

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1059 (Delegate Clark, *et al.*)  
Environment and Transportation

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**Aquaculture Lease Applications - Notice, Protests, and Meetings - Alterations**

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This bill modifies requirements associated with issuance of a proposed aquaculture lease, relating to (1) nearby property owners that must be given notice of the proposed lease; (2) the handling of protests of a proposed lease; and (3) the holding of a public informational meeting on a proposed lease.

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State finances.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** The bill requires the Department of Natural Resources (DNR) – when an application for a submerged land or water column lease is submitted and meets State law requirements – to notify the owners of property located *within 500 feet* of the proposed activity, instead of only the owners of property directly in front of the proposed activity.

The bill also requires – when a petition is filed with DNR protesting the issuance of the lease – that the department work with the petitioner and the applicant to mitigate the concerns raised in the petition.

The bill modifies a requirement that DNR hold a public informational meeting on the issuance of a lease on the request of any person, by requiring instead that a public

informational meeting be held only if the department determines that the person is raising a significant public health, safety, welfare, or economic concern.

**Current Law:** A person who wishes to obtain an aquaculture, water column, or submerged land lease must pay an application fee and complete and submit an application to DNR. If an application for a submerged land or water column lease in the Chesapeake Bay or in the Atlantic Coastal Bays meets State law requirements, DNR must:

- advertise the application on the department's website and once a week for two weeks in a newspaper published in the county or counties where the proposed lease is to be located;
- notify the owners of property directly in front of the proposed activity;
- notify each chair of an oyster committee in the county in which the proposed activity is located; and
- notify other interested parties that the department deems appropriate.

Within 30 days of publication of the last advertisement, any person who has a specific right, duty, privilege, or interest that is different from that held by the general public and may be adversely affected by the proposed lease may file a petition with the department protesting the issuance of the lease, which must be heard in accordance with specified requirements of the Administrative Procedure Act.

DNR must hold a public informational meeting on the issuance of a lease on the request of any person.

Immediately after termination of the 30-day period for filing a petition, or after a final decision dismissing a protest, DNR must survey the proposed leased area and issue a lease to the applicant.

**Background:** DNR and the U.S. Army Corps of Engineers began jointly accepting applications for new commercial shellfish aquaculture projects in the Chesapeake Bay, its tributaries, and the coastal bays in 2010, and a person now applies for a lease using the *Joint Application for State Commercial Shellfish Aquaculture Lease and Corps of Engineers Federal Permit*.

DNR recommends that applicants take various steps relating to siting of the lease before submitting an application, including (1) utilizing the department's Aquaculture Siting Tool, an online interactive mapping utility that can assist in identifying potential lease locations by minimizing known resource and other types of conflicts; (2) investigating a site or sites by boat to, among other things, note other uses of the site, and adjacent uses; (3) if needed, contacting DNR's Aquaculture Division to help determine if the proposed site meets

statutory requirements; and (4) discussing the project with adjacent landowners to, among other things, uncover additional issues to consider, such as licensed shoreline or offshore blinds used for waterfowl hunting not readily visible during the on-site investigation. DNR indicates that all adjacent landowners also receive direct notice of the project through State and federal notification processes.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 950 (Senator Pinsky) - Education, Health, and Environmental Affairs.

**Information Source(s):** Department of Natural Resources; Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2020  
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Analysis by: Scott D. Kennedy

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510