



# Facts About...

## OYSTER GARDENING AND REQUIRED REPORTING

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### Oyster Gardening and Non-Commercial Aquaculture

Oyster gardening is the practice of growing oysters at private piers for ecological benefits. Oyster gardening is a type of aquaculture, however it is non-commercial aquaculture: the oysters are not eaten or sold.

*Please note, the Maryland Departments of Environment, Natural Resources and Health and Mental Hygiene recommend not eating the oysters grown off of private piers due to serious health risks. For more details, see information at this link:*

<http://www.oysters.maryland.gov/pdfs/HealthAdvisoryforOysterGardeners.pdf>

Oyster gardeners are now required to register and report certain information to the State, as per the National Shellfish Sanitation Program (NSSP) Model Ordinance, that provides oversight to State shellfish activities, and the U.S. Army Corps of Engineers (USACE) that has regulatory jurisdiction over oyster gardening. For information on these two organizations and their specific role in oyster gardening please see page 2 of this fact sheet.

In an effort to meet these registration and reporting requirements, the State has developed an Oyster Gardening Registration process. **All oyster gardeners who grow oysters for non-commercial purposes must register with and report gardening activities to DNR beginning February 11, 2013.** Through this registration process the State will collect the necessary information to comply with established federal requirements.

#### How do I register as an Oyster Gardener?

- Log onto the Department of Natural Resources online registration site at: <http://www.dnr.state.md.us/fisheries/oysters/gardeningregistration.asp>
- Or contact the Department of Natural Resources at the address below to request a copy of the registration form.
- Complete the Oyster Gardening Registration Form.
- This is an annual registration so you will need to visit the website and register your gardening activities on a yearly basis.
- During the year, maintain a log of activity related to your oyster garden including specific planting information that will be necessary when you report at the end of the year.

If you have any questions regarding the registration and reporting process contact Mr. Chris Judy at [cjudy@dnr.state.md.us](mailto:cjudy@dnr.state.md.us) or 410-260-8259, Department of Natural Resources, 580 Taylor Ave., Annapolis, MD 21401.

To discuss the possibility of placing your oysters on a sanctuary, please contact Mr. Eric Weissberger, also at the Department of Natural Resources, at [eweissberger@dnr.state.md.us](mailto:eweissberger@dnr.state.md.us). Contact the Corps at 410-962-3670 if there are questions regarding your specific situation and permit requirements.

## Overview and Background for the New Registration Requirements:

The National Shellfish Sanitation Program (NSSP) Model Ordinance requires any state that recognizes shellfish gardening to do the following:

- Permit or register shellfish gardening activities
- Establish permit or registration conditions and determine classification of waters where shellfish gardening can take place prior to its implementation
- Provide information to the shellfish gardener on the risk of consuming shellfish from private docks, piers, and shellfish floats attached to piers or docks and from waters not classified and open to harvest for direct consumption
- Require that the shellfish gardener maintain records on the disposition of the shellfish product and provide these records to the State Shellfish Control Authority.

The Army Corps of Engineers (Corps) has regulatory jurisdiction over both oyster gardening and non-commercial aquaculture activities and a permit is required pursuant to Section 10 of the Rivers and Harbors Act of 1899. However, the Corps issued a Maryland State Programmatic General Permit (MDSPGP-4) for Private Landowner Oyster Aquaculture that authorizes the placement of floats in the water by riparian landowners for purposes of conducting oyster aquaculture activities. All work authorized by this activity must comply with all activity-specific impact limits and requirements, in addition to the general conditions of this permit.

**The full MDSPGP-4 can be found at the following website. See page 51 of this document for more information regarding Private Landowner Oyster Aquaculture activities.**

<http://www.nab.usace.army.mil/Wetlands%20Permits/Permit/MDSPGP-4.pdf>

Generally, there is no fee and no application is necessary for this general permit, except for situations where the project is proposed near any existing or proposed Federally authorized Navigation Project or near any other existing or proposed Federally authorized Civil Works project, or where there may be unusual or other project specific circumstances which would require that it be reviewed under alternate Corps permit review procedures rather than as a MDSPGP-4, and an application would be required to be submitted through MDE to Corps for authorization.

The role of each oyster gardener: Everyone that is “**oyster gardening**” or doing non-commercial aquaculture should be aware of and follow the requirements. A very important requirement of the Corps authorization under the MDSPGP-4 is that all terms and conditions must be followed and be fully complied with. One of these requirements is to report how many oysters you have and where they will be planted for restoration activities.

A simplified list of the requirements of the General Permit (MDSPGP-4) that must be followed by everyone doing “**oyster gardening**” or doing non-commercial aquaculture are listed below in an excerpt from this permit. (... indicates that language has been deleted to simplify this Fact Sheet).

## Excerpt from General Permit (MDSPGP-4) pertaining to oyster gardening.

The full permit text can be found at:

<http://www.nab.usace.army.mil/Wetlands%20Permits/Permit/MDSPGP-4.pdf>

**h. Private Landowner Oyster Aquaculture:** This activity authorizes the placement of floats in the water by riparian landowners for purposes of conducting oyster aquaculture activities, subject to the activity-specific impact limits and requirements, and the general conditions of this general permit.

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(3) **Requirements ...:**

- (a) The surface area of the floats must not exceed 60 square feet of total coverage of the water column.
- (b) The native eastern oyster (*Crassostrea virginica*) shall be the species used in the oyster aquaculture activity in the floats.
- (c) The floats must be attached to existing structures (e.g., piers, pilings, bulkheads, etc.) that are connected to the riparian owner's fast land.
- (d) The riparian owner shall avoid alignment and placement of the structures in such a manner that they would interfere with navigation by the general public.
- (e) The riparian owner shall avoid alignment and placement of the structures in such a manner that they would interfere with ingress and egress from adjacent properties and must be situated to comply with locally established property setback requirements, if any.
- (f) The riparian owner shall clearly mark the floats with his or her name and address.
- (g) The riparian owner shall mark all in-water floats with high visibility colors and lighted or otherwise marked in accordance with the USCG requirements. The riparian owner shall ensure that the location of the structures is published in the USCG's "Local Notice to Mariners." The riparian owner shall contact: Commander (AOWW), USCG Atlantic Area, 431 Crawford Street, Portsmouth, Virginia 23704, to ensure that all USCG requirements are met regarding this activity.
- (h) The riparian owner shall recover all storm-damaged, accident damaged, or dislodged equipment within 48 hours after it is dislodged and shall dispose of such equipment in accordance with State and local ordinances.
- (i) The riparian owner shall not cover, dredge, or otherwise alter or destroy any submerged aquatic vegetation or tidal wetlands, as a result of the deployment and/or storage of the floats and other equipment associated with the aquaculture operation.
- (j) **The riparian owner shall not commercially harvest, sell, or market any of the shellfish for human consumption.**
- (k) The riparian owner shall not use chemical therapeutics to treat shellfish held or raised under this authorization for diseases, parasites, or to enhance the physical condition of the shellfish.
- (l) **The riparian owner shall not possess a total number of shellfish that exceed 3,000 per site.**
- (m) The riparian owner shall obtain oyster seed from a Maryland vendor or obtain an approved Shellfish Import Permit from the MD DNR.
- (n) The riparian owner must not collect or release oysters without having obtained beforehand a valid Collection or Stocking permit from MD DNR.
- (o) This activity does not authorize artificial reefs.
- (p) This activity does not authorize impoundments and semi-impoundments of waters of the United States.
- (q) All work shall be performed in accordance with the WQC issued by MDE for this general permit.
- (r) The riparian owner shall maintain accurate records on the amount of shellfish placed in structures or floats and record the disposition of the shellfish. **Reports shall be submitted annually and include name and address of riparian owner, location of floats, amount of shellfish raised, and final use (resource enhancement, restoration, or consumption by the riparian owner or others), including the location shellfish were moved to for enhancement or restoration activities. Reports shall be submitted to the State Aquaculture Coordinator by December 31 annually.**