged land lease in the waters of the Chesapeake Bay to a corporation only if:

1. The corporation is organized under the laws of the State; and

2. More than 50% of the stock in the corporation is owned by residents of the State.

(2) A submerged land lease may not be located:

(i) Within a minimum of 50 feet of shoreline or any pier without the written permission of the riparian owner at the time of initial application for the lease;

(ii) Within 150 feet of the public shellfish fishery or a registered pound net site;

(iii) Within 150 feet of an oyster reserve or any Yates Bar located in an oyster sanctuary;

(iv) Except as provided in paragraph (4) of this subsection, within 150 feet of a federal navigational channel;

(v) Subject to paragraph (3) of this subsection, in any creek, cove, bay, or inlet less than 300 feet wide at its mouth at mean low tide; or

(vi) In an SAV Protection Zone.

(3) Paragraph (2)(v) of this subsection does not apply to a riparian owner or a lawful occupant of the riparian property.

(4) A submerged land lease of a riparian owner or a lawful occupant of the riparian property may be located in Herring Creek in St. Mary's County.

(c) A person with a submerged land lease in the Chesapeake Bay may cultivate shellfish on the submerged land, in temporary protective enclosures approved by the Department on the surface of the submerged land, or in any other manner authorized by the Department.

(d) Notwithstanding any other provision of this subtitle, a lease of submerged land located within a sanctuary must be compatible with oyster restoration and must satisfy the criteria for permissible leasing within a sanctuary as provided in regulations adopted under this subtitle.